

---

**SUBSTITUTE HOUSE BILL 1491**

---

**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Orcutt, Chapman, Berry, Bronoske, Tharinger, and Pollet)

READ FIRST TIME 02/17/23.

1 AN ACT Relating to prohibiting unjustified employer searches of  
2 employee personal vehicles; adding new sections to chapter 49.12 RCW;  
3 prescribing penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.12  
6 RCW to read as follows:

7 (1) Except as provided in subsection (2) of this section:

8 (a) An employer or an employer's agent may not search the  
9 privately owned vehicles of employees located on the employer's  
10 parking lots or garages or located on the access road to the  
11 employer's parking lots or garages.

12 (b) An employee may possess any of the employee's private  
13 property within the employee's vehicle, unless possession of such  
14 property is otherwise prohibited by law.

15 (c) An employer must not require, as a condition of employment,  
16 that an employee or prospective employee waive the protections of (a)  
17 or (b) of this subsection.

18 (2) This section does not apply:

19 (a) To vehicles owned or leased by an employer;

20 (b) To lawful searches by law enforcement officers;

1 (c) When a reasonable person would believe that accessing  
2 vehicles of an employee is necessary to prevent an immediate threat  
3 to human health, life, or safety;

4 (d) When an employee consents to a search of his or her privately  
5 owned vehicle by the business owner, owner's agent, or a licensed  
6 private security guard based on probable cause that the employee  
7 unlawfully possesses: (i) Employer property; or (ii) a controlled  
8 substance in violation of both federal law and the employer's written  
9 policy prohibiting drug use. The employee's consent must be given  
10 immediately prior to the search, and the employer may not require  
11 that the employee waive consent as a condition of employment. Upon  
12 consent, the employee has the right to select a witness to be present  
13 for the search;

14 (e) To security inspections of vehicles on state and federal  
15 military installations and facilities;

16 (f) To vehicles located on the premises of a state correctional  
17 institution, as defined in RCW 9.94.049; or

18 (g) To specific employer areas subject to searches under state or  
19 federal law.

20 (3) For purposes of this section, the terms "probable cause" and  
21 "private property" have their usual meaning under state and federal  
22 law. The department may adopt rules to further define these terms.

23 (4) An employer may not take any adverse action against an  
24 employee for exercising any right under this section. An adverse  
25 action means any action taken or threatened by an employer against an  
26 employee for exercising the employee's rights under this section, and  
27 may include, but are not limited to:

28 (a) Denying the use of, or delaying, wages or other amounts owed  
29 to the employee;

30 (b) Terminating, suspending, demoting, or denying a promotion;

31 (c) Reducing the number of work hours for which the employee is  
32 scheduled;

33 (d) Altering the employee's preexisting work schedule;

34 (e) Reducing the employee's rate of pay; and

35 (f) Threatening to take, or taking, action based upon the  
36 immigration status of an employee or an employee's family member.

37 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.12  
38 RCW to read as follows:

1 (1) Upon complaint by an employee, the director must investigate  
2 to determine whether an employer has violated section 1 of this act.  
3 The director may require the testimony of witnesses and the  
4 production of documents as part of the director's investigation.

5 (2) If the director determines that an employer has violated  
6 section 1 of this act, the director may order payment to the  
7 department of a civil penalty of not more than \$1,000 for an  
8 employer's first violation and not more than \$5,000 for any  
9 subsequent violation; and payment to the department of costs of  
10 investigation and enforcement. For the purposes of this subsection  
11 (2), each employee affected by a violation constitutes a separate  
12 violation.

13 (3) For any violation of section 1(4) of this act, the director  
14 may also order appropriate relief that includes any earnings the  
15 employee did not receive due to the employer's adverse action,  
16 including interest of one percent per month on all earnings owed. The  
17 earnings and interest owed will be calculated from the first date  
18 earnings were owed to the employee. The director may also order the  
19 employer to restore the employee to the position of employment held  
20 by the employee when the retaliation occurred, or restore the  
21 employee to an equivalent position with equivalent employment hours,  
22 work schedule, benefits, pay, and other terms and conditions of  
23 employment.

24 (4) An appeal from the director's determination may be taken in  
25 accordance with chapter 34.05 RCW.

26 (5) The department must deposit civil penalties paid under this  
27 section in the supplemental pension fund created in RCW 51.44.033.

28 (6) The department shall collect civil penalties and costs due  
29 under this section using the procedures in RCW 49.48.086.

30 NEW SECTION. **Sec. 3.** This act takes effect July 1, 2024.

--- END ---