
SECOND SUBSTITUTE HOUSE BILL 1491

State of Washington

68th Legislature

2023 Regular Session

By House Appropriations (originally sponsored by Representatives Orcutt, Chapman, Berry, Bronoske, Tharinger, and Pollet)

READ FIRST TIME 02/24/23.

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 the employer requires or authorizes the employee to use
2 the employee's personal vehicle for work-related activities and the
3 employer needs to inspect the vehicle to ensure the vehicle is suited
4 to conduct the work-related activities;

5 (d) When a reasonable person would believe that accessing
6 vehicles of an employee is necessary to prevent an immediate threat
7 to human health, life, or safety;

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

18 (f) To security inspections of vehicles on state and federal
19 military installations and facilities;

20 (g) To vehicles located on the premises of a state correctional
21 institution, as defined in RCW 9.94.049; or

22 (h) To specific employer areas subject to searches under state or
23 federal law.

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

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

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

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

35 (c) Reducing the number of work hours for which the employee is
36 scheduled;

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

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

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

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

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

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

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

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

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

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

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

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