

Considering Tracking Employees in Vehicles? New Jersey Now Requires Employers to Provide Notice

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Next month, New Jersey private employers will need to start informing drivers before using GPS tracking devices in the vehicles they operate. A new state [law](#) that becomes effective April 18, 2022, requires employers to provide written notice to employees before using “electronic communications devices” or “electronic or mechanical devices” that are used for the purpose of tracking the movement of a vehicle, person, or device. As defined in the law, “electronic communications devices” are those that use electronic signals to create, transmit, and receive information, such as computers, telephones, personal digital assistants, and similar devices. The notification requirement applies to both employer-owned and personal vehicles.

“Tracking” covered under the law would include, for example, cellphone apps with geolocation technology for salespeople, devices issued by insurance carriers to monitor safe driving, and a GPS locators that track delivery drivers on their routes. The law excludes “devices used for the purpose of documenting employee expense reimbursement” from the notice requirement. In addition, nothing in the law supersedes regulations governing interstate commerce, including as to the use of electronic communications devices mandated by the Federal Motor Carrier Safety Administration.

Employers that violate the law could face a fine of \$1,000 for the first violation and up to \$2,500 for each subsequent violation.

With enactment of the law, New Jersey joins [New York](#), [California](#), [Delaware](#), and [Illinois](#) in placing restrictions on employee monitoring outside of the workplace. Given this trend, employers that use (or wish to use) tracking devices—not just those in New Jersey and other locales with such laws on the books—should consider reviewing their policies with respect to GPS and other employee tracking outside the workplace.

What New Jersey Employers Should Do Now

- Audit the tracking devices that you currently are using in vehicles employees use, to ensure

you have a comprehensive understanding of all the ways the tracking devices monitor the vehicles, which may include passive tracking from third parties, such as insurance companies or fleet management companies, or on devices such as laptops, cellphones, and tablets.

- Consider updating handbook(s) and other relevant policies to provide employees clear guidance regarding the types of tracking occurring in vehicles, and confirm there is an acknowledgment section for the handbook or policy.
- Draft a notice that accurately describes the tracking practices for vehicles that employees use, with an acknowledgement section for such employees.

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