

Electronic Alert

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Washington Employers Should Think Twice Before Searching Employee Vehicles

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Effective July 23, 2023, Washington House Bill 1491 goes into effect. Washington employers are no longer able to search an employee's privately-owned vehicle, even if it is on their property and the employee waives their privacy right.

There are several exceptions to the law, including where:

- The employer owns or leases the vehicle;
- The search is conducted by law enforcement;
- An inspection is required to ensure it is suited for required/authorized work-related activities;
- It is a security inspection of a vehicle on state or federal military property;
- The vehicle is located on the premises of a state correctional institution;
- Specific employer areas are subject to searches under state or federal law; or
- It is necessary to prevent an immediate threat to human life, health, or safety.

There is also an exception where an employee consents to the search based on probable cause that an employee unlawfully possesses employer property or controlled substances in violation of both federal law and the employer's written policy prohibiting drug use. (In these circumstances, an employee needs to provide consent immediately prior to a search and can request a witness to be present.)

With this new law, a Washington employer cannot require, as a condition of employment, that an employee waive these protections. Nor can an employer take any adverse action against an employee for exercising their rights under this statute. Adverse actions include (1) denying or delaying wages owed; (2) terminating, suspending, demoting, or denying a promotion; (3) reducing an employee's work hours or altering a preexisting schedule; (4) reducing pay; and (5) taking action or threatening to take action based on the employee's or family member's immigration status.

With this law going into effect, it is a good time for Washington employers to review their handbooks, and in particular, their Drug and Alcohol policy and policies governing the search of employees and their vehicles. If you do not currently have a policy providing for the search of employee vehicles on company property, it is a good time to consider adopting one.

For questions about Washington House Bill 1491 or for any other employment-related matters, contact Andrew Schpak at 503-276-2156 or aschpak@barran.com.