Engage PEO Client Alert: New Jersey

NJ Employers Required to Provide Written Notice of Tracking Devices in Employee Vehicles

Earlier this year, New Jersey Governor Phil Murphy signed into law Assembly Bill No. 3950. Under the new law, private employers in New Jersey are required to provide employees with written notice before using tracking devices on vehicles operated by employees. There is a trend of new laws providing employees protections for location tracking.

What's New: The law requires that employers provide written notice to employees if the employer "knowingly makes use of a tracking device in a vehicle used by an employee" when that device is "designed or intended to be used for the sole purpose of tracking the movement of a vehicle, person, or device."

Devices "used for the purpose of documenting employee expense reimbursement" are excluded from the definition of "tracking device." Therefore, it does not cover GPS tracking apps in company-issued smartphones. Notably, the law applies regardless of whether the employee uses a company-owned vehicle or the employee's personal vehicle.

What It Means: The new law does not provide a private right of action. However, the law is enforced by the NJ Commission of Labor and Workforce Development. An employer that knowingly uses a tracking device on an employee-operated vehicle without providing written notice to the employee will be subject to a **civil penalty in an amount not to exceed $1,000 for the first violation and not to exceed $2,500 for each subsequent violation**.

What Employers Should Do: If an employer decides to track an employee, they should:

1. provide a notice regarding real-time location tracking whether by vehicle or smartphone,
2. avoid tracking employees' location when off duty, and
3. restrict access to tracking information to those who need to know for their job responsibilities.

Please contact your Engage HR Consultant if you have questions or concerns.