
**Labor & Workplace Standards
Committee**

HB 1491

Brief Description: Prohibiting unjustified employer searches of employee personal vehicles.

Sponsors: Representatives Orcutt, Chapman, Berry, Bronoske, Tharinger and Pollet.

Brief Summary of Bill

- Prohibits employers from searching an employee's vehicle in the employer's parking areas.
- Provides for employee possession of their personal property in their vehicle, unless prohibited by law.
- Provides for investigations and potential civil penalties by the Department of Labor and Industries.

Hearing Date: 2/8/23

Staff: Trudes Tango (786-7384).

Background:

The Department of Labor and Industries (Department) has general investigative and enforcement authority over "conditions of labor" that are unlawful when detrimental to employee health. Conditions of labor include personal privacy. There are no specific statutes or Department rules regarding workplace searches.

Government employers are subject to federal and state constitutional privacy restrictions. Generally, a government actor needs a warrant supported by probable cause to conduct a search of private property, unless an exception applies. In the employment setting, an exception may

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

apply when the employer has a compelling interest and narrowly tailors the search to achieve that interest.

Under common law, courts generally look to the circumstances, context, and nature of a search to determine whether an invasion of privacy has occurred. In the workplace, these factors may include the business reasons for the search, the intrusiveness of the search, and the degree of privacy of the object searched.

Summary of Bill:

Employers or their agents may not search an employee's privately owned vehicle located on the employer's parking lots, garages, or access roads to the employer's parking lots or garages. An employee may possess any legally possessed private property in the employee's vehicle. An employer must not require, as a condition of employment, that an employee or prospective employee waive those protections.

The prohibition against searches does not apply to:

- vehicles owned or leased by an employer;
- lawful searches by law enforcement officers;
- when a reasonable person would believe that accessing an employee's vehicle is necessary to prevent an immediate threat to human health, life, or safety;
- security inspections on state and federal military installations and facilities;
- vehicles located on state correctional institution premises;
- specific employer areas subject to searches under state or federal law; or
- when an employee consents to a search based on probable cause that the employee unlawfully possesses: employer property; or controlled substances in violation of both federal law and the employer's written policy prohibiting drug use.

The employer's policy must provide notice to employees that personal vehicles may be subject to searches based on probable cause. Upon consent, the employee may select a witness to be present during the search.

The Department must investigate complaints and may issue civil penalties of not more than \$1,000 for a first violation, and not more than \$5,000 for subsequent violations. Each employee affected by a violation is a separate violation. Civil penalties are deposited in the supplemental pension fund.

Appropriation: None.

Fiscal Note: Requested on February 1, 2023.

Effective Date: The bill takes effect on January 1, 2024