

[Fourth Reprint]

ASSEMBLY, No. 3950

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED APRIL 13, 2020

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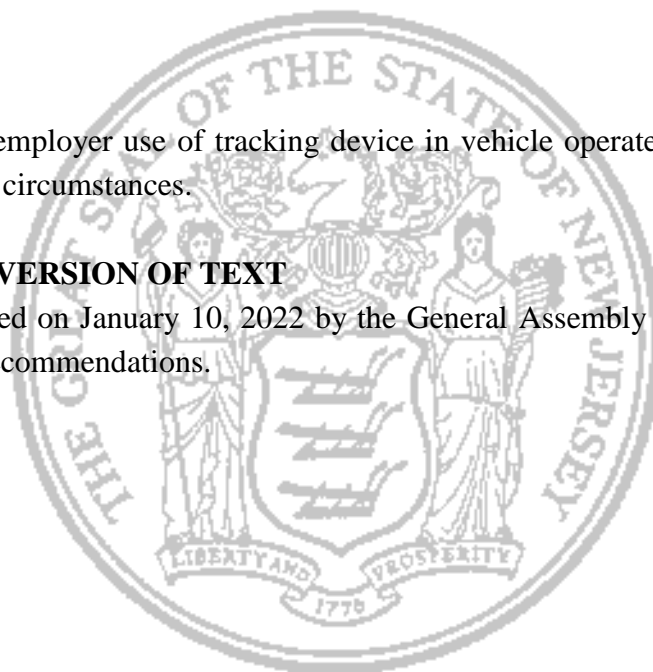
**Assemblywoman Murphy, Assemblyman Conaway, Senator Gill,
Assemblyman Wimberly and Assemblywoman Vainieri Huttle**

SYNOPSIS

Prohibits employer use of tracking device in vehicle operated by employee under certain circumstances.

CURRENT VERSION OF TEXT

As amended on January 10, 2022 by the General Assembly pursuant to the Governor's recommendations.



(Sponsorship Updated As Of: 12/20/2021)

1 AN ACT prohibiting certain employer use of tracking devices and
 2 supplementing ⁴~~["Title 2C of the New Jersey Statutes ³ and"]⁴
 3 Title 34 of the Revised Statutes.³
 4~~

5 **BE IT ENACTED** by the Senate and General Assembly of the State
 6 of New Jersey:
 7

8 1. a. As used in this act:

9 "Electronic communications device" means any device that uses
 10 electronic signals to create, transmit, and receive information,
 11 including a computer, telephone, personal digital assistant, or other
 12 similar device.

13 "Employer" means an employer or employer's agent,
 14 representative, or designee. The term "employer" does not include
 15 the Department of Corrections, State Parole Board, county
 16 ³~~["corrections departments"]~~ correctional facilities³, ¹~~["or"]~~¹ any State
 17 or local ⁴~~["law enforcement agency"]~~ government entity⁴ ¹, or any
 18 public transportation system, including but not limited to ³~~[""]~~³
 19 scheduled or charter bus transportation, whether operated by a
 20 public or private company¹.

21 "Tracking device" means an electronic or mechanical device
 22 which ⁴~~["permits the tracking of"]~~ is designed or intended to be used
 23 for the sole purpose of tracking⁴ the movement of a vehicle, person,
 24 or device ²but shall not include devices used for the purpose of
 25 documenting employee expense reimbursement².

26 b. ⁴~~["It shall be a crime of the fourth degree for an"]~~ An⁴
 27 employer ⁴~~["to"]~~ who⁴ ²knowingly² ⁴~~["make"]~~ makes⁴ use of a
 28 tracking device ⁴~~["or electronic communications device"]~~⁴ in a
 29 vehicle used by an employee ⁴~~["that is not provided by the~~
 30 employer"]⁴ ²~~["], or, in the case of a vehicle provided by an employer~~
 31 for an employee's use, to make use of a tracking device or
 32 electronic communications device"]² without ¹~~["obtaining the written~~
 33 consent of"] providing written notice to¹ the employee ⁴shall be
 34 subject to a civil penalty in an amount not to exceed \$1,000 for the
 35 first violation and not to exceed \$2,500 for each subsequent
 36 violation, collectible by the Commissioner of Labor and Workforce
 37 Development in a summary proceeding pursuant to the "Penalty
 38 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.)⁴.

39 ⁴~~["c. It shall be a ³disorderly persons offense for the first and~~
 40 second violations and a ³ crime of the fourth degree ³for each

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ALA committee amendments adopted October 22, 2020.

²Assembly AAP committee amendments adopted November 12, 2020.

³Senate SLP committee amendments adopted June 21, 2021.

⁴Assembly amendments adopted in accordance with Governor's
 recommendations January 10, 2022.

1 subsequent violation³ for an employer to ²track an employee
2 using an employer-provided tracking device or electronic
3 communications device without¹ knowingly make use of a tracking
4 device or electronic communications device in a vehicle provided
5 by an employer for an employee's use without² providing written
6 notice to the employee.⁴

7 ³² An employer who unknowingly violates any provision of this
8 act shall be subject to a civil penalty in an amount not to exceed
9 \$1,000 for the first violation and \$2,500 for each subsequent
10 violation, collectible by the Commissioner of Labor and Workforce
11 Development in a summary proceeding pursuant to the "Penalty
12 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-
13 10 et seq.).²³

14 ⁴^[d] c⁴. Nothing in this act shall be construed to supersede
15 regulations governing interstate commerce³^[.]³ including ³³ but
16 not limited to, the usage of electronic communications devices as
17 mandated by the Federal Motor Carrier Safety Administration.¹

18
19 ⁴^[3] 2. An employer who unknowingly violates subsection b. or c.
20 of section 1 of P.L. c. (C.) (pending before the Legislature as
21 this bill) shall be subject to a civil penalty in an amount not to exceed
22 \$1,000 for the first violation and \$2,500 for each subsequent violation,
23 collectible by the Commissioner of Labor and Workforce
24 Development in a summary proceeding pursuant to the "Penalty
25 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).³⁴

26
27 ³^[2.] ⁴^[3.] 2.⁴ This act shall take effect on the 90th day next
28 following the date of enactment.