

P.L. 2021, CHAPTER 449, *approved January 18, 2022*  
Assembly, No. 3950 (*Fourth Reprint*)

1 AN ACT prohibiting certain employer use of tracking devices and  
2 supplementing <sup>4</sup>**[Title 2C of the New Jersey Statutes <sup>3</sup> and]**<sup>4</sup>  
3 Title 34 of the Revised Statutes.<sup>3</sup>  
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 <sup>3</sup>**[corrections departments]** correctional facilities<sup>3</sup>, <sup>1</sup>**[or]**<sup>1</sup> any State  
17 or local <sup>4</sup>**[law enforcement agency]** government entity<sup>4</sup> <sup>1</sup>, or any  
18 public transportation system, including but not limited to <sup>3</sup>**[,]**<sup>3</sup>  
19 scheduled or charter bus transportation, whether operated by a  
20 public or private company<sup>1</sup>.

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

26 b. <sup>4</sup>**[It shall be a crime of the fourth degree for an]** An<sup>4</sup>  
27 employer <sup>4</sup>**[to]** who<sup>4</sup> <sup>2</sup>knowingly<sup>2</sup> <sup>4</sup>**[make]** makes<sup>4</sup> use of a  
28 tracking device <sup>4</sup>**[or electronic communications device]**<sup>4</sup> in a  
29 vehicle used by an employee <sup>4</sup>**[that is not provided by the**  
30 **employer]**<sup>4</sup> <sup>2</sup>**[, 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]**<sup>2</sup> without <sup>1</sup>**[obtaining the written**  
33 **consent of]** providing written notice to<sup>1</sup> the employee <sup>4</sup>shall 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

**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:

<sup>1</sup>Assembly ALA committee amendments adopted October 22, 2020.

<sup>2</sup>Assembly AAP committee amendments adopted November 12, 2020.

<sup>3</sup>Senate SLP committee amendments adopted June 21, 2021.

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

1 violation, collectible by the Commissioner of Labor and Workforce  
 2 Development in a summary proceeding pursuant to the "Penalty  
 3 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.)<sup>4</sup>.

4 <sup>4</sup><sup>1</sup>c. It shall be a <sup>3</sup>disorderly persons offense for the first and  
 5 second violations and a <sup>3</sup> crime of the fourth degree <sup>3</sup>for each  
 6 subsequent violation<sup>3</sup> for an employer to <sup>2</sup>track an employee  
 7 using an employer-provided tracking device or electronic  
 8 communications device without<sup>1</sup> knowingly make use of a tracking  
 9 device or electronic communications device in a vehicle provided  
 10 by an employer for an employee's use without<sup>2</sup> providing written  
 11 notice to the employee.<sup>4</sup>

12 <sup>3</sup><sup>2</sup>An employer who unknowingly violates any provision of this  
 13 act shall be subject to a civil penalty in an amount not to exceed  
 14 \$1,000 for the first violation and \$2,500 for each subsequent  
 15 violation, collectible by the Commissioner of Labor and Workforce  
 16 Development in a summary proceeding pursuant to the "Penalty  
 17 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-  
 18 10 et seq.).<sup>2</sup><sup>3</sup>

19 <sup>4</sup><sup>1</sup>d c. Nothing in this act shall be construed to supersede  
 20 regulations governing interstate commerce<sup>3</sup><sup>1</sup> including <sup>3</sup>,<sup>3</sup> but  
 21 not limited to, the usage of electronic communications devices as  
 22 mandated by the Federal Motor Carrier Safety Administration.<sup>1</sup>

23  
 24 <sup>4</sup><sup>3</sup>2. An employer who unknowingly violates subsection b. or c.  
 25 of section 1 of P.L. c. (C. ) (pending before the Legislature as  
 26 this bill) shall be subject to a civil penalty in an amount not to exceed  
 27 \$1,000 for the first violation and \$2,500 for each subsequent violation,  
 28 collectible by the Commissioner of Labor and Workforce  
 29 Development in a summary proceeding pursuant to the "Penalty  
 30 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).<sup>3</sup><sup>4</sup>

31  
 32 <sup>3</sup><sup>2</sup><sup>4</sup><sup>3</sup><sup>3</sup><sup>1</sup>2. This act shall take effect on the 90<sup>th</sup> day next  
 33 following the date of enactment.

34  
 35  
 36  
 37  
 38 Prohibits employer use of tracking device in vehicle operated by  
 39 employee under certain circumstances.