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HOUSE BILL 1257

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State of Washington

67th Legislature

2021 Regular Session

By Representative Orcutt

1 AN ACT Relating to prohibiting unjustified employer searches of  
2 employee personal vehicles; adding new sections to chapter 49.12 RCW;  
3 prescribing penalties; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.12  
6 RCW to read as follows:

7 (1) Except as provided in subsection (2) of this section:

8 (a) An employer or an employer's agent may not search the  
9 privately owned vehicles of employees located on the employer's  
10 parking lots or garages or located on the access road to the  
11 employer's parking lots or garages.

12 (b) An employee may possess any of the employee's private  
13 property within the employee's vehicle, unless possession of such  
14 property is otherwise prohibited by law.

15 (c) An employer must not require, as a condition of employment,  
16 that an employee or prospective employee waive the protections of (a)  
17 or (b) of this subsection.

18 (2) This section does not apply:

19 (a) To vehicles owned or leased by an employer;

20 (b) To lawful searches by law enforcement officers;

1 (c) When a reasonable person would believe that accessing  
2 vehicles of an employee is necessary to prevent an immediate threat  
3 to human health, life, or safety;

4 (d) When an employee consents to a search of his or her privately  
5 owned vehicle by the business owner, owner's agent, or a licensed  
6 private security guard based on probable cause that the employee  
7 unlawfully possesses: (i) Employer property; or (ii) a controlled  
8 substance in violation of both federal law and the employer's written  
9 policy prohibiting drug use. For purposes of this subsection, the  
10 employer's policy must contain a notice to employees that personal  
11 vehicles may be subject to search based on probable cause. Upon  
12 consent, the employee has the right to select a witness to be present  
13 for the search;

14 (e) To security inspections of vehicles on state and federal  
15 military installations and facilities;

16 (f) To vehicles located on the premises of a state correctional  
17 institution, as defined in RCW 9.94.049; or

18 (g) To specific employer areas subject to searches under state or  
19 federal law.

20 (3) For purposes of this section, the terms "probable cause" and  
21 "private property" have their usual meaning under state and federal  
22 law.

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.12  
24 RCW to read as follows:

25 (1) Upon complaint by an employee, the director must investigate  
26 to determine whether an employer has violated section 1 of this act.  
27 The director may require the testimony of witnesses and the  
28 production of documents as part of the director's investigation.

29 (2) If the director determines that an employer has violated  
30 section 1 of this act, the director may order payment to the  
31 department of a civil penalty of not more than \$1,000 for an  
32 employer's first violation and not more than \$5,000 for any  
33 subsequent violation; and payment to the department of costs of  
34 investigation and enforcement. For the purposes of this subsection  
35 (2), each employee affected by a violation constitutes a separate  
36 violation.

37 (3) An appeal from the director's determination may be taken in  
38 accordance with chapter 34.05 RCW.

1           (4) The department must deposit civil penalties paid under this  
2 section in the supplemental pension fund created in RCW 51.44.033.

3           (5) The department shall collect civil penalties and costs due  
4 under this section using the procedures in RCW 49.48.086.

5           NEW SECTION.   **Sec. 3.** This act takes effect January 1, 2022.

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