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New York State Enacts Phone, Email, and Internet Monitoring Notice Law for Private Employers

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New York Governor Kathy Hocul has signed into law a bill that will require employers to provide notice to employees of electronic monitoring of telephone, email, and internet access and usage.

The law, which takes effect on May 7, 2022, will require all private employers, regardless of size, with a place of business in New York State to provide written notice upon hire to new employees if the employer does or plans to monitor or intercept telephone or email communications or internet access or usage by the employee. The notice must be in writing (either hard copy or electronic) and must be acknowledged by the employee either in writing or electronically. Employers will also be required to post the notice in a "conspicuous place which is readily available for viewing" by employees subject to the monitoring.

The written notice must inform employees that any and all telephone or email transmissions or conversations, or any internet access or usage, by means of any electronic device or system may be subject to monitoring at any and all times and by any lawful means.

The law does not apply to processes that: (i) are designed to manage the type or volume of incoming or outgoing electronic mail or telephone voice mail or internet usage; (ii) are not targeted to monitor or intercept the activities of a particular individual; and (iii) are performed solely for the purpose of computer system maintenance and/or protection.

Employers who violate the law will be subject to fines of up to $500 for the first offense, $1,000 for the second offense, and $3,000 for the third and each subsequent offense.

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