



Substitute Senate Bill No. 211

Public Act No. 16-125

AN ACT ALLOWING EMPLOYERS TO PAY WAGES USING PAYROLL CARDS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2016*) (a) As used in this section:

(1) "Direct deposit" means the electronic payment of an employee's wages, salary or other compensation that is deposited into such employee's account in any bank, Connecticut credit union or federal credit union that has agreed with the employer to accept such wages, salary or other compensation;

(2) "Payroll card" means a stored value card or other device used by an employee to access wages from a payroll card account and that is redeemable at the employee's election at multiple unaffiliated merchants or service providers, bank branches or automated teller machines. Payroll card does not mean a gift certificate, as defined in section 3-56a of the general statutes; and

(3) "Payroll card account" means an account in any bank, Connecticut credit union or federal credit union that is directly or indirectly established through an employer to which transfers of the employee's wages, salary or other compensation are made and

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accessed through the use of a payroll card and that is subject to the requirements of Regulation E, 12 CFR Part 1005, as from time to time amended.

(b) An employer may offer the use of payroll cards to deliver wages, salary or other compensation to employees, provided:

(1) Each employee has the option of receiving wages, salary or other compensation by direct deposit and by negotiable check; and

(2) The employee voluntarily and expressly authorizes, in writing or electronically, the payment of wages, salary or other compensation by means of a payroll card account without any intimidation, coercion or fear of discharge or reprisal from the employer for the employee's refusal to accept such payment of wages, salary or other compensation by means of a payroll card account. No employer shall make the payment of wages, salary or other compensation by means of a payroll card account a condition of employment or a condition for the receipt of any benefit or other form of remuneration for any employee.

(c) Prior to an employee electing to receive wages, salary or other compensation by means of a payroll card account, each employer using payroll card accounts to deliver wages, salary or other compensation to an employee shall provide such employee with clear and conspicuous notice, in writing, and in the language the employer normally uses to communicate employment-related policies to his or her employees, of the following:

(1) That payment of wages, salary or other compensation by means of a payroll card account is voluntary and the employee may instead choose to receive wages, salary or other compensation by either direct deposit or by negotiable check;

(2) The terms and conditions relating to the use of the payroll card, including an itemized list of fees that may be assessed by the card

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issuer and their amounts;

(3) The methods available to employees both for accessing their full wages, salary or other compensation in lawful money of the United States without any transaction fee to the employee for such access and for avoiding or minimizing fees for use of the payroll card, including, but not limited to, a clear and conspicuous notice describing how to access wages, salary or other compensation without cost at automated teller machines, depository financial institutions or other convenient locations;

(4) The methods available to employees for checking their balances in the payroll card account without cost; and

(5) A statement indicating that third parties may assess additional fees.

(d) Each pay period, but not more frequently than each week, an employee with a payroll card shall be allowed to make at least three withdrawals from the payroll card account at no cost to the employee, one of which permits withdrawal of the full amount of the employee's net wages, salary or other compensation for the pay period at a depository financial institution or other convenient location.

(e) None of the employer's costs associated with paying wages, salary or other compensation using a payroll card or establishing the payroll card account shall be deducted from or charged against the wages, salary or other compensation delivered to the employee.

(f) (1) Neither the employer nor the payroll card issuer shall assess a fee to the employee for any of the following, regardless of how such fee is labeled: (A) Issuing the initial payroll card; (B) transferring wages, salary or other compensation from the employer to the payroll card account; (C) maintaining a payroll card account; (D) providing one replacement card per calendar year upon the employee's request;

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(E) closing the payroll card account; (F) maintaining a low balance; (G) inactivity or dormancy of the payroll card account for the first twelve months of inactivity or dormancy; or (H) point-of-sale transactions.

(2) A payroll card may bear an expiration date, provided (A) the funds in the payroll card account do not expire; and (B) prior to the expiration date, the employee is provided with a replacement card, without charge, during the period when wages, salary or other compensation are applied to the payroll card account by the employer and for sixty days after the last transfer of wages, salary or other compensation is applied to the payroll card account by the employer.

(3) The payroll card account may escheat to the state pursuant to the provisions of section 3-57a of the general statutes.

(g) Each employer shall provide the employee a means of checking his or her payroll card account balance through an automated telephone system, automated teller machine or electronically without cost to the employee twenty-four hours per day and seven days per week.

(h) Neither the payroll card nor the payroll card account shall be linked to any form of credit and, to the extent technologically feasible, the payroll card account shall not allow for overdrafts. No fees or interest may be imposed upon the employee for an overdraft or the first two declined transactions of each calendar month.

(i) The employer shall furnish the employee with a statement of deductions made from his or her wages, salary or other compensation for each pay period in accordance with section 31-13a of the general statutes, as amended by this act.

(j) Each employee with a payroll card shall be permitted, on timely notice to the employer and without cost or fear of reprisal or discrimination or the assessment of any penalty, to receive his or her

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wages, salary or other compensation by direct deposit into a personal account at any bank, Connecticut credit union or federal credit union that has agreed to accept such deposits or by negotiable check. The employer shall begin payment by direct deposit as soon as practicable but not later than the first pay day after fourteen days from receiving both the employee's request and the account information necessary to make the deposit, or by check as soon as practicable but not later than the first pay day after fourteen days from receiving the employee's request.

(k) Consumer protections, including transaction histories and advanced notice of changes in terms and conditions, shall be provided to each employee with a payroll card in accordance with Regulation E, 12 CFR Part 1005, as from time to time amended. Notwithstanding the foregoing, employees shall be provided the option to receive, on a monthly basis, automatic written transaction histories at no cost to the employee for a term of at least twelve months or until such option is cancelled by the employee. Renewal of the option to receive written transaction histories at no cost to the employee may be required by the employer upon expiration of the initial twelve-month term, and each twelve-month term thereafter.

(l) The payroll card shall be associated with an automated teller machine network that ensures the availability of a substantial number of in-network automated teller machines in the state.

(m) Wages, salary or other compensation paid to an employee using a payroll card shall be deposited in a payroll card account that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration on a pass-through basis to the employee.

(n) A payroll card account that is used to receive only employee wages, salary or other compensation shall be exempt from execution or attachment (1) by creditors of the employer, and (2) under section 52-

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367b of the general statutes.

(o) All notices required by the provisions of this section shall be clear and conspicuous.

(p) Nothing in this section shall be construed to preempt or override the terms of any collective bargaining agreement with respect to the methods by which an employer provides payment of wages, salary or other compensation to employees.

(q) Nothing in this section shall be construed to restrict the fees that a payroll card issuer may charge the employer pursuant to a payroll card agreement between the payroll card issuer and the employer, provided those fees are not charged to or passed on to any employee.

(r) The employer's obligations to the employee pursuant to the provisions of this section shall cease sixty days after the employer-employee relationship has ended.

(s) The Labor Commissioner, within available appropriations, may conduct a study of payroll card usage and the actual incidence of associated fees. Not later than October 1, 2018, the commissioner shall determine whether such a study shall be conducted, and shall report such determination, or the status or results of such a study if such a study has already been initiated or conducted, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to labor.

(t) The Labor Commissioner may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to ensure compliance with this section.

Sec. 2. Subsection (a) of section 31-71b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective*

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October 1, 2016):

(a) (1) Except as provided in subdivision (2) of this subsection, each employer, or the agent or representative of an employer, shall pay weekly all [moneys] wages, salary or other compensation due each employee on a regular pay day, designated in advance by the employer [, in cash,] using one or more of the following methods: (A) Cash; (B) by negotiable checks; [or, upon an employee's written request, by credit to such employee's account in any bank that has agreed with the employer to accept such wage deposits] (C) upon an employee's written or electronic request, by direct deposit; or (D) by payroll card, provided the requirements of section 1 of this act are satisfied.

(2) Unless otherwise requested by the recipient, the Comptroller shall, as soon as is practicable, pay all wages due each state employee, as defined in section 5-196, by electronic direct deposit to such employee's account in any bank, Connecticut credit union or federal credit union that has agreed with the Comptroller to accept such wage deposits.

Sec. 3. Section 31-13a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) With each wage payment each employer shall furnish to each employee, in writing or, with the employee's explicit consent, electronically, a record of hours worked, the gross earnings showing straight time and overtime as separate entries, itemized deductions and net earnings, except that the furnishing of a record of hours worked and the separation of straight time and overtime earnings shall not apply in the case of any employee with respect to whom the employer is specifically exempt from the keeping of time records and the payment of overtime under the Connecticut Minimum Wage Act or the Fair Labor Standards Act.

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(b) If the record of hours is furnished electronically pursuant to subsection (a) of this section, the employer shall provide a means for each employee to securely, privately and conveniently access and print such record. The employer shall incorporate reasonable safeguards regarding any information contained in the record furnished electronically pursuant to subsection (a) of this section to protect the confidentiality of an employee's personal information.

Approved June 7, 2016