



Rep. Arthur Turner

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LRB098 19212 JLS 58484 a

1 AMENDMENT TO HOUSE BILL 5622

2 AMENDMENT NO. _____. Amend House Bill 5622 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Wage Payment and Collection Act is
5 amended by changing Sections 2 and 4 and by adding Section 14.5
6 as follows:

7 (820 ILCS 115/2) (from Ch. 48, par. 39m-2)

8 Sec. 2. For all employees, other than separated employees,
9 "wages" shall be defined as any compensation owed an employee
10 by an employer pursuant to an employment contract or agreement
11 between the 2 parties, whether the amount is determined on a
12 time, task, piece, or any other basis of calculation. Payments
13 to separated employees shall be termed "final compensation" and
14 shall be defined as wages, salaries, earned commissions, earned
15 bonuses, and the monetary equivalent of earned vacation and
16 earned holidays, and any other compensation owed the employee

1 by the employer pursuant to an employment contract or agreement
2 between the 2 parties. Where an employer is legally committed
3 through a collective bargaining agreement or otherwise to make
4 contributions to an employee benefit, trust or fund on the
5 basis of a certain amount per hour, day, week or other period
6 of time, the amount due from the employer to such employee
7 benefit, trust, or fund shall be defined as "wage supplements",
8 subject to the wage collection provisions of this Act.

9 As used in this Act, the term "employer" shall include any
10 individual, partnership, association, corporation, limited
11 liability company, business trust, employment and labor
12 placement agencies where wage payments are made directly or
13 indirectly by the agency or business for work undertaken by
14 employees under hire to a third party pursuant to a contract
15 between the business or agency with the third party, or any
16 person or group of persons acting directly or indirectly in the
17 interest of an employer in relation to an employee, for which
18 one or more persons is gainfully employed.

19 As used in this Act, the term "employee" shall include any
20 individual permitted to work by an employer in an occupation,
21 but shall not include any individual:

22 (1) who has been and will continue to be free from
23 control and direction over the performance of his work,
24 both under his contract of service with his employer and in
25 fact; and

26 (2) who performs work which is either outside the usual

1 course of business or is performed outside all of the
2 places of business of the employer unless the employer is
3 in the business of contracting with third parties for the
4 placement of employees; and

5 (3) who is in an independently established trade,
6 occupation, profession or business.

7 The following terms shall apply to an employer's use of
8 payroll cards to pay wages to an employee under the
9 requirements of this Act:

10 "Payroll card" means a card provided to an employee by an
11 employer or other payroll card issuer as a means of accessing
12 the employee's payroll card account.

13 "Payroll card account" means an account that is directly or
14 indirectly established through an employer and to which
15 deposits of a participating employee's wages are made.

16 "Payroll card issuer" means a bank, financial institution,
17 or other entity that issues a payroll card to an employee under
18 an employer payroll card program.

19 (Source: P.A. 94-1025, eff. 7-14-06.)

20 (820 ILCS 115/4) (from Ch. 48, par. 39m-4)

21 Sec. 4. All wages earned by any employee during a
22 semi-monthly or bi-weekly pay period shall be paid to such
23 employee not later than 13 days after the end of the pay period
24 in which such wages were earned. All wages earned by any
25 employee during a weekly pay period shall be paid not later

1 than 7 days after the end of the weekly pay period in which the
2 wages were earned. All wages paid on a daily basis shall be
3 paid insofar as possible on the same day as the wages were
4 earned, or not later in any event than 24 hours after the day
5 on which the wages were earned. Wages of executive,
6 administrative and professional employees, as defined in the
7 Federal Fair Labor Standards Act of 1938, may be paid on or
8 before 21 calendar days after the period during which they are
9 earned.

10 The terms of this Section shall not apply, if there exists
11 a valid collective bargaining agreement which provides for a
12 different date or for different arrangements for the payment of
13 wages.

14 Employers shall pay to workers on strike or layoff, no
15 later than the next regular payday, all wages earned up to the
16 time of such strike or layoff.

17 Any employee who is absent at the time fixed for payment,
18 or who for any other reason is not paid at that time, shall be
19 paid upon demand at any time within a period of 5 days after
20 the time fixed for payment; and after the expiration of the 5
21 day period, payment shall be made upon 5 days demand. Payment
22 to the absent employee shall be made by mail if the employee so
23 requests in writing.

24 All wages and final compensation shall be paid in lawful
25 money of the United States, by check, redeemable upon demand
26 and without discount at a bank or other financial institution

1 readily available to the employee, or by deposit of funds in an
2 account in a bank or other financial institution designated by
3 the employee, or by a payroll card that meets the requirements
4 of Section 14.5. No employer may designate a particular
5 financial institution, bank, savings bank, savings and loan, or
6 currency exchange for the exclusive payment or deposit of a
7 check for wages. No financial institution, bank, savings bank,
8 savings and loan, or currency exchange shall refuse to honor a
9 check for wages that exclusively designates, in violation of
10 this Section, a particular bank, savings bank, savings and
11 loan, or currency exchange as the exclusive place of payment or
12 deposit except to the extent the bank, savings bank, savings
13 and loan, or currency exchange is otherwise excused from
14 honoring the check under Section 3-111 of the Uniform
15 Commercial Code because the bank, savings bank, savings and
16 loan, or currency exchange is not the drawee or the maker of
17 the check.

18 (Source: P.A. 89-364, eff. 8-18-95.)

19 (820 ILCS 115/14.5 new)

20 Sec. 14.5. Payroll cards. An employer using a payroll card
21 to pay an employee's wages shall meet the following
22 requirements:

23 (1) The employer shall not make receipt of wages by
24 payroll card a condition of employment for any employee.

25 (2) The employer shall not initiate payment of wages to

1 the employee by electronic fund transfer to a payroll card
2 account unless:

3 (A) the employer provides the employee with a clear
4 and conspicuous written disclosure explaining the
5 terms and conditions of the payroll card account
6 option, including:

7 (i) an itemized list of all fees that may be
8 deducted from the employee's payroll card account
9 by the employer or payroll card issuer; and

10 (ii) a notice that third parties may assess
11 transaction fees in addition to the fees assessed
12 by the employee's payroll card issuer;

13 (B) the employer also offers the employee other
14 methods of payment in compliance with Section 4; and

15 (C) the employer obtains the employee's voluntary
16 consent to receive the wages by payroll card.

17 (3) A payroll card program offered by the employer
18 shall provide the employee with:

19 (A) at least one method of withdrawing the
20 employee's full net wages from the payroll card every 2
21 weeks, at no cost to the employee, at a location
22 readily available to the employee;

23 (B) at the employee's request, one transaction
24 history, which the employee may request to receive in
25 paper or electronic form, each month that includes all
26 deposits, withdrawals, deductions, or charges by any

1 entity from or to the employee's payroll card account
2 at no cost to the employee; and

3 (C) at least one of the following options for the
4 employee to obtain the payroll card account balance on
5 the payroll card at any time without incurring a fee:
6 online, by telephone, by text message, or at an ATM
7 location.

8 (4) An employer may not use a payroll card program that
9 includes fees for declined transactions, point of sale
10 transactions, or the application, initiation, loading of
11 wages by the employer, or participation in the payroll card
12 program. Fees for account inactivity may be assessed
13 following one year of inactivity.

14 (5) The payroll card or payroll card account may not be
15 linked to any form of credit including, but not limited to,
16 overdraft fees or overdraft service fees, a loan against
17 future pay, or a cash advance on future pay or work not yet
18 performed.

19 (6) An employee paid wages by payroll card may request
20 to be paid wages by other methods of payment provided by
21 the employer in accordance with Section 4. Following the
22 request, the employer shall, within 2 pay periods, begin
23 payment to the employee by the allowable method requested
24 by the employee.

25 (7) A payroll card program offered by an employer shall
26 provide the employee with protections from unauthorized

1 use of the payroll card in accordance with State and
2 federal law concerning electronic fund transfers.

3 Section 99. Effective date. This Act takes effect January
4 1, 2015."