

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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
17 by the employer pursuant to an employment contract or agreement
18 between the 2 parties. Where an employer is legally committed
19 through a collective bargaining agreement or otherwise to make
20 contributions to an employee benefit, trust or fund on the
21 basis of a certain amount per hour, day, week or other period
22 of time, the amount due from the employer to such employee
23 benefit, trust, or fund shall be defined as "wage supplements",

1 subject to the wage collection provisions of this Act.

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

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

15 (1) who has been and will continue to be free from
16 control and direction over the performance of his work,
17 both under his contract of service with his employer and in
18 fact; and

19 (2) who performs work which is either outside the usual
20 course of business or is performed outside all of the
21 places of business of the employer unless the employer is
22 in the business of contracting with third parties for the
23 placement of employees; and

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

26 The following terms shall apply to an employer's use of

1 payroll cards to pay wages to an employee under the
2 requirements of this Act:

3 "Payroll card" means a card provided to an employee by an
4 employer or other payroll card issuer as a means of accessing
5 the employee's payroll card account.

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

9 "Payroll card issuer" means a bank, financial institution,
10 or other entity that issues a payroll card to an employee under
11 an employer payroll card program.

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

13 (820 ILCS 115/4) (from Ch. 48, par. 39m-4)

14 Sec. 4. All wages earned by any employee during a
15 semi-monthly or bi-weekly pay period shall be paid to such
16 employee not later than 13 days after the end of the pay period
17 in which such wages were earned. All wages earned by any
18 employee during a weekly pay period shall be paid not later
19 than 7 days after the end of the weekly pay period in which the
20 wages were earned. All wages paid on a daily basis shall be
21 paid insofar as possible on the same day as the wages were
22 earned, or not later in any event than 24 hours after the day
23 on which the wages were earned. Wages of executive,
24 administrative and professional employees, as defined in the
25 Federal Fair Labor Standards Act of 1938, may be paid on or

1 before 21 calendar days after the period during which they are
2 earned.

3 The terms of this Section shall not apply, if there exists
4 a valid collective bargaining agreement which provides for a
5 different date or for different arrangements for the payment of
6 wages.

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

10 Any employee who is absent at the time fixed for payment,
11 or who for any other reason is not paid at that time, shall be
12 paid upon demand at any time within a period of 5 days after
13 the time fixed for payment; and after the expiration of the 5
14 day period, payment shall be made upon 5 days demand. Payment
15 to the absent employee shall be made by mail if the employee so
16 requests in writing.

17 All wages and final compensation shall be paid in lawful
18 money of the United States, by check, redeemable upon demand
19 and without discount at a bank or other financial institution
20 readily available to the employee, or by deposit of funds in an
21 account in a bank or other financial institution designated by
22 the employee, or by a payroll card that meets the requirements
23 of Section 14.5. No employer may designate a particular
24 financial institution, bank, savings bank, savings and loan, or
25 currency exchange for the exclusive payment or deposit of a
26 check for wages. No financial institution, bank, savings bank,

1 savings and loan, or currency exchange shall refuse to honor a
2 check for wages that exclusively designates, in violation of
3 this Section, a particular bank, savings bank, savings and
4 loan, or currency exchange as the exclusive place of payment or
5 deposit except to the extent the bank, savings bank, savings
6 and loan, or currency exchange is otherwise excused from
7 honoring the check under Section 3-111 of the Uniform
8 Commercial Code because the bank, savings bank, savings and
9 loan, or currency exchange is not the drawee or the maker of
10 the check.

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

12 (820 ILCS 115/14.5 new)

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

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

18 (2) The employer shall not initiate payment of wages to
19 the employee by electronic fund transfer to a payroll card
20 account unless:

21 (A) the employer provides the employee with a clear
22 and conspicuous written disclosure explaining the
23 terms and conditions of the payroll card account
24 option, including:

25 (i) an itemized list of all fees that may be

1 deducted from the employee's payroll card account
2 by the employer or payroll card issuer; and

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

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

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

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

12 (A) at least one method of withdrawing the
13 employee's full net wages from the payroll card every 2
14 weeks, at no cost to the employee, at a location
15 readily available to the employee;

16 (B) at the employee's request, one transaction
17 history, which the employee may request to receive in
18 paper or electronic form, each month that includes all
19 deposits, withdrawals, deductions, or charges by any
20 entity from or to the employee's payroll card account
21 at no cost to the employee; and

22 (C) at least one of the following options for the
23 employee to obtain the payroll card account balance on
24 the payroll card at any time without incurring a fee:
25 online, by telephone, by text message, or at an ATM
26 location.

1 (4) An employer may not use a payroll card program that
2 includes fees for declined transactions, point of sale
3 transactions, or the application, initiation, loading of
4 wages by the employer, or participation in the payroll card
5 program. Fees for account inactivity may be assessed
6 following one year of inactivity.

7 (5) The payroll card or payroll card account may not be
8 linked to any form of credit including, but not limited to,
9 overdraft fees or overdraft service fees, a loan against
10 future pay, or a cash advance on future pay or work not yet
11 performed.

12 (6) An employee paid wages by payroll card may request
13 to be paid wages by other methods of payment provided by
14 the employer in accordance with Section 4. Following the
15 request, the employer shall, within 2 pay periods, begin
16 payment to the employee by the allowable method requested
17 by the employee.

18 (7) A payroll card program offered by an employer shall
19 provide the employee with protections from unauthorized
20 use of the payroll card in accordance with State and
21 federal law concerning electronic fund transfers.

22 Section 99. Effective date. This Act takes effect January
23 1, 2015.