



Sen. Kwame Raoul

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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 apply to an employer's use of payroll  
8 cards to pay wages to an employee under the requirements of  
9 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 or a condition for  
25 the receipt of any benefit or other form of remuneration

1 for any employee.

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

5 (A) the employer provides the employee with a clear  
6 and conspicuous written disclosure notifying the  
7 employee that payment by payroll card is voluntary,  
8 listing the other method or methods of payment offered  
9 by the employer in accordance with Section 4, and  
10 explaining the terms and conditions of the payroll card  
11 account option, including:

12 (i) an itemized list of all fees that may be  
13 deducted from the employee's payroll card account  
14 by the employer or payroll card issuer;

15 (ii) a notice that third parties may assess  
16 transaction fees in addition to the fees assessed  
17 by the employee's payroll card issuer; and

18 (iii) an explanation of how the employee may  
19 obtain, at no cost, the employee's net wages, check  
20 the account balance, and request to receive paper  
21 or electronic transaction histories, as provided  
22 in item (3);

23 (B) the employer also offers the employee another  
24 method or methods of payment in compliance with Section  
25 4; and

26 (C) the employer obtains the employee's voluntary

1           written or electronic consent to receive the wages by  
2           payroll card.

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

5                   (A) at least one method of withdrawing the  
6                   employee's full net wages from the payroll card once  
7                   per pay period, but not less than twice per month, at  
8                   no cost to the employee, at a location readily  
9                   available to the employee;

10                   (B) at the employee's request, one transaction  
11                   history, which the employee may request to receive in  
12                   paper or electronic form, each month that includes all  
13                   deposits, withdrawals, deductions, or charges by any  
14                   entity from or to the employee's payroll card account  
15                   at no cost to the employee; and

16                   (C) at least one of the following options for the  
17                   employee to obtain the payroll card account balance on  
18                   the payroll card at any time without incurring a fee:  
19                   online, by telephone, by text message, or at an ATM  
20                   location.

21           (4) An employer may not use a payroll card program that  
22           charges fees for declined transactions, point of sale  
23           transactions, or the application, initiation, loading of  
24           wages by the employer, or participation in the payroll card  
25           program. Fees for account inactivity may be assessed  
26           following one year of inactivity.

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

6           (6) An employee paid wages by payroll card may request  
7           to be paid wages by another method of payment provided by  
8           the employer in accordance with Section 4. Following the  
9           request, the employer shall, within 2 pay periods, begin  
10           payment to the employee by the allowable method requested  
11           by the employee.

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

16           (8) The employer's obligations under this Section  
17           shall cease 180 days after the employer-employee  
18           relationship has ended and the employee has been paid the  
19           employee's full and final wages.

20           (9) Within 30 days of the termination of the  
21           employer-employee relationship, the employer shall:

22                   (A) notify the employee that the terms and  
23                   conditions of the account may change if the employee  
24                   chooses to continue a relationship with the payroll  
25                   card issuer; and

26                   (B) provide the employee with contact information



1           for the payroll card issuer.

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