

HB 357 – AS AMENDED BY THE SENATE

20Mar2013... 0932h
06/06/13 1999s

2013 SESSION

13-0595
06/01

HOUSE BILL **357**

AN ACT prohibiting an employer from using credit history in employment decisions and authorizing electronic payment of payroll.

SPONSORS: Rep. Cushing, Rock 21

COMMITTEE: Labor, Industrial and Rehabilitative Services

AMENDED ANALYSIS

This bill:

I. Prohibits employers from using credit history in employment decisions.

II. Deletes the requirement that an employer who pays wages by electronic fund transfer offer employees the option of being paid by check.

III. Permits an employer to pay wages with a payroll card after offering employees the option of being paid by direct deposit.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT prohibiting an employer from using credit history in employment decisions and authorizing electronic payment of payroll.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Employers' Use of Credit History in Hiring Decisions. Amend RSA 275 by
2 inserting after section 70 the following new subdivision:

3 Credit Privacy

4 275:71 Definitions. In this subdivision:

5 I. "Credit history" means any written or other communication of any information about the
6 employee's or prospective employee's credit score, credit account balances, payment history, savings
7 or checking account balances, or savings or checking account numbers by a consumer reporting
8 agency as defined in RSA 359-B:3, VI.

9 II. "Employer" means an individual or entity that permits one or more individuals to work or
10 that accepts applications for employment or is an agent of such individual or entity. "Employer" does
11 not, however, include:

12 (a) Any bank holding company, financial holding company, bank, savings bank, savings
13 and loan association, credit union, or trust company, or any subsidiary or affiliate thereof, that is
14 chartered by any state or the United States.

15 (b) Any state or local government agency which requires use of the employee's or
16 applicant's credit history or credit report.

17 III. "Substantially related to the employee's current or potential job" means the information
18 contained in the credit history is related to the position for which the employee or prospective
19 employee who is the subject of the report is being evaluated because the position:

20 (a) Is a managerial position which involves setting the direction or control of a business,
21 division, unit, or agency of a business;

22 (b) Involves access to customers', employees', or the employer's personal or financial
23 information other than information customarily provided in a retail transaction;

24 (c) Involves a fiduciary responsibility to the employer, including, but not limited to, the
25 authority to issue payments, collect debts, transfer money, or enter into contracts; or

26 (d) Provides an expense account or corporate debit or credit card.

27 275:72 Unlawful Discriminatory Practice. It shall be an unlawful discriminatory practice for
28 any employer, labor organization, or employment agency to use or request information in the credit

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1 history of a job applicant or employee in connection with or as a criterion for employment decisions
2 related to hiring, termination, promotion, demotion, discipline, compensation, or the terms,
3 conditions, or privileges of employment unless the employer is required by state or federal law to use
4 individual credit history for employment purposes, or the employer has a bona fide purpose for
5 requesting or using information in the credit history report that is substantially related to the
6 employee's current or potential job and the employer complies with the notice and consent
7 requirements of the Federal Fair Credit Reporting Act, 15 U.S.C. section 1681 et seq.

8 2 Payment of Wages; Weekly. Amend RSA 275:43, I(e) to read as follows:

9 (e) With checks on a financial institution convenient to the place of employment where
10 suitable arrangements are made for the cashing of such checks by employees for the full amount of
11 the wages due~~;~~ ~~provided, however, that if an employer elects to pay employees as specified in~~
12 ~~subparagraphs (b), (c), or (d), the employer shall offer employees the option of being paid as specified~~
13 ~~in subparagraph (e), and further],~~ provided that all wages in the nature of health and welfare fund
14 or pension fund contributions required pursuant to a health and welfare fund trust agreement,
15 pension fund trust agreement, collective bargaining agreement, or other agreement adopted for the
16 benefit of employees and agreed to by the employer shall be paid by every such employer within 30
17 days of the date of demand for such payment, the payment to be made to the administrator or other
18 designated official of the applicable health and welfare or pension trust fund.

19 3 Payment of Wages; Weekly. RSA 275:43, II(b) is repealed and reenacted to read as follows:

20 (b) Provide its employees the option of being paid by direct deposit under subparagraph
21 I(c). If, after the employer has offered an employee direct deposit and provided the employee with
22 the written disclosures required by subparagraph (a), the employee does not designate an account at
23 a financial institution for direct deposit, the employer may arrange to pay the employee using a
24 payroll card.

25 4 Payment of Wages; Weekly. Amend RSA 275:43, II(c) and (d) to read as follows:

26 (c) Provide written notice of any change to any of the terms and conditions of the payroll
27 card or payroll card account, including but not limited to an itemized list of all fees that may have
28 changed~~], and obtain written assent from the employee that the employee voluntarily consents to~~
29 ~~receive wages to a payroll card or payroll card account subject to the changes].~~ The employer shall
30 be responsible for any increase in fees charged to the employee before the employer provides written
31 notice of such changes to the employee.

32 (d) Provide the employee the option to discontinue receipt of wages by a payroll card or
33 payroll card account at any time, without penalty to the employee ***and to instead receive wages by***
34 ***direct deposit or another method offered by the employer, if any.***

35 5 Effective Date. This act shall take effect 60 days after its passage.