

HB 1404 – AS AMENDED BY THE HOUSE

19Feb2014... 0501h

2014 SESSION

14-2181
06/05

HOUSE BILL ***1404***

AN ACT relative to payroll cards.

SPONSORS: Rep. Cahill, Rock 17; Rep. Flanagan, Hills 26; Rep. Moody, Rock 17

COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill adds requirements for the use of payroll cards.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Fourteen

AN ACT relative to payroll cards.

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

1 1 Payment of Wages; Weekly; Payroll Card. Amend RSA 275:43, I and II to read as follows:

2 I. Every employer shall pay all wages due to employees within 8 days including Sunday after
3 expiration of the week in which the work is performed, except when permitted to pay wages less
4 frequently as authorized by the commissioner pursuant to paragraph II, on regular paydays
5 designated in advance by the employer and at no cost to the employee:

6 (a) In lawful money of the United States;

7 (b) By electronic fund transfer;

8 (c) By direct deposit with written authorization of the employee to banks of the
9 employee's choice;

10 (d) By a payroll card provided that the employer ***has offered, and the employee has***
11 ***declined, both the option of receiving his or her wages by direct deposit to a depository***
12 ***account of the employee's choosing and the option of receiving a paper check, and that the***
13 ***employer shall provide to the employee at least [one free means to withdraw] 3 free withdrawals***
14 ***up to and including the full amount of the employee balance in the employee's payroll card or payroll***
15 ***card account during each pay period at a financial institution, automated teller machine within***
16 ***the network of financial institutions of the issuer providing the payroll card account, or***
17 ***other location convenient to the place of employment. The payroll card account shall not be***
18 ***linked to any form of credit, including a loan against future pay, a cash advance on future***
19 ***pay, or overdraft protection.*** None of the employer's costs associated with a payroll card or payroll
20 card account shall be passed on to the employee; or

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

1 II. If an employer offers its employees the option of receiving wages by a payroll card, the
2 employer shall:

3 (a) Provide to the employee written disclosure in plain language of all the employee's
4 wage payment options. The written disclosure shall state the terms and conditions of the payroll
5 card account option, including, but not limited to, the requirements set forth in this section and a
6 complete itemized list of all known fees that may be deducted from the employee's payroll card
7 account by the employer or card issuer. The disclosure shall also state whether third parties may
8 assess transaction fees in addition to the fees assessed by the employee's payroll card issuer or
9 issuers. In no event shall the employer provide payment of wages to a payroll card that has an
10 expiration date, unless the employer agrees to provide a replacement payroll card **at least 15 days**
11 before the expiration date at no cost to the employee.

12 (b) Initiate payment of wages to an employee by electronic fund transfer to a payroll card
13 account only after the employee has voluntarily consented in writing to that method of payment.
14 Consent to payment of wages by electronic fund transfer to a payroll card account shall not be a
15 condition of hire or of continued employment. The written consent signed by the employee shall
16 include the terms and conditions of the payroll card account option, **as described in paragraph**
17 **II(a)**.

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

24 (d) Provide the employee the option to discontinue receipt of wages by a payroll card or
25 payroll card account at any time, without penalty **or cost** to the employee.

26 (e) **Provide the employee the option of receiving periodic account activity**
27 **statements at least once per month, or at least every 90 days if there is a balance on the**
28 **payroll card but no activity on the payroll card account, of all transactions during the**
29 **statement period including deposits, withdrawals, fees charged, and other transactions**
30 **affecting the payroll account. Employers shall provide employees with an option of**
31 **receiving periodic payroll account statements electronically or as paper statements.**
32 **Employees may voluntarily decline, in writing, the option to receive periodic payroll**
33 **account statements.**

34 (f) **The payroll card account may be closed for inactivity, with a minimum of 30**
35 **days notice given to the employee; provided that the remaining funds on the payroll card**
36 **account are refunded to the employee at no cost to the employee.**

37 (g) **Ensure that there are no fees charged to employees for the following payroll**

1 *card account transactions and services:*

2 *(1) A declined transaction.*

3 *(2) A low balance fee.*

4 *(3) Account inactivity.*

5 *(4) Access to payroll card balance and transaction history online, by*
6 *interactive voice response system, at an automated teller machine in the network of an*
7 *issuer, or by any automated system in conjunction with the payroll card.*

8 *(5) Any transaction or service not expressly identified by type and amount in*
9 *the contract between the employer and the payroll card issuer, or any transaction or*
10 *service not expressly disclosed to the employee as required in subparagraph II(a).*

11 2 Effective Date. This act shall take effect 60 days after its passage.