

SB 46 - AS INTRODUCED

2023 SESSION

23-0937

05/04

SENATE BILL **46**

AN ACT relative to electronic payments to employee debit cards.

SPONSORS: Sen. Carson, Dist 14; Sen. Avard, Dist 12; Sen. Innis, Dist 7

COMMITTEE: Commerce

ANALYSIS

This bill clarifies the obligations of employers using employee debit cards for payment of wages.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to electronic payments to employee debit cards.

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

1 1 Payment of Wages Electronic Payments to Employee Debit Cards. Amend RSA 275:43, I and
2 II to read as follows:

3 I. Every employer shall pay all wages due to employees within 8 days after the expiration of
4 the work week if the employee is paid on a weekly basis, or within 15 days after the expiration of the
5 work week if the employee is paid on a biweekly basis, except when permitted to pay wages less
6 frequently as authorized by the commissioner pursuant to paragraph IV or IV-a(a), on regular
7 paydays designated in advance by the employer and at no cost to the employee:

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

9 (b) By electronic fund transfer;

10 (c) By direct deposit ~~[with written authorization of the employee]~~ to banks of the
11 employee's choice;

12 (d) By a payroll card provided that the employer shall provide to the employee at least
13 one free means to withdraw up to and including the full amount of the employee balance in the
14 employee's payroll card or payroll card account during each pay period at a financial institution or
15 other location convenient to the place of employment. ***If an employee is unable to access their
16 wages due to a technical or processing defect, the employer shall immediately provide the
17 wages to the employee with either a replacement employee debit card, a check, a direct
18 deposit, or cash. In such a situation, the employer shall be liable for late payment of wages
19 whenever the replacement wages are provided after the designated pay day. If an employee
20 debit card is lost, stolen, or damaged such that the funds are no longer accessible to the
21 employee, the employer shall provide the employee with a replacement employee debit card
22 within 24 hours of being notified.*** None of the employer's costs associated with a payroll card or
23 payroll card account shall be passed on to the employee; or

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

1 date of demand for such payment, the payment to be made to the administrator or other designated
2 official of the applicable health and welfare or pension trust fund.

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

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

14 (b) Initiate payment of wages to an employee by electronic fund transfer to a payroll
15 card account only after the employee has ~~[voluntarily consented in writing to that method of~~
16 ~~payment. Consent to payment of wages by electronic fund transfer to a payroll card account shall~~
17 ~~not be a condition of hire or of continued employment. The written consent signed by the employee~~
18 ~~shall include the terms and conditions of the payroll card account option.]~~ ***failed to provide bank***
19 ***information to enable direct deposit as specified in subparagraph I(c) within 14 calendar***
20 ***days of the employer's request. An employer that wishes to offer only electronic wage***
21 ***payment under subparagraphs I(c)-(d) shall advise employees that failure to provide bank***
22 ***information shall result in wage payments via payroll card.***

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

29 (d) Provide the employee the option to discontinue receipt of wages by a payroll card or
30 payroll card account, ***and instead to receive wages via direct deposit***, at any time, without
31 penalty to the employee.

32 2 Effective Date. This act shall take effect 60 days after its passage.