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SENATE BILL 156

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO EMPLOYMENT; AMENDING A SECTION OF CHAPTER 50,
ARTICLE 4 NMSA 1978 TO PROVIDE FOR PAYMENT OF WAGES BY PAYROLL
CARDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 50-4-2 NMSA 1978 (being Laws 1937,
Chapter 109, Section 2, as amended) is amended to read:

"50-4-2. SEMIMONTHLY AND MONTHLY PAY DAYS.--

A. An employer in this state shall designate
regular pay days, not more than sixteen days apart, as days
fixed for the payment of wages to all employees paid in this
state. The employer shall pay for services rendered from the
first to the fifteenth days, inclusive, of any calendar month
by the twenty-fifth day of the month during which services are
rendered, and for all services rendered from the sixteenth to

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1 the last day of the month, inclusive, of any calendar month by
2 the tenth day of the succeeding month. Where computation of
3 earnings and of amounts due, preparation of payrolls and
4 issuance of paychecks are at a central location outside New
5 Mexico, the employer shall pay for services rendered from the
6 first to the fifteenth days, inclusive, of any calendar month
7 by the last of the month during which services are rendered,
8 and for all services rendered from the sixteenth to the last
9 day of the month, inclusive, of any calendar month by the
10 fifteenth day of the succeeding month.

11 B. Except as provided by rules of the department of
12 finance and administration for payment of salaries and wages to
13 state employees, other than employees of institutions of higher
14 education, promulgated pursuant to Section 10-7-2 NMSA 1978, an
15 employer shall pay wages in full, less lawful deductions and
16 less payroll deductions authorized by the employer and
17 employee, or specifically stated in a written contract entered
18 into at the time of hiring.

19 C. Wages shall be paid using one or more of the
20 following methods:

- 21 (1) in lawful money of the United States [~~or~~];
22 (2) in checks, payroll vouchers or drafts on
23 banks, convertible into cash on demand at full face value [~~or~~];
24 (3) with the voluntary authorization of the
25 employer, employee and financial institution, by deposit to the

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1 account of the employee in any bank, savings and loan
2 association, credit union or other financial institution
3 authorized by the United States or one of the several states to
4 receive deposits in the United States [~~without any reduction or~~
5 ~~deduction, except as may be specifically stated in a written~~
6 ~~contract of hiring entered into at the time of hiring~~]; or
7 (4) on a payroll card pursuant to the
8 requirements of Subsection D of this section.

9 D. An employer may use payroll cards to deliver
10 wages or salaries to its employees; provided that:

11 (1) except as provided in Paragraph (2) of
12 this subsection, employees are able to make at least one
13 withdrawal or transfer each pay period without charge for any
14 amount up to and including the full amount of the employee's
15 wages for the period;

16 (2) if wages are paid more frequently than
17 weekly, employees are able to make at least one withdrawal or
18 transfer each week without charge for any amount up to and
19 including the full amount of the employee's wages for that
20 week;

21 (3) employees are provided information
22 regarding the terms and conditions of the payroll card program,
23 including any fees that may be assessed; and

24 (4) employees are provided the option of
25 receiving their wages by direct deposit into a personal account

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1 at a financial institution of their choice pursuant to
2 Subsection C of this section.

3 E. An employer shall provide an employee with a
4 written receipt that identifies the employer and sets forth the
5 employee's gross pay, the number of hours worked by the
6 employee, the total wages and benefits earned by the employee
7 and an itemized listing of all deductions withheld from the
8 employee's gross pay. Nothing contained in Sections 50-4-1
9 through 50-4-12 NMSA 1978 shall in any way limit or prohibit
10 the payment of wages or compensation at more frequent intervals
11 than those set forth in this section. Where the labor or
12 service to be rendered to an employer is recompensed on a task,
13 piece or commission basis or other method of calculating the
14 amount of wages to be paid, other than a definite and fixed
15 amount in cash, the employer and the employee may agree in
16 writing at the time of hiring that the wages shall be paid on a
17 monthly basis, on or before the tenth day of the succeeding
18 calendar month.

19 [~~G.~~] F. Notwithstanding the provisions of
20 Subsection A of this section, an employer may pay
21 professional, administrative or executive employees or
22 employees employed in the capacity of outside salesman, as
23 those terms are defined under the federal Fair Labor
24 Standards Act, one time per month, excluding those employees
25 whose wages are subject to provisions of collective

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1 bargaining agreements.

2 G. As used in this section, "payroll card" means
3 a stored value card or other device used by an employee to
4 access wages from a payroll card account that is directly or
5 indirectly established through an employer and to which
6 electronic fund transfers of the employee's wages, salary or
7 other compensation are made."

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