

**SUBSTITUTE FOR  
HOUSE BILL NO. 5821**

A bill to amend 1978 PA 390, entitled

"An act to regulate the time and manner of payment of wages and fringe benefits to employees; to prescribe rights and responsibilities of employers and employees, and the powers and duties of the department of labor; to require keeping of records; to provide for settlement of disputes regarding wages and fringe benefits; to prohibit certain practices by employers; to prescribe penalties and remedies; and to repeal certain acts and parts of acts,"

by amending section 6 (MCL 408.476), as amended by 2004 PA 534.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 6. (1) An employer or agent of an employer may pay wages  
2 to an employee by any of the following methods:

3           (a) Payment in United States currency.

4           (b) Payment by a negotiable check or draft payable on  
5 presentation at a financial institution or other established place  
6 of business without discount in United States currency.

7           (c) Direct deposit or electronic transfer to the employee's

1 account at a financial institution.

2 (d) ~~Issuance of ISSUING~~ a payroll debit card ~~to the employee~~  
3 **THAT COMPLIES WITH SUBSECTION (6)**. ~~As used in this section,~~  
4 "payroll debit card" ~~means a stored value debit card that provides~~  
5 ~~an employee access to his or her wages, for withdrawal or transfer~~  
6 ~~by the employee, through a network of automatic teller machines.~~  
7 ~~The term includes cards commonly known as payroll debit cards,~~  
8 ~~payroll cards, and paycards.~~

9 (2) Except as provided in section 283a of the management and  
10 budget act, 1984 PA 431, MCL 18.1283a, **OR IN SUBSECTION (4)**, an  
11 employer or agent of an employer shall not deposit an employee's  
12 wages in a bank, credit union, or savings and loan association  
13 without the full, free, and written consent of the employee,  
14 obtained without intimidation, coercion, or fear of discharge or  
15 reprisal for refusal to permit the deposit.

16 (3) ~~An EXCEPT AS PROVIDED IN SUBSECTION (4), AN~~ employer or  
17 agent of an employer shall not issue a payroll debit card to an  
18 employee under subsection (1)(d) without the full, free, and  
19 written consent of the employee, obtained without intimidation,  
20 coercion, or fear of discharge or reprisal for refusal to accept  
21 the payroll debit card. However, an employer paying wages by  
22 payroll debit card to 1 or more of its employees as of January 1,  
23 2005 may pay wages to any of its employees by payroll debit card  
24 without obtaining the consent described in this ~~subsection~~-**ACT**.

25 **(4) AN EMPLOYER OR AGENT OF AN EMPLOYER MAY REQUIRE EMPLOYEES**  
26 **TO RECEIVE WAGES ONLY THROUGH DIRECT DEPOSIT OR A PAYROLL DEBIT**  
27 **CARD THAT COMPLIES WITH SUBSECTION (6) IF THE EMPLOYER HAS PROVIDED**

1 THE EMPLOYEE WITH ALL OF THE FOLLOWING:

2 (A) A WRITTEN FORM THAT ALLOWS THE EMPLOYEE THE OPTION TO  
3 RECEIVE WAGES EITHER BY DIRECT DEPOSIT TO THE EMPLOYEE'S ACCOUNT AT  
4 A FINANCIAL INSTITUTION OR THROUGH A PAYROLL DEBIT CARD.

5 (B) A STATEMENT INDICATING THAT, EXCEPT FOR AN EMPLOYEE  
6 CURRENTLY PAID BY DIRECT DEPOSIT, FAILURE TO RETURN THE FORM WITHIN  
7 30 DAYS WITH THE ACCOUNT INFORMATION NECESSARY TO IMPLEMENT DIRECT  
8 DEPOSIT WILL BE PRESUMED TO INDICATE CONSENT TO RECEIVING WAGES  
9 THROUGH A PAYROLL DEBIT CARD. IF AN EMPLOYEE IS CURRENTLY PAID BY  
10 DIRECT DEPOSIT, THE METHOD OF PAYMENT SHALL NOT BE CHANGED TO  
11 PAYROLL DEBIT CARD WITHOUT WRITTEN CONSENT OF THE EMPLOYEE.

12 (C) WRITTEN DISCLOSURE OF ALL OF THE FOLLOWING CONCERNING THE  
13 PAYROLL DEBIT CARD:

14 (i) THE TERMS AND CONDITIONS FOR USE, INCLUDING AN ITEMIZED  
15 LIST OF ANY AND ALL FEES.

16 (ii) THE METHODS FOR ACCESSING WAGES WITHOUT CHARGE.

17 (iii) A STATEMENT THAT, IF THE PAYROLL DEBIT CARD IS USED  
18 OUTSIDE OF THE SPECIFIED NETWORK OF AUTOMATIC TELLER MACHINES, BOTH  
19 THE PAYROLL CARD ISSUER AND THE OPERATOR OF THE AUTOMATIC TELLER  
20 MACHINE MAY IMPOSE CHARGES.

21 (iv) THE METHODS TO OBTAIN FREE BALANCE INQUIRIES.

22 (v) THE EMPLOYEE'S RIGHT TO ELECT TO CHANGE THE METHOD OF  
23 RECEIVING WAGES AT ANY TIME, AS PROVIDED IN SUBSECTION (5).

24 (vi) THAT THE PAYROLL DEBIT CARD DOES NOT PROVIDE ACCESS TO A  
25 SAVINGS OR CHECKING ACCOUNT.

26 (5) AN EMPLOYEE MAY REQUEST A CHANGE IN THE METHOD OF  
27 RECEIVING WAGES ESTABLISHED UNDER SUBSECTION (4) AT ANY TIME. THE

House Bill No. 5821 (H-3) as amended July 1, 2010

1 EMPLOYER SHALL TAKE NO LONGER THAN 1 PAY PERIOD TO IMPLEMENT THE  
2 CHANGE AFTER THE EMPLOYER RECEIVES THE REQUEST AND ANY INFORMATION  
3 NECESSARY TO IMPLEMENT THE REQUEST. AN EMPLOYER SHALL ALLOW AN  
4 EMPLOYEE TO SELECT PAYMENT BY DIRECT DEPOSIT OR ELECTRONIC TRANSFER  
5 UNDER SUBSECTION (4) FREELY, WITHOUT INTIMIDATION, COERCION, OR  
6 FEAR OF DISCHARGE OR REPRISAL FOR THE CHOICE.

7 (6) AN EMPLOYER SHALL NOT PAY WAGES BY ISSUING A PAYROLL DEBIT  
8 CARD UNLESS THE PAYROLL DEBIT CARD HAS ALL OF THE FOLLOWING  
9 CHARACTERISTICS:

10 (A) ALLOWS THE EMPLOYEE TO MAKE AT LEAST 1 WITHDRAWAL OR  
11 TRANSFER [EACH WEEK] WITHOUT CHARGE FOR ANY AMOUNT THE EMPLOYEE  
12 ELECTS UP TO THE BALANCE ACCESSIBLE THROUGH THE CARD AT A TELLER  
13 WINDOW OF ANY FINANCIAL INSTITUTION PARTICIPATING IN THE PAYMENT  
14 NETWORK IDENTIFIED ON THE CARD OR AUTOMATIC TELLER MACHINE WITHIN  
15 THE SPECIFIED FINANCIAL INSTITUTION'S NETWORK OF AUTOMATIC TELLER  
16 MACHINES.

17 (B) ALLOWS NO CHANGES IN FEES OR TERMS OF SERVICE UNLESS THE  
18 EMPLOYEE HAS RECEIVED A WRITTEN NOTICE AT LEAST 21 DAYS IN ADVANCE  
19 OF THE DATE THAT THE CHANGES TAKE EFFECT IDENTIFYING THE CHANGES.

20 (C) PROVIDES A METHOD FOR THE EMPLOYEE TO MAKE AN UNLIMITED  
21 NUMBER OF BALANCE INQUIRIES WITHOUT CHARGE, EITHER ELECTRONICALLY  
22 OR BY TELEPHONE.

23 (D) IS NOT LINKED TO ANY FORM OF CREDIT, INCLUDING A LOAN  
24 AGAINST FUTURE PAY OR A CASH ADVANCE ON FUTURE PAY.

25 (7) ~~(4)~~—An employer shall not require an employee to pay any  
26 fees or costs incurred by the employer in connection with paying  
27 wages or establishing a process for paying wages ~~under~~—BY A METHOD

1 DESCRIBED IN subsection (1)(c) or (d).

2 (8) AS USED IN THIS SECTION:

3 (A) "FEDERALLY INSURED FINANCIAL INSTITUTION" MEANS A STATE OR  
4 NATIONALLY CHARTERED BANK OR A STATE OR FEDERALLY CHARTERED SAVINGS  
5 AND LOAN ASSOCIATION, SAVINGS BANK, OR CREDIT UNION WHOSE DEPOSITS  
6 ARE INSURED BY AN AGENCY OF THE UNITED STATES GOVERNMENT AND WHICH  
7 MAINTAINS A PRINCIPAL OFFICE OR BRANCH OFFICE LOCATED IN THIS STATE  
8 UNDER THE LAWS OF THIS STATE OR THE UNITED STATES.

9 (B) "PAYROLL DEBIT CARD" MEANS A STORED-VALUE CARD ISSUED BY A  
10 FEDERALLY INSURED FINANCIAL INSTITUTION THAT PROVIDES AN EMPLOYEE  
11 WITH IMMEDIATE ACCESS FOR WITHDRAWAL OR TRANSFER OF HIS OR HER  
12 WAGES THROUGH A NETWORK OF AUTOMATIC TELLER MACHINES. THE TERM  
13 INCLUDES A CARD COMMONLY KNOWN AS A PAYROLL DEBIT CARD, PAYROLL  
14 CARD, AND PAYCARD.