

JAN 26 2006

COMMERCE, REGULATION & LABOR

HOUSE FILE 2135

BY FORD

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the payment of wages by electronic funds
2 transfer pursuant to a payroll card and making penalties
3 applicable.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2135

1 Section 1. Section 91A.2, Code 2005, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6A. "Payroll card" means a card issued by
4 a financial institution that enables the cardholder to
5 transfer the underlying funds to a merchant at the merchant's
6 point of sale terminal or to obtain cash by electronic access
7 to the underlying funds through an automated teller machine or
8 other electronic terminal authorized by the cardholder. For
9 the purpose of this subsection, "underlying funds" means the
10 amount of funds received from an employer by the issuing
11 financial institution in exchange for the issuance of the
12 payroll card to an employee.

13 Sec. 2. Section 91A.3, subsection 3, Code Supplement 2005,
14 is amended to read as follows:

15 3. The wages paid under subsection 1 shall be sent to the
16 employee by mail or be paid at the employee's normal place of
17 employment during normal employment hours or at a place and
18 hour mutually agreed upon by the employer and employee, or the
19 employee may elect to have the wages ~~sent-for-direct-deposit~~
20 paid through electronic funds transfer, on or by the regular
21 payday of the employee, pursuant to direct deposit into a
22 financial institution designated by the employee or pursuant
23 to a payroll card issued by a federally insured financial
24 institution. An employer shall not require a current employee
25 to participate in direct deposit or to be paid by a payroll
26 card.

27 a. The employer may require, as a condition of hire, a new
28 employee to sign up for direct deposit of the employee's wages
29 in a financial institution of the employee's choice unless any
30 of the following conditions exist:

31 a- (1) The costs to the employee of establishing and
32 maintaining an account for purposes of the direct deposit
33 would effectively reduce the employee's wages to a level below
34 the minimum wage provided under section 91D.1.

35 b- (2) The employee would incur fees charged to the

1 employee's account as a result of the direct deposit.

2 e- (3) The provisions of a collective bargaining
3 agreement mutually agreed upon by the employer and the
4 employee organization prohibit the employer from requiring an
5 employee to sign up for direct deposit as a condition of hire.

6 b. An employer shall not pay wages pursuant to a payroll
7 card pursuant to this section prior to paying to the issuing
8 financial institution an amount equal to the wages due the
9 employee plus any fees relating to the issuance of the payroll
10 card charged by the financial institution. An employee may
11 cancel an election to accept payment of wages by a payroll
12 card by delivering a written notice of cancellation to the
13 employer not less than ten days prior to the next payment of
14 wages. Wages paid pursuant to a payroll card shall be made
15 available to the employee on and after the employee's regular
16 payday and subject to the disposable earnings limitations from
17 garnishment under section 537.5105.

18 EXPLANATION

19 This bill relates to the payment of wages by use of a
20 payroll card. The bill defines a "payroll card" as a card
21 that enables the cardholder to transfer the underlying funds
22 to a merchant at the merchant's point of sale terminal or to
23 obtain cash by electronic access to the underlying funds
24 through an automated teller machine or other electronic
25 terminal authorized by the cardholder. The bill defines
26 "underlying funds" as the amount of funds received from an
27 employer by the issuing financial institution in exchange for
28 the issuance of the payroll card to an employee.

29 The bill allows the payment of wages to an employee by
30 electronic funds transfer pursuant to a payroll card issued by
31 a federally insured financial institution. The bill provides
32 that an employer may not require a current employee to be paid
33 wages by a payroll card. Prior to paying wages by a payroll
34 card, an employer must deposit with the financial institution
35 issuing the payroll card an amount of funds equal to the wages

1 owed to the employee plus any fees relating to the issuance of
2 the payroll card that are charged by the financial
3 institution. The bill provides that an employee may cancel
4 the employee's election to accept payment of wages by a
5 payroll card upon written notice delivered to the employer
6 within 10 days prior to the next payment of wages due the
7 employee by the employer. Wages paid pursuant to a payroll
8 card are required to remain available to the employee on and
9 after the employee's regular payday and are subject to
10 garnishment only to the extent provided under Code section
11 537.5105.

12 A violation of any provision of Code chapter 91A is subject
13 to a civil penalty of not more than \$100 per violation.

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