

# *Legal Update*

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## **NEW ILLINOIS LAW LIMITS EMPLOYERS' USE OF PAYROLL CARDS**

By Seth Stern

An increasing number of employers are paying employees by depositing their pay into “payroll card” accounts, which employees can then use like a debit card. Critics have compared this practice to practices of old-time “company towns.” Concerns have included that employers would find ways to penalize employees for not spending their wages at preferred businesses, or that the cards would allow employers to more easily make deductions from paychecks or charge transaction fees that would drive employees’ pay below the minimum wage.

Employers, on the other hand, have countered that many employees do not have traditional checking accounts and that electronic payroll payments cost less than issuing paper checks, provide the convenience of a debit card, and allow employees to save on check cashing fees. Consistent with a [bulletin](#) to employers issued last year by the federal Consumer Financial Protection Bureau, Illinois has passed a law, set to go into effect on January 1, 2015, that attempts to find a middle ground by allowing employers to pay employees using payroll cards, but restricting their use in a number of ways.

Among other things, the amendment to the Illinois Wage Payment and Collection Act (“Wage Act”) provides that:

- An employer cannot require an employee to receive wages via a payroll card as a condition of employment or a condition of eligibility for any other benefit or payment.
- An employer must obtain employees’ voluntary written or electronic consent to receiving their wages via payroll card after providing a written disclosure regarding the terms of the payroll card and applicable fees.
- Employers must offer alternative methods of payment to employees.
- Payroll card accounts must provide employees with regular access to their full net wages as well as records of their transaction histories and account balances.
- Payroll card accounts cannot require employees to pay point-of-sale transaction fees, initiation fees, declined transaction fees (except for repeated declinations in the same month), and other fees.
- An employer must comply, within two pay periods, with an employee’s request to receive payment through a different method than a payroll card.

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- Employers must notify terminated employees that the terms and conditions of their payroll card account may change if they continue a relationship with the card issuer.

Illinois employers who are interested in using a payroll card system to pay their employees' wages should consult with counsel to ensure their compliance with the new requirements as well as other provisions of the Wage Act, which apply to all wage payments. Violations of the Wage Act can subject companies – as well as individual decision-makers – to scrutiny from the Illinois Department of Labor and monetary damages.

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