



# PAYSTATE UPDATE

The Latest State and Local Payroll Compliance News from the American Payroll Association

Volume 18

Issue #13

June 20, 2016

## Paycard Law Enacted in Connecticut, New York Revises Proposed Regulations Again

APA's Government Relations Division has been highly involved in the process of educating government leaders during the development of paycard laws and regulations. While there is good news in *Connecticut* as the governor finally signed a workable paycard bill into law, *New York's* Department of Labor (DOL) released another version of proposed paycard regulations with onerous provisions for employers.

### Connecticut paycard law enacted

Effective October 1, 2016, employers in Connecticut can utilize payroll cards to pay employee wages as long as certain conditions are met [S.B. 211, L. 2016]. Each employee must have the option to receive wages by direct deposit and check, and the employee must voluntarily authorize use of the payroll card in writing or electronically.

Prior to the employee electing to receive the payroll card, the employer must provide a written notice explaining:

1. Payroll card use is voluntary;
2. Terms and conditions of the payroll card, including an itemized list of fees;
3. Methods available to employees for accessing their full wages without any transaction fees;
4. Methods available to employees for checking their balances without cost; and
5. A statement indicating that third parties may assess additional fees.

Each pay period, employees must be allowed to make at least three free withdrawals from the payroll card, including one for the full amount of net wages. The employer's costs associated with the payroll card cannot be deducted from or charged against the employee's wages.

### APA support for payroll cards in Connecticut

For the past several years, APA has supported various payroll card bills in the Connecticut state legislature. In February, the chair of APA's Government Relations Task Force Subcommittee on Payroll Cards, Cathy Beyda, Esq., testified before the state's Joint Committee on Labor and Public Employees in support of the payroll card bill (see [PAYSTATE UPDATE, Issue No. 6, Vol. 18](#)).

On May 20, 2016, a letter sent by APA and many diverse state-based and national stakeholders, comprising consumer advocacy groups, financial institutions, organized labor, and employers, encouraged Connecticut Governor Dannel P. Malloy to sign the paycard legislation into law.

### New York DOL revises proposed paycard rules again

The news from New York is less positive. On June 15, the New York DOL released another revision of its proposed rules regulating wage payments by payroll card, direct deposit, and paper checks [LAB-21-15-00009-RP, revising Title 12 NYCRR, Part 192].



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The publication of a final rule was expected by this time, but revisions led to a third set of proposed rules with a new 30-day comment period (see [PAYSTATE UPDATE, Issue Nos. 16 and 22, Vol. 17](#)).

## **Onerous provisions remain in third proposed rule**

Although the Subcommittee submitted comments to the DOL requesting amendments to some of the most burdensome provisions in the second version of the rule (see [PAYSTATE UPDATE, Issue No. 24, Vol. 17](#)), many of those provisions remain in the latest revision. These include: written reauthorizations by current employees for direct deposit or paycard wage payment, a seven-day cooling off period after an employee requests payment by paycard before employers can comply, notices of ATM locations to be provided to paycard users, free access to at least one ATM for all paycard usage, and a long list of prohibited fees for paycards.

## **Changes from second version**

The two amended provisions in the latest version of the proposed regulations remove some of the burdensome requirements from the direct deposit and check methods of payment, without changing paycard requirements. The first change removes the requirement that when paying wages by check the employer must ensure that employees have access to at least one method of no-cost local access to the full amount of wages. The second makes it clear that the required notice of ATM locations applies only to paycards and not to direct deposit. It's not clear why the DOL would agree that these provisions are untenable for some forms of payment and not for others.

## **APA urges employers to send comments to the DOL**

Bill Dunn, APA's Director of Government Relations, met directly with DOL representatives prior to this release to educate them about the burdensome effects of some of the provisions on employers and other stakeholders, including employees. In response to this latest version of the rules, Dunn said, "We're disappointed that, in these new regulations, the NYSDOL was not more moved by the comments from business interests. We remain convinced that the revised rules will cause more harm than help to employees.

"Every employer paying employees by payroll card or direct deposit in the state of New York should be troubled by these rules. Through the end of the year, thousands of employers would need to verify that millions of workers wish to continue their selected methods of payment or else be converted to paper checks. The burden would be staggering. I urge every affected employer to write to the NYSDOL and express their views before July 15."

Employers should send comments to: Michael Paglialonga, Department of Labor, Building 12, State Office Campus, Room 509, Albany, NY 12240; 518-457-4380; email: [regulations@labor.ny.gov](mailto:regulations@labor.ny.gov).