



American Payroll Association

Government Relations • Washington, DC

**Statement in Support of Pennsylvania Senate Bill 1265,
An Act Amending P.L. 604, No. 173 (Electronic Funds Transfers)**

**Senate Banking and Insurance Committee
May 15, 2016**

The American Payroll Association (APA) appreciates the opportunity to submit this statement in support of SB 1265. If enacted, SB 1265 would codify the existing administrative position that payroll cards are a permissible method of payment in Pennsylvania while ensuring that appropriate consumer protections, including employee choice and full and free access to wages, are in place.

The American Payroll Association

The APA is a nonprofit professional association representing more than 20,000 payroll professionals and their companies in the United States. We have 950 members in Pennsylvania, and many of our members across the country process payroll for employees who work in the Commonwealth.

The APA's primary mission is to educate its members and the payroll industry regarding best practices associated with paying America's workers while complying with applicable federal, state and local laws. The APA, through its Government Relations Task Force, has spent the past decade monitoring the increasing use of payroll cards in the workplace. We have advocated for sensible regulation of payroll cards to ensure that employers are able to offer this beneficial payment method to their employees and that employees can use payroll cards to their best advantage. In this regard, the APA has paid close attention to the development of Pennsylvania's policy toward payroll cards.

Pennsylvania Wage Payment Law and Senate Bill 1265

Under the Pennsylvania Wage Payment and Collection Law (WPCL) employers must pay their employees "in lawful money of the United States or check." 43 Pa. Cons. Stat. Ann. § 260.3. Under Act 1975-173, an employer may satisfy this requirement by depositing an employee's wages in an account at a financial institution designated by the employee if requested by the employee. 7 P.S. § 6121. Payroll cards involve the deposit of wages in an account at a financial institution.¹ As such, the Department of Labor and Industry advised the APA in 2009 that

¹ Some states treat payroll cards to be the functional equivalent of cash or checks. Indeed, there is currently a lawsuit pending before the Pennsylvania Superior Court addressing whether the payment of wages using a payroll card itself constitutes payment in "lawful money of the United States or check" for purposes of the WPCL and, therefore, whether employers may require employees to receive their wages via a payroll card. See, *Siciliano v. Mueller*. SB 1265 would not impact the outcome of that lawsuit but would give employers much needed clarity on the use of payroll cards moving forward.

employers may pay wages to an employee's payroll card account under Pennsylvania law, at least on a voluntary basis.²

SB 1265 would codify this position while ensuring that appropriate consumer protections are in place. Specifically, the bill would ensure that employees are able to withdraw the full amount of their net wages each pay period without charge, that the account is held at a federally-insured financial institution, and that the employee is provided disclosures, access to account information and other protections required under federal Regulation E.³ The bill would also make clear that, moving forward, payroll cards could only be offered on a voluntary, opt-in, basis.

The Benefits of Electronic Wage Payments Are Undeniable

A payroll card is a reloadable, prepaid card issued to an employee through the employer that allows the employee to receive and access wages from an account established on behalf of the employee at a financial institution. Each payday, the employee's net wages are deposited into his or her payroll card account. At that point, ownership of the funds transfers to the employee and the employer has no access to them. The employee can then use the payroll card to access his or her full net wages in cash or to make purchases and pay bills in person, online, or over the telephone.

Payroll cards bring the benefits of direct deposit to employees without bank accounts and to employees with limited access to traditional financial services. More than 1.4 million Pennsylvania households, or 27.4% of all households in the Commonwealth, are either unbanked (having no checking or savings account) or underbanked (having a checking or savings account, but still reliant on alternative financial services such as check cashing).⁴

These underserved workers often receive their wages in cash or by check, both of which can be terribly inconvenient and inefficient. Cash can be lost or stolen, leaving the employee with no recourse or funds until the next pay period. Checks often require a costly and time consuming visit to a check cashing establishment for unbanked and many underbanked workers. Indeed, there is no requirement in Pennsylvania that employees be able to cash their paychecks without cost, and check cashers in Pennsylvania are allowed to charge an employee a fee equal to 3% of the face amount of the employee's paycheck. 63 P.S. § 2323. This means that a minimum wage earner in Pennsylvania working 40 hours a week could pay close to \$400 a year in check cashing fees, not to mention the additional cost of purchasing money orders to pay their bills.

Payroll cards offer underserved workers a valuable solution by providing them with a means of accessing their full net wages each pay period without cost. Like other forms of direct deposit, payroll cards are safe, secure, and convenient. The Center for Financial Services Innovation has stated that "payroll cards can serve as an important tool for building long-term financial health," particularly for employees working low-paying or hourly jobs.⁵ Similarly, Javier Palomarez, President and CEO of the United States Hispanic Chamber of Commerce, published on Op-Ed stating that:

² The Department made clear that its opinion did not constitute an adjudication or binding norm, and that it may later change its opinion. The APA believes that that Department has provided subsequent opinions recognizing the use of payroll cards.

³ Regulation E implements the Electronic Fund Transfer Act (EFTA), and together with the EFTA, establishes important consumer protections on accounts that receive or send electronic fund transfers. 12 C.F.R. Part 1005.

⁴ FDIC, National Survey of Unbanked and Underbanked Households, Appendix G-1 (2013), <https://www.fdic.gov/householdsurvey/2013appendix.pdf>.

⁵ Thea Garon & Beth Brockland, Center for Financial Services Innovation, The Compass Guide to Payroll Cards (2015).

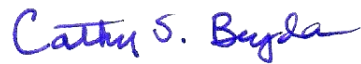
Payroll cards offer those with no banking access a dependable option for protecting their finances. Empowering our citizens with this much needed access, security, and convenience of prepaid payroll cards allows the unbanked to save more of what they earn and helps them build a solid financial foundation.⁶

In light of these benefits, it is not surprising that the use of payroll cards is now mainstream and that payroll cards are recognized across the country to be a lawful method of wage payment.

Conclusion

The APA appreciates the opportunity to voice its support for SB 1265. Please feel free to contact Bill Dunn (202-232-6889) or Cathy Beyda (650-320-1824) with any questions.

Sincerely,



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American Payroll Association
Chair, Paycard Subcommittee, Government Relations Task Force



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⁶ http://www.huffingtonpost.com/javier-palomarez/payroll-cards-a-valuable-b_4555801.html