



American Payroll Association

Government Relations • Washington, DC

July 3, 2008

Mr. Grey Mitchell
Director
Division of Labor Standards and Safety
Department of Labor and Workforce Development
1111 W. 8th St. Rm. 304,
Juneau, AK 99811-1802
grey.mitchell@alaska.gov

Dear Director Mitchell:

In recent years, the State of Alaska has been a leader in implementing prepaid debit cards for state employee wages and payment of government-administered payments such as unemployment benefits and child support payments. Debit cards have been popular with cardholders due to elimination of check cashing fees, elimination of physical delivery problems (e.g., due to illness, travel, disaster conditions or even just normally harsh weather conditions), and reduced risk of loss.

As you know, the Division is responsible for administering the Alaska Wage Payment and Collection Law, which does not explicitly permit payroll debit cards (paycards). This is not unusual. Many laws concerning payment of wages were written decades ago and do not reflect current payment technologies, raising questions as to whether paycards are a permissible method of wage payment under state law. We are writing to ask for your assistance in developing appropriate regulations or legislation that would recognize and clarify that paycards are a legitimate method of payment, which allows individuals who do not maintain bank accounts to enjoy the benefits of having their pay delivered electronically.

The American Payroll Association is a nonprofit professional association representing more than 24,000 individuals and their companies in all 50 states and Canada. In reaction to the growing employer interest in the use of payroll debit cards in the United States, the APA's Government Affairs Task Force formed a Paycard Subcommittee to monitor the development and use of these cards within the employer community and to help educate policymakers and regulators about the benefits and uses of these cards before they enact laws or issue regulations governing their use. This subcommittee is made up of many active and knowledgeable APA members representing large and mid-size employers, payroll service providers, and other vendors specializing in the deployment of payroll debit card programs.

We have attached a background paper, which provides information about how such programs work, benefits to employees, and how other states have recognized them. We believe that the Wage Payment Law may be broad enough that the Department could, through its rulemaking authority, provide guidance clarifying the ability of employers to offer payroll debit cards. The current code does allow for state employees to utilize the technology but does not address private employers. Would the Department agree that a rule change would clarify the ability of private employers to offer voluntary payroll debit cards to Alaska workers? If so, we would like to work with the Department to draft appropriate regulations.

Alternatively, if legislation was determined to be necessary, would the Department support (and optimally sponsor) such legislation? Currently, the Wage Payment Law appears to have only a minimal reference to the *form* of payment (i.e., “An employer of labor performing services in this state shall pay the wages or other compensation for the services with lawful money of the United States or with negotiable checks, drafts or orders payable upon presentation without discount by a bank or depository inside the state”). It may be that only a brief addition to statutory language is necessary. There are several examples of how other states have changed their wage payment laws to accommodate payroll card programs in the background paper. The following is suggested language based on legislation enacted last year in Kansas:

- 44-314. (a) Every employer shall pay all wages due to the employees of the employer at least once during each calendar month, on regular paydays designated in advance by the employer.
- (b) The employer may designate the method by which employees receive wages, provided all wages shall be paid by one or more of the following methods:
- (1) In lawful money of the United States;
 - (2) by check or draft which is negotiable in the community wherein the place of employment is located;
 - (3) by electronic fund transfer or deposit to an automated clearinghouse member financial institution account designated by the employee; or
 - (4) by payroll card.
- (c) Any employer that elects to pay wages only by a method authorized in subsection (b)(3) shall offer an alternative payment method as a default option for employees that fail to designate a financial institution account for electronic fund transfer or deposit.
- (d) Any employer that elects to pay wages using a payroll card as authorized in subsection (b)(4) shall allow employees at least one means of fund access withdrawal per pay period at no cost to the employee for an amount up to and including the total amount of the employee’s net wages, as stated on the employee’s earnings statement.

Please let us know how you would like to proceed, or call me at (202) 232-6889 if you have any questions. Thank you.

Sincerely,



William Dunn, CPP
Manager of Government Relations
American Payroll Association

Cc: Tina St. Clair – tina.stclair@alaska.gov