

Labor and Employment Alert: Pennsylvania Law Now Permits Payroll Debit Cards

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As we previously reported [here](#), in October 2016, the Pennsylvania Superior Court held that the mandatory payment of wages by payroll debit card does not satisfy the requirements of the state's Wage Payment and Collection Law (WPCL). This meant that employers in Pennsylvania could no longer require that employees receive their wages by payroll debit card.

In November 2016, the Pennsylvania General Assembly enacted legislation amending the WPCL to expressly include payroll debit cards as a permissible form of payment – but again, as long as their use is voluntary. The new law is effective on May 5, 2017. So beginning next year, an employer may pay its employees via payroll debit card accounts so long as certain conditions are met.

First, the payroll card account must be established at a federally insured financial institution. That financial institution must provide an employee who uses a payroll card with the various disclosures, notices, access to account information, and other consumer protections required by federal law relating to electronic fund transfers. An employer is prohibited from using a payroll card account that charges employees fees for the application, initiation, or privilege of participating in the payroll card program; for issuing the initial payroll card; for issuing one replacement card per year at the employee's request; for transferring the compensation from the employer to the payroll card account; for purchase transactions at the point of sale; and for nonuse or non-activity of the payroll card less than 12 months in duration. The law specifies that funds in a payroll card account do not expire.

An employer is prohibited from making the payment of compensation by means of a payroll card a condition of employment or of the receipt of any benefit or remuneration. An employer must honor an employee's written or electronic request to change the method of receiving wages from a payroll card account to direct deposit or negotiable check. The change takes effect as soon as practicable, but no later than the first payday after 14 days from the employer's receipt

of the request.

Before obtaining an employee's authorization to use a payroll card, the employer must provide a clear and conspicuous notice, in writing or electronically, of: (a) all of the employee's wage payment options; (b) the terms and conditions of the payroll card account option, including the fees that may be deducted by the card issuer; (c) a notice that third parties may assess fees in addition to the fees assessed by the card issuer; and (d) the methods available to the employee for accessing wages without fees.

The employee must be afforded the ability to make without charge at least one withdrawal per pay period for up to the full amount of the employee's net wages, and one in-network ATM withdrawal per pay period. An employee also must be provided a means of ascertaining the payroll card balance through an automated telephone system or other electronic means without cost, and the employer must provide employees with a written or electronic statement of earnings and deductions each pay period as required by law.

Pennsylvania employers will soon have another statutorily sanctioned means by which to pay their employees. Employers should ensure that their current or anticipated payroll card program complies with the new requirements. Contact your Vorys lawyer if you have questions about complying with Pennsylvania's wage-hour laws.