

**Senate Bill No. 339**

(By Senators Palumbo and Klempa)

1  
2  
3  
4  
5  
6  
7  
8  
9

\_\_\_\_\_

[Introduced January 28, 2011; referred to the Committee on Labor;  
and then to the Committee on Finance.]

\_\_\_\_\_

10 A BILL to amend and reenact §21-5-4 of the Code of West Virginia,  
11 1931, as amended, relating to payment of wages to separated  
12 employees; and authorizing payment at regular pay periods  
13 through regular means or by mail.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §21-5-4 of the Code of West Virginia, 1931, as amended,  
16 be amended and reenacted to read as follows:

17 **ARTICLE 5. WAGE PAYMENT AND COLLECTION.**

18 **§21-5-4. Cash orders; employees separated from payroll before**  
19 **paydays.**

20 (a) In lieu of lawful money of the United States, any person,  
21 firm or corporation may compensate employees for services by cash  
22 order which may include checks or money orders on banks convenient  
23 to the place of employment where suitable arrangements have been  
24 made for the cashing of ~~such~~ the checks by employees for the full  
25 amount of wages.

26 (b) Whenever a person, firm or corporation discharges an  
27 employee, ~~such~~ the person, firm or corporation shall pay the

1 employee's wages in full ~~within seventy-two hours~~ no later than the  
2 next regular payday through the regular pay channels or by mail if  
3 requested by the employee.

4 (c) Whenever an employee quits or resigns, the person, firm or  
5 corporation shall pay the employee's wages no later than the next  
6 regular payday, either through the regular pay channels or by mail  
7 if requested by the employee, except that if the employee gives at  
8 least one pay period's notice of intention to quit the person, firm  
9 or corporation shall pay all wages earned by the employee at the  
10 time of quitting.

11 (d) When work of any employee is suspended as a result of a  
12 labor dispute, or when an employee for any reason whatsoever is  
13 laid off, the person, firm or corporation shall pay in full to ~~such~~  
14 the employee not later than the next regular payday, either through  
15 the regular pay channels or by mail if requested by the employee,  
16 wages earned at the time of suspension or layoff.

17 (e) If a person, firm or corporation fails to pay an employee  
18 wages as required under this section, ~~such~~ the person, firm or  
19 corporation, ~~shall~~ in addition to the amount which was unpaid when  
20 due, ~~be~~ is liable to the employee for three times that unpaid  
21 amount as liquidated damages. Every employee shall have such lien  
22 and all other rights and remedies for the protection and  
23 enforcement of ~~such~~ their salary or wages, as he or she would have  
24 been entitled to had he or she rendered service therefor in the  
25 manner as last employed. ~~except that,~~ For the purpose of ~~such~~  
26 liquidated damages, ~~such~~ the failure ~~shall not be deemed to~~ does  
27 not continue after the date of the filing of a petition in

1 bankruptcy with respect to the employer if he or she is adjudicated  
2 bankrupt upon such petition.

NOTE: The purpose of this bill is to authorize final payment of wages of separated employees at regular pay periods, through regular means or by mail.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.