

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 355**

5 (BY SENATORS KESSLER (MR. PRESIDENT) AND M. HALL,

6 BY REQUEST OF THE EXECUTIVE)

7 _____
8 [Passed April 13, 2013; in effect ninety days from passage.]
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12 AN ACT to amend and reenact §21-5-4 of the Code of West Virginia,
13 1931, as amended, relating to the time final wages are
14 required to be paid to discharged employees; authorizing
15 payment by mail if requested by the employee; providing that
16 employers pay an employee all wages he or she earned at the
17 time of quitting if the employee gives written notice of his
18 or her intention to quit at least one pay period before
19 quitting; defining "business day"; and making other technical
20 changes.

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

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

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

2 **§21-5-4. Cash orders; employees separated from payroll before**
3 **paydays.**

4 (a) In lieu of lawful money of the United States, any person,
5 firm or corporation may compensate employees for services by cash
6 order which may include checks or money orders on banks convenient
7 to the place of employment where suitable arrangements have been
8 made for the cashing of the checks by employees for the full amount
9 of wages.

10 (b) Whenever a person, firm or corporation discharges an
11 employee, the person, firm or corporation shall pay the employee's
12 wages in full no later than the next regular payday or four
13 business days, whichever comes first. Payment shall be made
14 through the regular pay channels or, if requested by the employee,
15 by mail. For purposes of this section, "business day" means any
16 day other than Saturday, Sunday or any legal holiday as set forth
17 in section one, article two, chapter two of this code.

18 (c) Whenever an employee quits or resigns, the person, firm or
19 corporation shall pay the employee's wages in full no later than
20 the next regular payday. Payment shall be made through the regular
21 pay channels or, if requested by the employee, by mail. However,
22 if the employee gives at least one pay period's written notice of
23 intention to quit, the person, firm or corporation shall pay all

1 wages earned by the employee at the time of quitting.

2 (d) When work of any employee is suspended as a result of a
3 labor dispute, or when an employee for any reason whatsoever is
4 laid off, the person, firm or corporation shall pay in full to the
5 employee not later than the next regular payday, either through the
6 regular pay channels or by mail if requested by the employee, wages
7 earned at the time of suspension or layoff.

8 (e) If a person, firm or corporation fails to pay an employee
9 wages as required under this section, the person, firm or
10 corporation, in addition to the amount which was unpaid when due,
11 is liable to the employee for three times that unpaid amount as
12 liquidated damages. Every employee shall have a lien and all other
13 rights and remedies for the protection and enforcement of his or
14 her salary or wages, as he or she would have been entitled to had
15 he or she rendered service therefor in the manner as last employed;
16 except that, for the purpose of liquidated damages, the failure
17 shall not be deemed to continue after the date of the filing of a
18 petition in bankruptcy with respect to the employer if he or she is
19 adjudicated bankrupt upon the petition.