

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 355**

4 (By Senators Kessler (Mr. President) and M. Hall,

5 By Request of the Executive)

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7 [Originating in the Committee on the Judiciary; reported April 1,
8 2013.]

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12 A BILL 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 ~~such~~ the checks by employees for the full
9 amount of wages.

10 (b) Whenever a person, firm or corporation discharges an
11 employee, ~~such~~ the person, firm or corporation shall pay the
12 employee's wages in full ~~within seventy-two hours~~ no later than the
13 next regular payday or four business days, whichever comes first.
14 Payment shall be made through the regular pay channels or, if
15 requested by the employee, by mail. For purposes of this section,
16 "business day" means a day on which state offices are open for
17 regular business.

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. ~~either~~ Payment shall be made through the
21 regular pay channels or, ~~by mail~~ if requested by the employee,
22 ~~except that~~ by mail. However, if the employee gives at least one
23 pay period's written notice of intention to quit, the person, firm

1 or corporation shall pay all wages earned by the employee at the
2 time of quitting.

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

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

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