

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 355

(By Senators Kessler (Mr. President) and M. Hall,
By Request of the Executive)

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

A BILL to amend and reenact §21-5-4 of the Code of West Virginia, 1931, as amended, relating to the time final wages are required to be paid to discharged employees; authorizing payment by mail if requested by the employee; providing that employers pay an employee all wages he or she earned at the time of quitting if the employee gives written notice of his or her intention to quit at least one pay period before quitting; defining “business day”; and making other technical changes.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. WAGE PAYMENT AND COLLECTION.

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

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

8 (b) Whenever a person, firm or corporation discharges an
9 employee, ~~such~~ the person, firm or corporation shall pay the
10 employee's wages in full ~~within seventy-two hours~~ no later
11 than the next regular payday or four business days,
12 whichever comes first. Payment shall be made through the
13 regular pay channels or, if requested by the employee, by

14 mail. For purposes of this section, "business day" means a
15 day on which state offices are open for regular business.

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

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

31 (e) If a person, firm or corporation fails to pay an
32 employee wages as required under this section, ~~such~~ the

33 person, firm or corporation, ~~shall~~ in addition to the amount
34 which was unpaid when due, ~~be~~ is liable to the employee for
35 three times that unpaid amount as liquidated damages. Every
36 employee shall have ~~such~~ a lien and all other rights and
37 remedies for the protection and enforcement of ~~such~~ his or
38 her salary or wages, as he or she would have been entitled to
39 had he or she rendered service therefor in the manner as last
40 employed; except that, for the purpose of ~~such~~ liquidated
41 damages, ~~such~~ the failure shall not be deemed to continue
42 after the date of the filing of a petition in bankruptcy with
43 respect to the employer if he or she is adjudicated bankrupt
44 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.)