

1 **Senate Bill No. 318**

2 (By Senators Trump, Karnes, Carmichael and Blair)

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4 [Introduced January 27, 2015; referred to the Committee on the Judiciary.]  
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9 A BILL to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating to  
10 payment of wages by employers; and authorizing payment of employees twice a month.

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

12 That §21-5-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted  
13 to read as follows:

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

15 **§21-5-3. Payment of wages by employers other than railroads; assignments of wages.**

16 (a) Every person, firm or corporation doing business in this state, except railroad companies  
17 as provided in section one of this article, shall settle with its employees at least ~~once in every two~~  
18 ~~weeks~~ twice every month, unless otherwise provided by special agreement, and pay them the wages  
19 due, less authorized deductions and authorized wage assignments, for their work or services.

20 (b) Payment required in subsection (a) of this section shall be made:

21 (1) In lawful money of the United States;

22 (2) By cash order as described and required in section four of this article;

1           (3) By deposit or electronic transfer of immediately available funds into an employee's  
2 payroll card account in a federally insured depository institution. The term "payroll card account"  
3 means an account in a federally insured depository institution that is directly or indirectly established  
4 through an employer and to which electronic fund transfers of the employee's wages, salary,  
5 commissions or other compensation are made on a recurring basis, whether the account is operated  
6 or managed by the employer, a third-party payroll processor, a depository institution or another  
7 person. "Payroll card" means a card, code or combination thereof or other means of access to an  
8 employee's payroll card account, by which the employee may initiate electronic fund transfers or use  
9 a payroll card to make purchases or payments. Payment of employee compensation by means of a  
10 payroll card must be agreed upon in writing by both the person, firm or corporation paying the  
11 compensation and the person being compensated; or

12           (4) By any method of depositing immediately available funds in an employee's demand or  
13 time account in a bank, credit union or savings and loan institution that may be agreed upon in  
14 writing between the employee and such person, firm or corporation, which agreement shall  
15 specifically identify the employee, the financial institution, the type of account and the account  
16 number: *Provided*, That nothing herein contained shall be construed in a manner to require any  
17 person, firm or corporation to pay employees by depositing funds in a financial institution.

18           (c) If, at any time of payment, any employee shall be absent from his or her regular place of  
19 labor and shall not receive his or her wages through a duly authorized representative, he or she shall  
20 be entitled to payment at any time thereafter upon demand upon the proper paymaster at the place  
21 where his or her wages are usually paid and where the next pay is due.

22           (d) Nothing herein contained shall affect the right of an employee to assign part of his or her

1 claim against his or her employer except as in subsection (e) of this section.

2 (e) No assignment of or order for future wages shall be valid for a period exceeding one year  
3 from the date of the assignment or order. An assignment or order shall be acknowledged by the party  
4 making the same before a notary public or other officer authorized to take acknowledgments, and  
5 any order or assignment shall specify thereon the total amount due and collectible by virtue of the  
6 same and three fourths of the periodical earnings or wages of the assignor shall at all times be  
7 exempt from such assignment or order and no assignment or order shall be valid which does not so  
8 state upon its face: *Provided*, That no such order or assignment shall be valid unless the written  
9 acceptance of the employer of the assignor to the making thereof is endorsed thereon: *Provided*,  
10 *however*, That nothing herein contained shall be construed as affecting the right of employer and  
11 employees to agree between themselves as to deductions to be made from the payroll of employees.

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(NOTE: The purpose of this bill is to amend the Wage Payment and Collection Act relating to the number of required pay periods in a month.

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