

E N G R O S S E D

## Senate Bill No. 318

(By Senators Trump, Karnes, Carmichael and Blair)

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[Introduced January 27, 2015; referred to  
the Committee on the Judiciary.]

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A BILL to amend and reenact §21-5-3 of the Code of West Virginia,  
1931, as amended, relating to payment of wages by employers;  
and authorizing payment of employees twice a month.

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

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

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

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

- 1 (a) Every person, firm or corporation doing business in
- 2 this state, except railroad companies as provided in section

3 one of this article, shall settle with its employees at least ~~once~~  
4 ~~in every two weeks~~ twice every month and with no more than  
5 nineteen days between settlements, unless otherwise provided  
6 by special agreement, and pay them the wages due, less  
7 authorized deductions and authorized wage assignments, for  
8 their work or services.

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

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

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

14 (3) By deposit or electronic transfer of immediately  
15 available funds into an employee's payroll card account in a  
16 federally insured depository institution. The term "payroll  
17 card account" means an account in a federally insured  
18 depository institution that is directly or indirectly established  
19 through an employer and to which electronic fund transfers  
20 of the employee's wages, salary, commissions or other  
21 compensation are made on a recurring basis, whether the

22 account is operated or managed by the employer, a  
23 third-party payroll processor, a depository institution or  
24 another person. “Payroll card” means a card, code or  
25 combination thereof or other means of access to an  
26 employee’s payroll card account, by which the employee  
27 may initiate electronic fund transfers or use a payroll card to  
28 make purchases or payments. Payment of employee  
29 compensation by means of a payroll card must be agreed  
30 upon in writing by both the person, firm or corporation  
31 paying the compensation and the person being compensated;  
32 or

33 (4) By any method of depositing immediately available  
34 funds in an employee’s demand or time account in a bank,  
35 credit union or savings and loan institution that may be  
36 agreed upon in writing between the employee and such  
37 person, firm or corporation, which agreement shall  
38 specifically identify the employee, the financial institution,  
39 the type of account and the account number: *Provided*, That  
40 nothing herein contained shall be construed in a manner to

41 require any person, firm or corporation to pay employees by  
42 depositing funds in a financial institution.

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

50 (d) Nothing herein contained shall affect the right of an  
51 employee to assign part of his or her claim against his or her  
52 employer except as in subsection (e) of this section.

53 (e) No assignment of or order for future wages shall be  
54 valid for a period exceeding one year from the date of the  
55 assignment or order. An assignment or order shall be  
56 acknowledged by the party making the same before a notary  
57 public or other officer authorized to take acknowledgments,  
58 and any order or assignment shall specify thereon the total  
59 amount due and collectible by virtue of the same and three

60 fourths of the periodical earnings or wages of the assignor  
61 shall at all times be exempt from such assignment or order  
62 and no assignment or order shall be valid which does not so  
63 state upon its face: *Provided*, That no such order or  
64 assignment shall be valid unless the written acceptance of the  
65 employer of the assignor to the making thereof is endorsed  
66 thereon: *Provided, however*, That nothing herein contained  
67 shall be construed as affecting the right of employer and  
68 employees to agree between themselves as to deductions to  
69 be made from the payroll of employees.