

HB 4032

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WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008



ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4032

(By Delegates White and Kominar)



Passed March 8, 2008

In Effect Ninety Days from Passage

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OFFICE OF THE
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H. B. 4032

(BY DELEGATES WHITE AND KOMINAR)

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AN ACT to amend and reenact §21-5-3 of the Code of West Virginia, 1931, as amended, relating to payment of wages through a direct deposit system using an electronic payment card or other means of electronic transfer; defining terms; and requiring written agreement to use the payroll card.

Be it enacted by the Legislature of West Virginia:

That §21-5-3 of the Code of West Virginia, one thousand nine hundred thirty-one, 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, unless otherwise provided by special
5 agreement, and pay them the wages due, less authorized
6 deductions and authorized wage assignments, for their work
7 or services.

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

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

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

13 (3) By deposit or electronic transfer of immediately
14 available funds into an employee's payroll card account in a
15 federally insured depository institution. The term "payroll
16 card account" means an account in a federally insured
17 depository institution that is directly or indirectly established
18 through an employer and to which electronic fund transfers
19 of the employee's wages, salary, commissions or other
20 compensation are made on a recurring basis, whether the
21 account is operated or managed by the employer, a third-
22 party payroll processor, a depository institution or another
23 person. "Payroll card" means a card, code or combination
24 thereof or other means of access to an employee's payroll
25 card account, by which the employee may initiate electronic
26 fund transfers or use a payroll card to make purchases or
27 payments. Payment of employee compensation by means of
28 a payroll card must be agreed upon in writing by both the
29 person, firm or corporation paying the compensation and the
30 person being compensated.

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

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

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

51 (e) No assignment of or order for future wages shall be
52 valid for a period exceeding one year from the date of the
53 assignment or order. An assignment or order shall be
54 acknowledged by the party making the same before a notary
55 public or other officer authorized to take acknowledgments,
56 and any order or assignment shall specify thereon the total
57 amount due and collectible by virtue of the same and three
58 fourths of the periodical earnings or wages of the assignor
59 shall at all times be exempt from such assignment or order
60 and no assignment or order shall be valid which does not so
61 state upon its face: *Provided*, That no such order or
62 assignment shall be valid unless the written acceptance of the
63 employer of the assignor to the making thereof, is endorsed

64 thereon: *Provided, however,* That nothing herein contained
65 shall be construed as affecting the right of employer and
66 employees to agree between themselves as to deductions to
67 be made from the payroll of employees.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



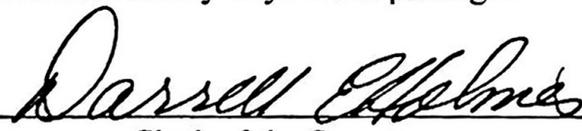
Chairman Senate Committee



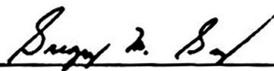
Chairman House Committee

Originating in the House.

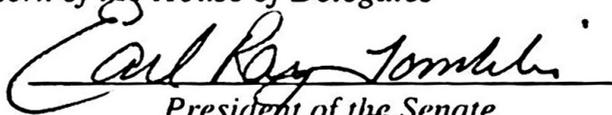
In effect ninety days from passage.



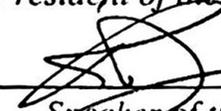
Clerk of the Senate



Clerk of the House of Delegates

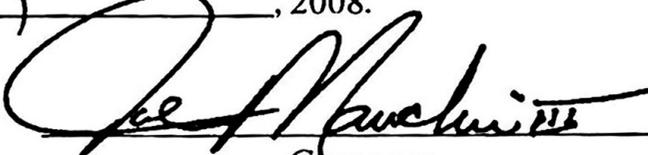


President of the Senate



Speaker of the House of Delegates

The within is approved this the 31st
day of March, 2008.



Governor

PRESENTED TO THE
GOVERNOR

MAR 25 2008

Time 10:20am