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H. B. 4623

(By Delegates Skaff, R. Phillips, Marcum,
Stowers and Pasdon)

[Introduced February 20, 2012; referred to the
Committee on Energy, Industry and Labor, Economic Development and
Small Business then the Judiciary.]

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; and authorizing
payment by mail, if requested by the employee.

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.**

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

1 amount of wages.

2 (b) Whenever a person, firm or corporation discharges an
3 employee, ~~such~~ the person, firm or corporation shall pay the
4 employee's wages in full ~~within seventy-two hours~~ no later than
5 seven working days from the discharge or the next regular payday,
6 whichever occurs first. Payment shall be made through the regular
7 pay channels or, if requested by the employee, by mail.

8 (c) Whenever an employee quits or resigns, the person, firm or
9 corporation shall pay the employee's wages no later than the next
10 regular payday, either through the regular pay channels or by mail
11 if requested by the employee, except that if the employee gives at
12 least one pay period's notice of intention to quit the person, firm
13 or corporation shall pay all wages earned by the employee at the
14 time of quitting.

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

21 (e) If a person, firm or corporation fails to pay an employee
22 wages as required under this section, ~~such~~ the person, firm or
23 corporation, ~~shall~~ in addition to the amount which was unpaid when
24 due, ~~be~~ is liable to the employee for three times that unpaid

1 amount as liquidated damages. Every employee shall have ~~such a~~
2 lien and all other rights and remedies for the protection and
3 enforcement of ~~such~~ their salary or wages, as he or she would have
4 been entitled to had he or she rendered service therefor in the
5 manner as last employed. ~~except that,~~ For the purpose of ~~such~~
6 liquidated damages, ~~such~~ the failure ~~shall not be deemed to~~ does
7 not continue after the date of the filing of a petition in
8 bankruptcy with respect to the employer if he or she is adjudicated
9 bankrupt upon ~~such~~ the petition.

NOTE: The purpose of this bill is to require final payment of wages of discharged employees no later than seven working days from the discharge or at the next regular payday, whichever occurs first. Payment may be made through regular means or by mail.

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