House Engrossed Senate Bill

State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 124

SENATE BILL 1159

AN ACT

AMENDING SECTION 23-351, ARIZONA REVISED STATUTES; RELATING TO PAYMENT OF WAGES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 23-351, Arizona Revised Statutes, is amended to read:

23-351. Designation of paydays for employees; payment; exceptions; violation; classification; applicability; definition

A. Each employer in this state shall designate two or more days in each month, not more than sixteen days apart, as fixed paydays for payment of wages to the employees.

B. Notwithstanding subsection A of this section, each employer in this state whose principal place of business is located outside of this state and whose payroll system is centralized outside of this state may designate one or more days in each month as fixed paydays for payment of wages to the following employees:

1. Professional, administrative or executive employees or employees employed in the capacity of an outside salesman as those terms are defined under the fair labor standards act of 1938, as amended.

2. Employees employed in a supervisory capacity as defined under the national labor relations act.

C. Each employer, on each of the regular paydays, shall pay to the employees all wages due the employees up to ~~such~~ THAT date, except:

1. In the case of employees remaining in the service of any such employer, with the exception of school district employees OR PERSONS EMPLOYED BY AN EMPLOYEE LEASING FIRM THAT CONTRACTS WITH A SCHOOL DISTRICT, all wages other than overtime or exception pay not to exceed five days of labor may be withheld. School districts OR EMPLOYEE LEASING FIRMS THAT CONTRACT WITH A SCHOOL DISTRICT may withhold wages for up to seven business days during their normal two-week payroll processing cycle. An employer other than a school district OR EMPLOYEE LEASING FIRM THAT CONTRACTS WITH A SCHOOL DISTRICT may satisfy the requirements of this paragraph by any of the following:

(a) Personally delivering the wages to the employee not later than five business days after the end of the most recent pay period.

(b) Depositing the wages in the United States mail not later than five business days after the end of the most recent pay period for delivery to an address specified by the employee.

(c) Personally delivering the wages to the employee not later than ten days after the end of the most recent pay period for an employer whose payroll system is centralized outside of this state.

2. In the case of employees of school districts or of the Arizona state schools for the deaf and the blind, the annual salary may be prorated in any number of payments, and the employee may select whether to have the salary prorated or paid during the actual months worked. If the employee's salary is prorated, all ~~such~~ payments still due at the close of the school attendance year or fiscal year may at the option of the

employee be paid in either a lump sum or paid within a period of two months after the close of the fiscal year. If the employee's salary is prorated, the employee's salary under the contract may be prorated into equal payments and paid beginning with the first pay period that the employee works.

3. Overtime or exception pay shall be paid not later than sixteen days after the end of the most recent pay period.

D. An employer may choose one of the following methods to pay wages to employees under subsection A of this section:

1. In lawful currency of the United States.

2. In negotiable bank checks.

3. In the case of this state or any political subdivision of this state, warrants payable on demand and bearing even date with the payday.

4. With the written consent of the employee, by deposit on the payday to the employee's credit at a financial institution of the employee's choice that is a member of the federal deposit insurance corporation or any other comparable federal or state agency.

5. If the employer has offered deposit on the payday to the employee's credit at a financial institution of the employee's choice that is a member of the federal deposit insurance corporation or any other comparable federal or state agency and the employee does not provide consent and does not designate a financial institution, by deposit on the payday to the employee's credit to a payroll card account.

E. When an employee's wages are paid by deposit in a financial institution the employee shall be furnished with a written or electronic statement of the employee's earnings and withholdings. Any wage deposit plan adopted by an employer shall entitle the employee to one withdrawal for each deposit, free of any service charge to the employee. The consent of an employee for payment of wage by deposit in a financial institution shall not constitute a prior assignment of wages to the financial institution and is revocable at any time before the transmittal to the financial institution by the employer. A person shall not be denied employment, ~~nor~~ BE discharged or BE reprimanded for refusal to consent to payment of wage by deposit in a financial institution.

F. When an employee's wages are paid to a payroll card account the employee shall be furnished with a written or electronic statement of the employee's earnings and withholdings. A payroll card account plan adopted by an employer shall entitle the employee to one free withdrawal for each deposit of wages per pay period but not more frequently than once per week. An employer shall also provide a list of all fees associated with the use of an employer provided payroll card account to an employee who receives wages by deposit to a payroll card account.

G. Subsection B of this section does not apply to employees whose salaries are subject to provisions of collective bargaining agreements.

H. Each employer in this state, in its discretion, may pay all wages due to an employee by deposit on the payday at a financial institution of the employee's choice or, if the employee does not designate a financial institution, to a payroll card account. For the purposes of this subsection, "financial institution" means a member of the federal deposit insurance corporation or of any other comparable federal or state agency.

I. Any employer who violates ~~a provision of~~ this section is guilty of a petty offense.

J. THE PROVISIONS OF SUBSECTION C, PARAGRAPH 1 OF THIS SECTION RELATING TO THE PAYMENT OF WAGES BY AN EMPLOYEE LEASING FIRM THAT CONTRACTS WITH A SCHOOL DISTRICT APPLY ONLY TO EMPLOYEES OF THE EMPLOYEE LEASING FIRM WHO ARE PLACED AT A SCHOOL DISTRICT AND NOT TO ANY OTHER EMPLOYEES WHO ARE EMPLOYED OR CONTRACTED BY THE EMPLOYEE LEASING FIRM.

K. FOR THE PURPOSES OF THIS SECTION, "EMPLOYEE LEASING FIRM" MEANS A COMPANY THAT PLACES ITS CONTRACTED, LEASED AND COEMPLOYED EMPLOYEES IN ADMINISTRATOR, CERTIFIED, CLASSIFIED OR EXTRACURRICULAR POSITIONS WITH A SCHOOL DISTRICT.

APPROVED BY THE GOVERNOR APRIL 3, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 3, 2018.