

112TH CONGRESS
1ST SESSION

H. R. 2125

To amend the Fair Labor Standards Act of 1938 to require certain disclosures by employers who use electronic payroll cards to pay their employees.

IN THE HOUSE OF REPRESENTATIVES

JUNE 3, 2011

Mr. BACA introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To amend the Fair Labor Standards Act of 1938 to require certain disclosures by employers who use electronic payroll cards to pay their employees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Electronic Paycard
5 Protection Act of 2011”.

1 **SEC. 2. DISCLOSURES AND OPTIONS RELATED TO ELEC-**
2 **TRONIC PAYROLL CARDS.**

3 (a) IN GENERAL.—The Fair Labor Standards Act of
4 1933 is amended by adding after section 6 the following
5 new section:

6 **“SEC. 6A. DISCLOSURES AND OPTIONS RELATED TO ELEC-**
7 **TRONIC PAYROLL CARDS.**

8 “(a) REQUIRED DISCLOSURES.—Any employer who
9 pays or wishes to pay any employee by means of an elec-
10 tronic payroll card shall comply with the following require-
11 ments and provide to each such employee the following
12 disclosures and options at the time the employee is pro-
13 vided the option to enroll in a program providing for pay-
14 ment using such cards:

15 “(1) The employee shall be provided the ability
16 to access his or her full wages for the pay period
17 using the electronic payroll card at least once each
18 period, without any additional fee, and shall be pro-
19 vided the option of checking the balance available
20 through the electronic payroll card through an auto-
21 mated telephone system or through the Internet or
22 by other electronic means.

23 “(2) All the terms and conditions governing the
24 use of the electronic payroll card, including any per-
25 missible fees associated with such cards, shall be dis-
26 closed to the employee in a clear, written manner

1 and in the language typically used by the employer
2 to communicate with the employee.

3 “(3) No fees may be assessed to the employee
4 for ordinary use of the electronic payroll card, in-
5 cluding for participation, initiation, adding funds to
6 the card, checking the balance on the card or other
7 account maintenance activities, inactivity or dor-
8 mancy, low balance, declined transaction, or request
9 to obtain the balance on the card by check in order
10 to close out the card.

11 “(4) The employer shall maintain the payroll
12 funds that are accessible by means of the electronic
13 payroll card only in an insured depository institution
14 (as defined section 3 of the Federal Deposit Insur-
15 ance Act) or an insured credit union (as defined in
16 section 101 of the Federal Credit Union Act), in an
17 account or accounts for which the Federal Deposit
18 Insurance Corporation or the National Credit Union
19 Administration, respectively, provides pass-through
20 deposit insurance based on the interest of each em-
21 ployee participating in the electronic payroll card
22 program. The full amount of funds made available
23 to each employee through an electronic payroll card
24 shall be guaranteed by the employer.

1 “(5) Any funds made available through the
2 electronic payroll card may not expire. If the elec-
3 tronic payroll card expires, the employee shall be
4 provided the option to terminate his or her enroll-
5 ment in the program or to re-enroll and be issued
6 a new card without any fee. Any balance remaining
7 on the expired card must be transferred in full to
8 the newly issued card.

9 “(6) The employer is required to offer the em-
10 ployee the option of payment through direct deposit
11 to a savings or checking account of the employee’s
12 choosing in lieu of payment through an electronic
13 payroll card.

14 “(7) The employer may not pay an employee’s
15 final payment or any severance payment to any em-
16 ployee whose employment with the employer is dis-
17 continued.

18 “(8) An employee may not be subject to termi-
19 nation of employment for opting not to participate
20 in any electronic payroll card program. Consent to
21 participate in any such program shall not be a con-
22 dition of employment at the time of hiring.

23 “(b) DEFINITION.—As used in this section, the terms
24 ‘electronic payroll card’ and ‘card’ mean an access mecha-
25 nism, including a prepaid card, code, or device, issued to

1 an employee by an employer, or other entity by arrange-
2 ment with the employer, through which an employer pro-
3 vides an employee access to his or her wages.”.

4 (b) VIOLATION AND PENALTIES.—Section 15(a)(2)
5 of such Act (29 U.S.C. 215(a)(2)) is amended by inserting
6 “, section 6A,” after “section 6”.

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