



NEW YORK STATE SENATOR

Patrick M. Gallivan

## Senator Gallivan to Sponsor A.G. Schneiderman's Payroll Card Act

PATRICK M. GALLIVAN April 7, 2015

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Attorney General Eric T. Schneiderman today announced that Assembly Majority Leader Joseph Morelle and Senator Patrick Gallivan will sponsor the Attorney General's program bill regulating the use of payroll cards to increase protections for workers, clarify ambiguities in the law, and ensure that payroll cards offer a convenient and beneficial method for workers to access their pay. Several Rochester area labor and community organizations also announced their support for the bill, including the Rochester & Genesee Valley Area Labor Federation, the Rochester Building & Construction Trades, the Rochester Legal Aid Society, Metro Justice, the Worker Justice Center of New York, and Empire Justice. The Attorney General's Payroll Card Act requires clear disclosure of payroll card fees, and restricts certain fees. The legislation was first proposed last year, following recommendations made in a report released by the Attorney General's Labor Bureau.

"Workers shouldn't have to pay to get their pay," Attorney General Schneiderman said. "While payroll cards can be helpful for employees without bank accounts, too often workers see their hard-earned wages

chipped away by fees. The Payroll Card Act will ensure that workers have free and clear access to their wages, and provide clarity to employers about how to offer payroll cards in compliance with the law.”

“As public officials we have an obligation to protect the interests of New York State’s hard working men and women and ensure that employers are doing the same,” said Assembly Majority Leader Joseph D. Morelle. “The Payroll Card Act delivers meaningful protections for workers by eliminating unreasonable fees, ensuring that they receive every dollar they have rightfully earned, and establishes clear guidelines for employers to follow when distributing payroll cards. I thank Attorney General Schneiderman for his leadership on this issue and I look forward to working with my colleagues in the legislature toward the passage of this bill.”

“We want to ensure that hard working New Yorkers have easy access to their wages and are protected from excessive fees. We also need to protect employers from overly burdensome regulations. We can achieve both by clarifying the rules regarding the use of payroll cards and the options available to workers and businesses,” said Senator Patrick Gallivan.

“I commend Attorney General Schneiderman for leading the fight to protect the hard earned wages of working New Yorkers,” said Assembly Member Harry Bronson. “As more employers continue to adopt payroll card programs, it is critical to give employees an informed choice in how they are paid, provide clear disclosure of any fees associated with payroll cards, and make it easy to avoid those fees.”

“Payroll Cards have grown increasingly common across New York State, but our laws have not kept up with this trend,” said Jim Bertolone, President of the Rochester & Genesee Valley Labor Federation. “That has left low wage workers exposed to unexpected and costly fees. By updating the law, Attorney General Schneiderman’s Payroll Card Act will ensure that workers have a fair chance to receive all of the wages they earn.”

Stuart Appelbaum, President of the RWDSU said, “For low-wage workers, unregulated payroll card fees can bring their earnings below the minimum wage. There must be clear language on fees, and workers must be provided in writing the terms and conditions of the card, including all fees that may be assessed. This bill will require that the card has access to at least one network of ATMs providing no-cost cash withdrawals, balance inquiries, and other fee-free services. We stand with Attorney General Eric Schneiderman in calling for passage of this bill that will regulate employer use of payroll cards.”

“For workers who are living paycheck to paycheck, a surprise fee taken out of their pay can leave them short on the rent at the end of the month. That’s just not fair,” said Carla Palumbo, President & CEO of the Legal Aid Society of Rochester. “The legislature should pass Attorney General Schneiderman’s Payroll Card Act, so that every worker will be clearly informed of how they can receive their wages without paying any fees.”

“Both workers and employers deserve clear guidelines for how payroll cards can be used fairly,” said Lewis Papenfuse, Executive Director of the Worker Justice Center of New York. “Attorney General Schneiderman’s Payroll Card Act will ensure that employers can enjoy greater efficiency without saddling workers with unfair fees.”

“Lower-wage workers are increasingly receiving their wages on payroll cards, and can ill afford to see their hard-earned pay drained by unfair fees and charges that benefit the big financial institutions that issue

these cards. It is vital that New York implement strong protections to ensure that workers have fair and unobstructed access to their wages,” said Liz Fusco, staff attorney at New Economy Project.

“This bill would go a long way toward ensuring that workers have a choice in how to be paid, and that they won't be nickel-and-dimed out of their wages,” said Chuck Bell, programs director for Consumers Union, the public policy and advocacy division of Consumer Reports. “These reforms would help promote fair, safe, and effective methods for workers to access their pay.”

A payroll card is a prepaid debit card used by employers to pay wages to employees, typically as an alternative to direct deposit or a paper check. Each payday, a cardholder employee's wages are deposited electronically into an account at a bank selected by the employer or by the payroll card vendor. The employee can obtain access to the funds in the account by using the payroll card. Similar to a bank-issued debit card, the payroll card can be used to withdraw funds from an ATM, make point-of-sale purchases, and electronically transfer funds, among other functions.

Use of payroll cards has increased significantly in recent years. Nationally, an estimated 5.8 million workers received their wages via payroll cards in 2013, and that number is expected to increase to 10.8 million by 2017, according to research reported in Forbes. Often cited benefits of payroll cards include cost savings for employers; payroll cards' usefulness in weather-related disasters when paper checks are hard to deliver to employees; payroll cards' limited environmental impact, compared with paper checks, and the lower transactional cost to employees of payroll cards, when compared with check-cashing outlets. These benefits however cannot be used as an excuse to charge onerous fees or withhold basic information to participant wage earners.

The Attorney General's office began looking into payroll card programs utilized in New York State in 2013 after receiving complaints from employees and other information indicating that certain payroll card programs were potentially in violation of state labor law, or did not provide adequate disclosures regarding the terms and conditions of the card. In response to requests from the Attorney General's Office, 38 national and regional employers submitted information on their use of payroll cards. Last year, the Attorney General released a report detailing the findings of his office's review of the information provided.

The Attorney General Labor Bureau Report revealed the following:

- Cardholder employees were often given insufficient information about how to obtain their wages without incurring a fee and, where the employer provided detailed fee data, approximately 75% of cardholder employees incurred some kind of fee while attempting to access their wages.
- In some programs, fees reached as high as \$20 per employee per month, on average. Workers were steered or required to be paid by payroll card: 40% of employers surveyed did not provide employees with the option of receiving their wages by a traditional paper check, and an additional 31% discouraged the selection of a paper check.
- Many programs failed to provide sufficient means for workers to withdraw wages without incurring fees. One employer's payroll card vendor brought in almost \$70,000 in fees for fewer than 5,000 cardholder employees during a one year period, of which over \$60,000 were for ATM transactions alone, the majority of them to access wages or check account balances.

- More than one-third of employers used payroll card programs that included overdraft fees. One payroll card vendor received over \$200,000 in overdraft fees from August 2012 to July 2013, with an average of 2,570 accounts open each month.

The report recommended a range of reforms, some of which have subsequently been adopted by a number of the surveyed employers as a result of the Attorney General's inquiry and report. These reforms are included in the Payroll Card Act to address these problems more broadly and ensure that payroll cards can be a convenient and beneficial method of payment for workers to access their pay. Its provisions would protect the rights of workers and prevent the unfair reduction of their wages through fees, including:

- Requiring employers to allow employees to elect whether to be paid through a payroll card, direct deposit, or to receive a paper check;
- Mandating that employees receive clear and appropriate notice of payroll card program terms and conditions, including potential fees and how to avoid them; and
- Prohibiting employers from using payroll card programs that charge certain types of fees, and requiring employers to use payroll card programs with at least one network of ATMs where employees can obtain access to their wages without paying a fee.

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