

**1000 DEPARTMENT OF LABOR
1300 DIVISION OF INDUSTRIAL AFFAIRS
1320 The Office of Labor Law Enforcement**

1324 Wage Payment and Collection Act--Payroll Debit Cards

The Department of Labor finds payroll debit cards to be beneficial and acceptable as a form of wage payment under the Wage Payment and Collection Act. Under all circumstances, the use of payroll debit cards as a form of wage payment must comply with all conditions set forth in the Act including, but not limited to the following:

- Employers must inform new employees in writing, at the time of hire, when the employer will fulfill the exchange rate obligations (§1108 (1));
- Employers must pay the employee within 7 days from the close of the pay period for the work performed (§1102 (b));
- Employers must pay the employee no less than once a month on a day designated in advance by the employer (§1102 (a));
- Employers must pay the employee in legal tender of cash, check payable on demand, or by credit to the employee's bank account when requested in writing by the employee (§1102(a));
- Employers must pay the full wages owed on the regular payday and account for lawful deductions specified under §1107 and related regulations; and
- Employers must provide a written record reciting the hours worked, hours paid, benefits accrued, lawful deductions, and any information for historical purposes effecting the wage arrangement for three years (§1108 (4) and (6)).

1.0 Definitions

- 1.1 **"ATM"** means the automatic teller machine activated by a magnetically encoded card and the transmission of a code which allows card holders to perform routine banking transactions including the withdrawal of cash.
- 1.2 **"Cash"** means lawful money.
- 1.3 **"Credit"** means the amount of money which is added to an employee's bank account.
- 1.4 **"Demand Deposit Account"** means funds that an employee or card holder may withdraw from a bank with no advance notice usually by writing a check or using an automatic teller machine.
- 1.5 **"Direct Deposit"** means automatic deposit of wages or benefits into an employee's bank account.
- 1.6 **"Exchange Rate"** means the rate agreed upon by the employer and employee as compensation for the performance of work by the employee.
- 1.7 **"Functional Equivalent"** means a change in the form of the payment of wages without impacting the substantive rights or value of the employee's wages. For example, a debit card in lieu of cash, check, or credit must provide the full amount of wages without cost to the employee on the regular payday.
- 1.8 **"Payroll Debit Card"** is a card that provides an employee with the appropriate means of obtaining all wages earned in a defined pay period in a form that is the equivalent of payment by cash, check, or direct deposit.

2.0 Payroll Debit Card in Lieu of Cash or Check

Delaware's Wage Payment and Collection Act requires the payment of wages to employees in lawful money or checks payable on demand, "provided suitable arrangements are made by the employer for cashing such checks for the full amount of the wages due at a bank or other business establishment convenient to the place of employment. Employers may comply with this requirement by issuing a payroll debit card which provides the functional equivalent of cash or a check. It is the employers' responsibility to effectuate a payroll debit card system which will allow full payment of wages on the

employee's regular payday and without cost to the employee. Employers may use a pre-paid debit card or general payroll fund account to establish suitable arrangements for converting wages into employee's disposable income.

7 DE Reg. 1761 (6/1/04)