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SB-880 Workers' compensation. (2017-2018)

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Senate Bill No. 880

CHAPTER 730

An act to amend, repeal, and add Section 4651 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 23, 2018. Filed with Secretary of State September 23, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 880, Pan. Workers' compensation.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law governs temporary and permanent disability indemnity payments. Existing law prohibits a disability indemnity payment from being made by any written instrument unless it is immediately negotiable and payable in cash, on demand, without discount, at some established place of business in the state.

Existing law establishes in the Department of Industrial Relations the Commission on Health and Safety and Workers' Compensation to conduct a continuing examination of the workers' compensation system and of the state's activities to prevent industrial injuries and occupational diseases. Existing law authorizes the commission to conduct or contract for studies it deems necessary to carry out its responsibilities and to issue an annual report on the system.

This bill would, until January 1, 2023, authorize an employer, with the written consent of the employee, to deposit disability indemnity payments for the employee in a prepaid card account that meets specified requirements, including, among other things, allowing the employee reasonable access to in-network automatic teller machines. The bill would require employers to provide all necessary aggregated data on their prepaid account programs to the Commission on Health and Safety and Workers' Compensation upon request, and would require the commission to issue a report on or before December 1, 2022, to the Legislature regarding payments made to those prepaid card accounts, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4651 of the Labor Code is amended to read:

4651. (a) (1) A disability indemnity payment shall not be made by any written instrument unless it is immediately negotiable and payable in cash, on demand, without discount, at some established place of business in the state.

(2) This section does not prohibit an employer from depositing the disability indemnity payment in an account in any bank, savings and loan association, or credit union of the employee's choice in this state, provided the employee has voluntarily authorized the deposit, nor does it prohibit an employer from electronically depositing the disability indemnity payment in an

account in any bank, savings and loan association, or credit union, that the employee has previously authorized to receive electronic deposits of payroll, unless the employee has requested, in writing, that disability indemnity benefits not be electronically deposited in the account.

(3) (A) An employer may commence a program under which disability indemnity payments are deposited in a prepaid card account for the employee. The employee shall provide written consent to the employer to use a prepaid card account for the employee's disability payments. The prepaid card account shall meet the applicable requirements of Section 1339.1 of the Unemployment Insurance Code. For purposes of this section, the terms "prepaid card" and "prepaid card account" have the same meanings as defined in Section 1339.1 of the Unemployment Insurance Code. For purposes of this section, a prepaid card shall also meet all of the following requirements:

- (i) Allow the employee to withdraw the entire balance on the card in one transaction without incurring fees.
- (ii) Allow the employee reasonable access to in-network automatic teller machines (ATMs).
- (iii) Allow the employee to make point-of-sale purchases without incurring fees from the financial institution.
- (iv) Prohibit a link to any form of credit, including a loan against future payments or a cash advance on future payments.

(B) The fees associated with the use of the prepaid card shall be disclosed to the employee in writing. The only permissible fees associated with the use of a prepaid card are those for a replacement card provided through expedited delivery, out-of-network ATM fees on the third and subsequent withdrawal per deposit, and fees associated with foreign transactions.

(C) If an employee has consented to use the prepaid card payment system under this section, either the employer or the employee may opt to change the method of payment to another method consistent with this section by providing 30 days' written notice to the other party.

(D) On or before December 1, 2022, the Commission on Health and Safety and Workers' Compensation shall issue a report to the Legislature on payments made to prepaid card accounts. Employers shall provide all necessary aggregated data on their prepaid account programs to the commission upon request. The report shall include, but is not limited to, the following:

- (i) The number of employees who elected to receive their disability indemnity payments in a prepaid card account.
- (ii) The cash value of the disability benefits sent to prepaid card accounts.
- (iii) The number of employees who opted to change the method of payment from a prepaid card account to either a written instrument or electronic deposit.

(E) The report issued pursuant to subparagraph (D) shall comply with Section 9795 of the Government Code.

(b) It is not a violation of this section if either of the following delays occurs in connection with a transaction authorized pursuant to this section, and the delay is caused solely by the application of state or federal banking laws or regulations:

- (1) A delay in the negotiation of a written instrument, including a delay in the deposit or electronic deposit of a check to a prepaid card account.
- (2) A delay in the deposit of a disability indemnity payment to a prepaid card account.

(c) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

SEC. 2. Section 4651 is added to the Labor Code, to read:

4651. (a) A disability indemnity payment shall not be made by any written instrument unless it is immediately negotiable and payable in cash, on demand, without discount, at some established place of business in the state.

(b) This section does not prohibit an employer from depositing the disability indemnity payment in an account in any bank, savings and loan association, or credit union of the employee's choice in this state, provided the employee has voluntarily authorized the deposit, nor does it prohibit an employer from electronically depositing the disability indemnity payment in an account in any bank, savings and loan association, or credit union that the employee has previously authorized to receive electronic deposits of payroll, unless the employee has requested, in writing, that disability indemnity benefits not be electronically deposited in the account.

(c) It is not a violation of this section if a delay in the negotiation of a written instrument is caused solely by the application of state or federal banking laws or regulations.

(d) This section shall become operative on January 1, 2023.