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AB-2148 Workers' compensation: disability payments. (2021-2022)

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Date Published: 07/21/2022 02:00 PM

Assembly Bill No. 2148

CHAPTER 120

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

[Approved by Governor July 19, 2022. Filed with Secretary of State July 19, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2148, Calderon. Workers' compensation: disability payments.

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 the employee's employment. Existing law governs temporary and permanent disability indemnity payments. Existing law, until January 1, 2023, allows an employer to commence a program under which disability indemnity payments are deposited in a prepaid card account for employees.

This bill would extend the authorization to deposit indemnity payments in a prepaid card account until January 1, 2024.

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, as amended by Section 1 of Chapter 730 of the Statutes of 2018, 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, 2024, and as of that date is repealed.

SEC. 2. Section 4651 of the Labor Code, as added by Section 2 of Chapter 730 of the Statutes of 2018, is amended 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, 2024.