



Agency Legislative Proposal – 2023 Session

Document Name:

Document Name	1012022_CTDOL_VolunteerFireDepartments
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Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC

Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Marisa Morello Marisa.morello@ct.gov
Division Requesting This Proposal	CT Department of Labor Connecticut Occupational Safety and Health Division (CONN-OSHA)
Drafter	Jennifer Devine Jennifer.devine@ct.gov

Title of Proposal	AN ACT CONCERNING VOLUNTEER FIRE DEPARTMENTS AND AMBULANCE COMPANIES AND THE DEFINITION OF EMPLOYER UNDER THE STATE OCCUPATIONAL SAFETY AND HEALTH ACT
Statutory Reference, if any	CGS 31-367(d) and 31-369
Brief Summary and Statement of Purpose	This proposal incorporates the Department’s long-standing position and modifies the definition of “employer” in the Department of Labor’s Connecticut Occupational Safety and Health Act to specifically include “volunteer fire departments” and “volunteer ambulance companies.” This proposal is technical in nature and clarifies the Connecticut Department of Labor’s jurisdiction over volunteer fire departments and volunteer ambulance companies in the wake of <u>Mayfield v. Goshen Volunteer Fire Company, Inc.</u> , 301 Conn. 739 (2011).



SECTION-BY-SECTION SUMMARY

Summarize sections in groups where appropriate

Section One:

31-367(d) – Amend definition of “employer” to include any volunteer fire department and volunteer ambulance company such that CONN-OSHA would have jurisdiction over those employers.

Section Two:

31-369 – Amend statute to clarify that CONN-OSHA would have jurisdiction over any volunteer fire department or volunteer ambulance company not under the jurisdiction of federal OSHA.

BACKGROUND

Origin of Proposal New Proposal Resubmission

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

- 1) In 2022, HB 5247: AAC Volunteer Fire Departments and Ambulance Companies and the Definition of Employer Under the State Occupational Safety and Health Act represents compromise language negotiated by Senator Craig Miner that 1) a volunteer fire department or volunteer ambulance company would only receive a written warning for the first offense and 2) Requires a volunteer fire department or volunteer ambulance company to comply with Conn-OSHA unless it can demonstrate that it falls under fed-OSHA. Despite initially stating support, the Goshen delegation and other small towns representing volunteer fire departments continued their opposition.
- 2) For example, Representative Ben McGorty spoke against 2022 legislation (HB 5247) in Public Safety Committee because he said that volunteer fire departments and their volunteer firefighters were protected under the National Fire and Protection Association (NFPA) <https://www.nfpa.org/> standards. Rep McGorty said that most are “social clubs” when not fighting fires. Representative McGorty has served over twenty-seven years as a volunteer firefighter with the Huntington Fire Department (village of the Town of Shelton) and is also on Shelton’s Board of Fire Commissioners.



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- 3) Rep Pat Boyd spoke in support in Public Safety Committee. He serves as a safety officer for his volunteer fire department and said that he was surprised to learn that CONN-OSHA doesn't cover volunteer fire departments. Rep Boyd said that one set of standards is needed because safety of firefighters is Number One concern. He said that CT currently has a patchwork of standards for firefighters - CT is not mandated to be under NFPA standards.
- 4) Additionally, Rep. Aurora filed an amendment (LCO 5515) to move the effective date because he felt that the volunteer fire departments would "need time" to do the work required once they fell under CONN-OSHA's jurisdiction. Jeff Morrisette from DEESP/Fire Academy and CONN-OSHA Director confirmed that the Volunteer FD wouldn't have to do anything additional that they are already doing. Representative Porter decided to move up the effective date to blunt Rep Arora's argument.
- 5) Rep Maria Horn (Public Safety Chair) made a valiant effort to forge a compromise.
- 6) HB 5247 died on the House Calendar
- 7) CT DOL feels that that the concerning level of unchecked safety issues and injuries/deaths faced by CT's volunteer firefighters warrants further legislative pursuit of this proposal.
- 8) The 2023 legislative proposal removes the provision that a volunteer fire department or volunteer ambulance company would only receive a written warning for the first offense.

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	No
Has this proposal or a similar proposal been implemented in other states? If	



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yes, to what result?	
Have certain constituencies called for this proposal?	The volunteer firefighters themselves welcome the extra protections that CONN-OSHA provides for their safety.

INTERAGENCY IMPACT

List each affected agency. Copy the table as needed.

[X] Check here if this proposal does NOT impact other agencies

1. Agency Name	
Agency Contact (name, title)	
Date Contacted	
Status	<input type="checkbox"/> Approved <input type="checkbox"/> Talks Ongoing
Open Issues, if any	

FISCAL IMPACT

Include the section number(s) responsible for the fiscal impact and the anticipated impact

[] Check here if this proposal does NOT have a fiscal impact

State	None
Municipal (Include any municipal mandate that can be found within legislation)	No impact if OSHA statutes and regulations are followed.



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Federal	None
Additional notes	

MONITORING & EVALUATION PLAN

If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

[] Check here if this proposal does NOT lead to any measurable outcomes

In the past seven years, there were approximately 27 complaints regarding volunteer fire departments with CONN-OSHA. Of those, 20 were inspected with a total of 52 violations issued, all of which were corrected. While most complaints were made to prevent harm from happening, some were due to injuries (burns, smoke inhalation, carbon monoxide poisoning, etc.). Seven complaints were not inspected due to lack of jurisdiction or validity issues. There were three complaints from the same department, of which two were discontinued because they emanated from the same issue that prompted the Goshen case.

Without this legislation, certain volunteer fire departments and volunteer ambulance companies will not be held accountable under either state or federal law. This bill is critical to the safety and health of our first responders because it will allow CONN-OSHA to protect all of Connecticut’s volunteer firefighters and ambulance workers just as we do our career men and women.

ANYTHING ELSE WE SHOULD KNOW?



INSERT FULLY DRAFTED BILL HERE

AN ACT CONCERNING VOLUNTEER FIRE DEPARTMENTS AND AMBULANCE COMPANIES AND THE DEFINITION OF EMPLOYER UNDER THE STATE OCCUPATIONAL SAFETY AND HEALTH ACT

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (d) of section 31-367 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):

(d) "Employer" means the state and any political subdivision thereof, **and, except as provided in section 31-369, any volunteer fire department and any volunteer ambulance company;**

Sec. 2. Section 31-369 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2023):

(a) This chapter applies to all employers, employees and places of employment in the state except the following: (1) Employees of the United States government; [and] (2) working conditions of employees over which federal agencies other than the United States Department of Labor exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health; **and (3) any volunteer fire department or volunteer ambulance company that is regulated by the Occupational Safety and Health Act of 1970 (15 USC 651 et seq.).**

(b) Nothing in this chapter shall be construed to supersede or in any manner affect any workers' compensation law or to enlarge, diminish or affect in any manner common law or statutory rights, duties or liabilities of employers or employees, under any law with respect to injuries, diseases or death of employees arising out of and in the course of employment."



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Document Name	011123_CTDOL_ObsoleteStatutes
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Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Marisa Morello Marisa.morello@ct.gov
Division Requesting This Proposal	Legal Wage and Workplace Standards CT Occupational Safety and Health Act (CONN-OSHA) Welfare to Work Office of Research
Drafter	Jennifer Devine Jennifer.devine@ct.gov

Title of Proposal	AN ACT REPEALING OBSOLETE CT DEPARTMENT OF LABOR STATUTES
Statutory Reference, if any	10-95h(b)(1); 31-2(a); 31-38; 31-39a; 31-40; 31-40d; 31-40e; 31-40f; 31-40h; 31-40i; 31-42; 31-44; 31-45a; 31-49; 31-50ww; 31-51yy; 31-51zz; 31-51aaa; 31-51bbb; 31-51ccc; 31-51ddd; 31-51eee; and 31-51fff; 31-71k(s).
Brief Summary and Statement of Purpose	This proposed technical bill seeks to modify and repeal statutes that are obsolete due to industrial, medical or societal modernization, lack of state funding or are enforced through other, more appropriate statutes and regulations.



SECTION-BY-SECTION SUMMARY

Summarize sections in groups where appropriate

10-95h(b)(1) (Legislative committees to meet to consider issues re the Technical Education and Career System and the state workforce. Required submissions) - The relevant information in the 10-95h report is all available on DOL's website through information, data, and reports we are required to publish under our cooperating agreements with USDOL making this report largely redundant.

31-2(a) (Powers and duties of commissioner) – Certain language in the statute is outdated and needs to be modernized to more appropriately reflect the agency's collection of information.

31-38 (Toilet accommodations on tobacco plants); 31-42 (Appliances for threading shuttles); 31-49 (Care required of a master for his servant's safety) - These statutes are obsolete due to being outdated and unnecessary as a result of industrial, medical and societal advancements. In addition, if enforcement were necessary CONN-OSHA would not enforce under this statute but rather would enforce under other CONN-OSHA regulations, specifically CONN-OSHA would cite 31-372-101 or 31-372-107. In addition, violations of this nature would be under federal OSHA jurisdiction because the employers are in the private sector. However, if a facility was regulated by CONN-OSHA, they would cite to the regulation section 31-372-101 and CGS section 31-370(a).

31-39a (Operation of hydraulic loading and unloading equipment at resources recovery facilities) – Generally, these businesses would fall under the federal OSHA because they are private sector. However, if there was a facility regulated by CONN-OSHA, it would enforce under regulation section 31-372-101 and CGS section 31-370(a).

31-40 (Reporting serious accidents in establishments or work places under jurisdiction of Labor Commissioner) – CONN-OSHA does not rely on this statute, but rather uses regulation section 31-374-3 (which incorporates federal OSHA standard 29 CFR 1904 by reference).

31-40d (Complaints of Violations. Inspections. Discrimination prohibited) – CTDOL investigates CONN-OSHA retaliation complaints under CGS section 31-379

31-40e (Order to comply. Citation. Hearing. Appeal) - CONN-OSHA does not rely on this statute, but rather uses CGS sec 31-375.

31-40f (Penalties. Duties of Labor Commissioner)- CONN-OSHA does not rely on this statute, but rather uses CGS sec 31-382



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31-40h (Sterilization as condition of employment prohibited) and 31-40i (Enforcement. Private right of action) – The prohibition of sterilization is unnecessary as this has since been prohibited by the U.S. Supreme Court.

31-44 (Penalty for violation of Orders) - CONN-OSHA does not rely on this statute, but rather would enforce this under CGS section 31-374.

31-45a (Protection of feet)- CONN-OSHA has a standard for this under other regulation sections 31-372-101 (which incorporates federal OSHA standard 29 CFR 1910.136 by reference) and 31-372-107 (which incorporates federal OSHA standard 29 CFR 1926.96 by reference).

31-51ww; 31-51yy; 31-51zz; 31-51aaa; 31-51bbb; 31-51ccc; 31-51ddd; 31-51eee; and 31-51fff - There has been no state funding for the past 3 years for the Individual Development Account (IDA) program since June 2019. In addition, CTDOL has received no applications in the past 6+ years from any outside organizations who wished to establish an IDA program themselves. In addition, would create efficiencies and save staff time that must be devoted to updating the DOL web site, policy and procedural manuals for a program that has had no activity related to it over a significant period of time. Moreover, even when funded, the program was heavily bureaucratic, provided little incentive to vendors to provide services due to the relatively low funding available and impacted a very small number of clients relative to the administrative responsibilities required to operate the program.

31-71k(s) (Payment of wages by payroll cards. Study of payroll card usage. Regulations) – The study provided for in the statute was due in 2018 and the language is now obsolete.

BACKGROUND

Origin of Proposal

New Proposal

Resubmission

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

Please consider the following, if applicable:



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Have there been changes in federal/state laws or regulations that make this legislation necessary?	No
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	No
Have certain constituencies called for this proposal?	No

INTERAGENCY IMPACT

List each affected agency. Copy the table as needed.

Check here if this proposal does NOT impact other agencies

1. Agency Name	Connecticut Technical Education and Career System
Agency Contact (name, title)	Susan Scott, CTECS Legal Director
Date Contacted	12/21/22
Status	<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Talks Ongoing
Open Issues, if any	

FISCAL IMPACT



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Include the section number(s) responsible for the fiscal impact and the anticipated impact

[X] Check here if this proposal does NOT have a fiscal impact

State	
Municipal (Include any municipal mandate that can be found within legislation)	
Federal	
Additional notes	

MONITORING & EVALUATION PLAN

If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

[X] Check here if this proposal does NOT lead to any measurable outcomes

ANYTHING ELSE WE SHOULD KNOW?



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INSERT FULLY DRAFTED BILL HERE

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Sec. 1. Section 10-95h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Not later than November thirtieth each year, the joint standing committees of the General Assembly having cognizance of matters relating to education, higher education and employment advancement and labor shall meet with the chairperson of the Technical Education and Career System board, the superintendent of the Technical Education and Career System, the executive director of the Technical Education and Career System, the Labor Commissioner and such other persons as they deem appropriate to consider the items submitted pursuant to subsection (b) of this section.

(b) On or before November fifteenth, annually: [(1) The Labor Commissioner shall submit the following to the joint standing committees of the General Assembly having cognizance of matters relating to education, higher education and employment advancement and labor: (A) Information identifying general economic trends in the state; (B) occupational information regarding the public and private sectors, such as continuous data on occupational movements; and (C) information identifying emerging regional, state and national workforce needs over the next ten years.

(2)] The executive director of the Technical Education and Career System shall submit the following to the joint standing committees of the General Assembly having cognizance of matters relating to education, higher education and employment advancement and labor: (A) Information ensuring that the curriculum of the Technical Education and Career System is incorporating those workforce skills **required for future workforce development** [that will be needed for the next ten years, as identified by the Labor Commissioner in subdivision (1) of this subsection, into the technical education and career schools]; (B) information regarding the employment status of students who graduate from or complete an approved program of study at the Technical Education and Career System, including, but not limited to: (i) Demographics such as age and gender, (ii) course and program enrollment and completion, (iii) employment status, and (iv) **available wage data** [wages prior to enrolling and after graduating]; (C) an assessment of the adequacy of the resources available to the Technical Education and Career System as the system develops and refines programs to meet existing and emerging workforce needs; (D) recommendations to the Technical Education and Career System board to carry out the provisions of subparagraphs (A) to (C), inclusive, of this subdivision; **and** (E) information regarding staffing **needs** at each technical education and career school for the current academic year.; and (F) information regarding the transition process of the Technical Education and Career System as an independent agency, including, but not limited to, the actions taken by the Technical Education and Career System board and the executive director to create a budget process and maintain programmatic consistency for students



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enrolled in the technical education and career system.] The executive director shall collaborate with the Labor Commissioner to obtain information as needed to carry out the provisions of this subsection.

Sec. 2. Section 31-2 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Labor Commissioner shall collect information upon the subject of labor, [its relation to capital,] the hours of labor, the earnings of laboring [men and women] **individuals** and the means of promoting their material, social, **and** intellectual [and moral] prosperity, and may summon and examine under oath such witnesses, and may direct the production of, and examine or cause to be produced and examined, such books, records, vouchers, memoranda, documents, letters, contracts or other papers in relation thereto as he deems necessary, and shall have the same powers in relation thereto as are vested in magistrates in taking depositions, but for this purpose persons shall not be required to leave the vicinity of their residences or places of business.

(b) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, 1 for all programs within the jurisdiction of the Labor Department, including, but not limited to, employment and training programs in the state.

(c) The commissioner may request the Attorney General to bring an action in Superior Court for injunctive relief requiring compliance with any statute, regulation, order or permit administered, adopted or issued by the commissioner. (d) The commissioner shall assist state agencies, boards and commissions that issue occupational certificates or licenses in (1) determining when to recognize and accept military training and experience in lieu of all or part of the training and experience required for a specific professional or occupational license, and (2) reviewing and revising policies and procedures to ensure that relevant military education, skills and training are given appropriate recognition in the certification and licensing process.

Sec. 3. Section 31-71k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As used in this section: (1) "Direct deposit" means the electronic payment of an employee's wages, salary or other compensation that is deposited into such employee's account in any bank, Connecticut credit union or federal credit union that has agreed with the employer to accept such wages, salary or other compensation; (2) "Payroll card" means a stored value card or other device used by an employee to access wages from a payroll card account and that is redeemable at the employee's election at multiple unaffiliated merchants or service providers, bank branches or automated teller machines. Payroll card does not mean a gift certificate, as defined in section 3-56a; and (3) "Payroll card account" means an account in any bank, Connecticut credit union or federal credit union that is directly or indirectly established through an employer to which transfers of the employee's wages, salary or other compensation are made and accessed through



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the use of a payroll card and that is subject to the requirements of Regulation E, 12 CFR Part 1005, as from time to time amended.

(b) An employer may offer the use of payroll cards to deliver wages, salary or other compensation to employees, provided: (1) Each employee has the option of receiving wages, salary or other compensation by direct deposit and by negotiable check; and (2) The employee voluntarily and expressly authorizes, in writing or electronically, the payment of wages, salary or other compensation by means of a payroll card account without any intimidation, coercion or fear of discharge or reprisal from the employer for the employee's refusal to accept such payment of wages, salary or other compensation by means of a payroll card account. No employer shall make the payment of wages, salary or other compensation by means of a payroll card account a condition of employment or a condition for the receipt of any benefit or other form of remuneration for any employee.

(c) Prior to an employee electing to receive wages, salary or other compensation by means of a payroll card account, each employer using payroll card accounts to deliver wages, salary or other compensation to an employee shall provide such employee with clear and conspicuous notice, in writing, and in the language the employer normally uses to communicate employment related polices to his or her employees, of the following: (1) That payment of wages, salary or other compensation by means of a payroll card account is voluntary and the employee may instead choose to receive wages, salary or other compensation by either direct deposit or by negotiable check; (2) The terms and conditions relating to the use of the payroll card, including an itemized list of fees that may be assessed by the card issuer and their amounts; (3) The methods available to employees both for accessing their full wages, salary or other compensation in lawful money of the United States without any transaction fee to the employee for such access and for avoiding or minimizing fees for use of the payroll card, including, but not limited to, a clear and conspicuous notice describing how to access wages, salary or other compensation without cost at automated teller machines, depository financial institutions or other convenient locations; (4) The methods available to employees for checking their balances in the payroll card account without cost; and (5) A statement indicating that third parties may assess additional fees.

(d) Each pay period, but not more frequently than each week, an employee with a payroll card shall be allowed to make at least three withdrawals from the payroll card account at no cost to the employee, one of which permits withdrawal of the full amount of the employee's net wages, salary or other compensation for the pay period at a depository financial institution or other convenient location.



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(e) None of the employer's costs associated with paying wages, salary or other compensation using a payroll card or establishing the payroll card account shall be deducted from or charged against the wages, salary or other compensation delivered to the employee.

(f) (1) Neither the employer nor the payroll card issuer shall assess a fee to the employee for any of the following, regardless of how such fee is labeled: (A) Issuing the initial payroll card; (B) transferring wages, salary or other compensation from the employer to the payroll card account; (C) maintaining a payroll card account; (D) providing one replacement card per calendar year upon the employee's request; (E) closing the payroll card account; (F) maintaining a low balance; (G) inactivity or dormancy of the payroll card account for the first twelve months of inactivity or dormancy; or (H) point-of-sale transactions. (2) A payroll card may bear an expiration date, provided (A) the funds in the payroll card account do not expire; and (B) prior to the expiration date, the employee is provided with a replacement card, without charge, during the period when wages, salary or other compensation are applied to the payroll card account by the employer and for sixty days after the last transfer of wages, salary or other compensation is applied to the payroll card account by the employer. (3) The payroll card account may escheat to the state pursuant to the provisions of section 3-57a.

(g) Each employer shall provide the employee a means of checking his or her payroll card account balance through an automated telephone system, automated teller machine or electronically without cost to the employee twenty-four hours per day and seven days per week.

(h) Neither the payroll card nor the payroll card account shall be linked to any form of credit and, to the extent technologically feasible, the payroll card account shall not allow for overdrafts. No fees or interest may be imposed upon the employee for an overdraft or the first two declined transactions of each calendar month.

(i) The employer shall furnish the employee with a statement of deductions made from his or her wages, salary or other compensation for each pay period in accordance with section 31-13a.

(j) Each employee with a payroll card shall be permitted, on timely notice to the employer and without cost or fear of reprisal or discrimination or the assessment of any penalty, to receive his or her wages, salary or other compensation by direct deposit into a personal account at any bank, Connecticut credit union or federal credit union that has agreed to accept such deposits or by negotiable check. The employer shall begin payment by direct deposit as soon as practicable but not later than the first pay day after fourteen days from receiving both the employee's request and the account information necessary to make the deposit, or by check as soon as practicable but not later than the first pay day after fourteen days from receiving the employee's request.



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(k) Consumer protections, including transaction histories and advanced notice of changes in terms and conditions, shall be provided to each employee with a payroll card in accordance with Regulation E, 12 CFR Part 1005, as from time to time amended. Notwithstanding the foregoing, employees shall be provided the option to receive, on a monthly basis, automatic written transaction histories at no cost to the employee for a term of at least twelve months or until such option is cancelled by the employee. Renewal of the option to receive written transaction histories at no cost to the employee may be required by the employer upon expiration of the initial twelve-month term, and each twelve-month term thereafter.

(l) The payroll card shall be associated with an automated teller machine network that ensures the availability of a substantial number of in-network automated teller machines in the state.

(m) Wages, salary or other compensation paid to an employee using a payroll card shall be deposited in a payroll card account that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration on a pass-through basis to the employee.

(n) A payroll card account that is used to receive only employee wages, salary or other compensation shall be exempt from execution or attachment (1) by creditors of the employer, and (2) under section 52-367b.

(o) All notices required by the provisions of this section shall be clear and conspicuous.

(p) Nothing in this section shall be construed to preempt or override the terms of any collective bargaining agreement with respect to the methods by which an employer provides payment of wages, salary or other compensation to employees.

(q) Nothing in this section shall be construed to restrict the fees that a payroll card issuer may charge the employer pursuant to a payroll card agreement between the payroll card issuer and the employer, provided those fees are not charged to or passed on to any employee.

(r) The employer's obligations to the employee pursuant to the provisions of this section shall cease sixty days after the employer/employee relationship has ended.

(s) [The Labor Commissioner, within available appropriations, may conduct a study of payroll card usage and the actual incidence of associated fees. Not later than October 1, 2018, the commissioner shall determine whether such a study shall be conducted, and shall report such determination, or the status or results of such a study if such a study has already been initiated or conducted, in accordance with the provisions of section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to labor.



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(t)] The Labor Commissioner may adopt regulations, in accordance with the provisions of chapter 54, 1 to ensure compliance with this section.

Sec. 4. Sections 31-38, 31-39a, 31-40, 31-40d, 31-40e, 31-40f, 31-40h, 31-40i, 31-42, 31-44, 31-45a, 31-49, 31-50ww, 31-51yy, 31-51zz, 31-51aaa, 31-51bbb, 31-51ccc, 31-51ddd, 31-51eee, and 31-51fff of the general statutes are repealed.