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**BILL SUMMARY**

**Act to Amend:** Payment of Wages and Fringe Benefits (PA 390 of 1978)

**Statute(s):** MCL 408.472(4)

**Intent:** To clarify an apparent defect in the language of MCL 408.472(4) so an employer may, in practice, pay an employee on a regular and recurring monthly payday for the previous monthly pay period.

**Issue and Background:**

Under this existing language, an employer is permitted to establish a monthly payday if, and only if, the employer pays the employee *“on or before the first of the calendar month for all wages earned during the preceding calendar month”* [MCL 408.472(4)].

However, many businesses “close their books” at the end of each calendar month. In these scenarios, the official “close of books” is the end of the last day of the month and the accounting does not take place until the first business day of the next calendar month - at the earliest. Additionally, many businesses utilize third-party payroll services to process employee payroll. These factors make compliance with MCL 408.472(4) virtually impossible in-practice due to the language italicized above.

In essence, an employer could only comply if the employer’s monthly payday was the 1<sup>st</sup> of the month, the employer was able to finalize all internal bookkeeping, and the employer was able have payroll checks/direct deposits finalized that same day - even if the day was a non-business day or a Sunday.

**Example:** Employer pays an employee on the 5<sup>th</sup> of the month (current statute):

1. The chosen payday is the 5<sup>th</sup> of the month.
2. The next monthly payday is April 5<sup>th</sup> and the employer pays the employee on April 5<sup>th</sup>.
3. The preceding calendar month, per statute, is March.
4. The current calendar month, per statute, is April.

**ISSUE #1:** The employer would fail to comply with MCL 408.472(4) because the employer failed to pay the employee “on or before the first of the calendar month for all wages earned during the preceding calendar month” since the payment was made on the 5<sup>th</sup> of the current calendar month (April).

**ISSUE #2:** The employer would also fail to comply with MCL 408.472(4) unless the employer compensated the employee for “all wages earned during the preceding calendar month.” Therefore, the employer would be forced to compensate the employee for wages earned from March 1 to March 31 regardless if the regularly recurring monthly pay period runs from the 5<sup>th</sup> of each month to the 4<sup>th</sup> of the following month (as an example).