

CAN AN EMPLOYER HAVE A SOFT CARBON FOOTPRINT THAT IS LEGAL?

After watching the Live Earth music marathon on the “luckiest” day (7-7-07) I am inspired to “Reduce, Reuse and Recycle” more often in my place of business. All my employees have company-issued e-mail accounts or personal e-mail accounts.

Question: For the purpose of reducing the usage of paper in my company, can an employer pay an employee with a debit card instead of issuing a paycheck every payday?

Answer: An employer can pay an employee through a direct deposit system, automated teller machine card, payroll card or other means of electronic transfer under the following conditions:

- Employee specifically and voluntarily agrees and authorizes employer to pay him or her through a direct deposit system, automated teller machine card, payroll card or other means of electronic transfer instead of a negotiable instrument in paper form, and
- Employer does not charge employee a fee for setting up the electronic payment method or device, and
- Employee can obtain the entire net amount of wages earned after the legal deductions from the total earnings without discount in cash on demand at some bank or other established place of business, without having to pay a fee, in the county where the employee lives or works, and
- Employee can revoke the authorization. The agreement is revoked 30 days after the date the notice is received by the employer.

For an employee who works for an employer as a seasonal farmworker (as defined in Oregon Revised Statutes 652.145) or an employee who is employed in packing, canning, freezing or drying any variety of agricultural crops can give the employer notice of revocation of the agreement either orally or in writing. Unless the employer and the employee agree otherwise, the agreement is revoked 10 days after the date the notice is received by the employer.

For more information please see House Bill 2256 of the 2007 Oregon Legislative Session.

Question: I have been filing my federal income tax returns electronically. For the purpose of further reducing the usage of paper in my company, can an employer eliminate the pay stubs in paper form and furnish one to each employee via e-mail every payday?

Answer: Employer is required to furnish employee an itemized statement of earnings and deductions each time employee receives a compensation payment. Employer may provide an electronic itemized payroll statement to employee as long as employee agrees and has the ability to print or store the electronic itemized payroll statement at the time of receipt.

Question: For the purpose of migrating to an almost paperless personnel file, can an employer maintain personnel records electronically?

Answer: Currently, Oregon law (Oregon Revised Statutes 652.750) does not specify the format of how personnel records are kept or maintained. However, many employers do maintain personnel records electronically and preserve the right to print hard copies as needed.

While there does not appear to be any legal problem with this, employers should make sure that the files are electronically stored in a way that insures their confidentiality and security. It would also be wise to consult an attorney for more specifics.

Additionally, effective for requests made on or after January 1, 2008, within 45 days after receipt of the request of the employee or terminated employee, the employer is required to furnish a copy of the personnel records of the employee or terminated employee. If the employee's personnel records are not readily available, the employer and the employee may agree to extend the time. The employer may charge the employee a reasonable amount for the copying services.

For more information on this and other important issues affecting Oregon employers, please visit our website at www.oregon.gov/boli. You can also call us at 971-673-0824.