

SENATE BILL NO. 198—SENATORS CANNIZZARO AND RATTI

MARCH 9, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Provides for the regulation of on-demand pay providers. (BDR 52-847)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to financial services; requiring a person who provides on-demand pay services through certain contractual arrangements with an employer or certain other persons to obtain a license from the Commissioner of Financial Institutions; imposing certain requirements on such licensees; requiring a person who provides on-demand pay services and who is not such a licensee to comply with certain provisions relating to installment loans and high-interest loans; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Sections 2-21** of this bill establish provisions relating to a business that delivers
2 to a person money that represents income that the person has earned for services
3 rendered to an employer but that has not yet been paid to the person. **Section 8** of
4 this bill defines “on-demand pay provider” as a person who engages in such a
5 business. **Section 9** of this bill defines “on-demand pay services” as the delivery to
6 a person of money that represents earned but unpaid income.

7 **Sections 7 and 10** of this bill establish two types of on-demand pay providers,
8 which are referred to as employer-integrated on-demand pay providers and third-
9 party on-demand pay providers. **Section 7** generally defines “employer-integrated
10 on-demand pay provider” to mean an on-demand pay provider who provides on-
11 demand pay services to a person through a contractual arrangement with the
12 person’s employer in which the provider verifies the earned income of the person
13 through data or information provided by the employer. **Section 10** defines “third-
14 party on-demand pay provider” to mean an on-demand pay provider who is not an
15 employer-integrated on-demand pay provider.

16 **Section 12** of this bill prohibits a person from engaging in the business of an
17 employer-integrated on-demand pay provider without a license issued by the
18 Commissioner of Financial Institutions. **Sections 12-14** of this bill set forth certain



19 requirements for licensure as an employer-integrated on-demand pay provider.
20 **Section 15** of this bill requires an employer-integrated on-demand pay provider to
21 submit certain information to the Commissioner annually. **Section 16** of this bill
22 sets forth certain requirements for the operation of an employer-integrated on-
23 demand pay provider. **Section 17** of this bill provides that if an employer-integrated
24 on-demand pay provider is unable to be repaid the amount of money delivered to a
25 recipient of on-demand pay services, the provider is prohibited from: (1) collecting
26 or attempting to collect that money from the recipient; or (2) reporting certain
27 information to a consumer reporting agency. **Section 18** of this bill prohibits an
28 employer-integrated on-demand pay provider from sharing certain fees with or
29 paying certain compensation to an employer.

30 **Section 20** of this bill provides that on-demand pay services provided by an
31 employer-integrated on-demand pay provider are not a loan and are not subject to
32 any provisions of existing law governing loans. **Section 22** of this bill provides that
33 the provisions of existing law governing persons engaged in the business of
34 transmitting money do not apply to an employer-integrated on-demand pay
35 provider.

36 **Section 21** of this bill provides that on-demand pay services provided by a
37 third-party on-demand pay provider are a loan. **Section 21** prohibits a person from
38 engaging in the business of a third-party on-demand pay provider unless the person
39 has been issued a license pursuant to the provisions of existing law governing
40 installment loans or high-interest loans, as applicable. (Chapters 604A and 675 of
41 NRS)

42 **Section 19** of this bill authorizes the Commissioner to adopt regulations for the
43 administration and enforcement of **sections 2-21**.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Title 52 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 21, inclusive, of this act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 11,*
6 *inclusive, of this act have the meanings ascribed to them in those*
7 *sections.*

8 **Sec. 3.** *“Commissioner” means the Commissioner of*
9 *Financial Institutions.*

10 **Sec. 4.** *“Earned but unpaid income” means earned income*
11 *that has not yet been paid to the user by an employer.*

12 **Sec. 5.** *“Earned income” means money that has accrued to*
13 *the benefit of a user for services rendered to an employer.*

14 **Sec. 6. 1.** *“Employer” means:*

15 *(a) A person who employs a user; or*

16 *(b) Any other person who is contractually obligated to pay a*
17 *user any sum of money on an hourly, project-based, piecework or*
18 *other basis for services provided by the user.*

19 **2.** *The term does not include:*

20 *(a) A customer of an employer; or*



1 (b) Any other person whose obligation to make a payment to a
2 user is based solely on the agency relationship between the user
3 and the employer.

4 Sec. 7. "Employer-integrated on-demand pay provider"
5 means an on-demand pay provider who provides on-demand pay
6 services to a user through a contractual arrangement with the
7 user's employer or a person who provides payroll services to the
8 employer, in which the provider verifies the earned income of
9 the user through data or information provided by the employer or
10 person, as applicable.

11 Sec. 8. "On-demand pay provider" means a person who is
12 engaged in the business of providing on-demand pay services to a
13 user in this State.

14 Sec. 9. "On-demand pay services" means the delivery to a
15 user of money that represents earned but unpaid income.

16 Sec. 10. "Third-party on-demand pay provider" means an
17 on-demand pay provider who is not an employer-integrated on-
18 demand pay provider.

19 Sec. 11. "User" means a natural person who receives on-
20 demand pay services.

21 Sec. 12. 1. A person shall not engage in the business of an
22 employer-integrated on-demand pay provider unless the person
23 has been issued a license by the Commissioner pursuant to this
24 section.

25 2. A person who wishes to be licensed as an employer-
26 integrated on-demand pay provider must submit to the
27 Commissioner the fee established pursuant to subsection 5 and an
28 application, on a form prescribed by the Commissioner, which
29 must contain:

30 (a) The name and address of the applicant;

31 (b) Financial statements of the applicant for the immediately
32 preceding year which have been audited by an independent
33 certified public accountant;

34 (c) A copy of the proposed terms and conditions or terms of
35 use which will govern the provision of on-demand pay services by
36 the applicant;

37 (d) A copy of the policy of the applicant relating to the privacy
38 of information concerning users;

39 (e) The schedule of fees proposed to be charged to a user or
40 employer for the provision of on-demand pay services; and

41 (f) Any other information required by any regulations adopted
42 by the Commissioner pursuant to section 19 of this act.

43 3. Upon receipt of the application and when satisfied that the
44 applicant is entitled thereto, the Commissioner shall issue to the



1 *applicant a license as an employer-integrated on-demand pay*
2 *provider.*

3 *4. A license issued pursuant to this section expires annually*
4 *on the anniversary of the issuance of the license and may be*
5 *renewed upon submission of an application for renewal*
6 *containing such information as the Commissioner may require by*
7 *regulation.*

8 *5. The Commissioner shall establish by regulation fees for*
9 *the issuance and renewal of a license issued pursuant to this*
10 *section.*

11 **Sec. 13. 1.** *In addition to the requirements set forth in*
12 *section 12 of this act, a natural person who applies for the*
13 *issuance or renewal of a license as an employer-integrated on-*
14 *demand pay provider shall:*

15 *(a) Include the social security number of the applicant in the*
16 *application submitted to the Commissioner; and*

17 *(b) Submit to the Commissioner the statement prescribed by*
18 *the Division of Welfare and Supportive Services of the Department*
19 *of Health and Human Services pursuant to NRS 425.520. The*
20 *statement must be completed and signed by the applicant.*

21 *2. The Commissioner shall include the statement required*
22 *pursuant to paragraph (b) of subsection 1 in:*

23 *(a) The application or any other forms that must be submitted*
24 *for the issuance or renewal of the license; or*

25 *(b) A separate form prescribed by the Commissioner.*

26 *3. A license as an employer-integrated on-demand pay*
27 *provider may not be issued or renewed by the Commissioner if the*
28 *applicant:*

29 *(a) Fails to submit the statement required pursuant to*
30 *paragraph (b) of subsection 1; or*

31 *(b) Indicates on the statement submitted pursuant to*
32 *paragraph (b) of subsection 1 that the applicant is subject to a*
33 *court order for the support of a child and is not in compliance*
34 *with the order or a plan approved by the district attorney or other*
35 *public agency enforcing the order for the repayment of the*
36 *amount owed pursuant to the order.*

37 *4. If an applicant indicates on the statement submitted*
38 *pursuant to paragraph (b) of subsection 1 that the applicant is*
39 *subject to a court order for the support of a child and is not in*
40 *compliance with the order or a plan approved by the district*
41 *attorney or other public agency enforcing the order for the*
42 *repayment of the amount owed pursuant to the order, the*
43 *Commissioner shall advise the applicant to contact the district*
44 *attorney or other public agency enforcing the order to determine*
45 *the actions that the applicant may take to satisfy the arrearage.*



1 **Sec. 14. 1.** *If the Commissioner receives a copy of a court*
2 *order issued pursuant to NRS 425.540 that provides for the*
3 *suspension of all professional, occupational and recreational*
4 *licenses, certificates and permits issued to a person who is the*
5 *holder of a license as an employer-integrated on-demand pay*
6 *provider, the Commissioner shall deem the license issued to that*
7 *person to be suspended at the end of the 30th day after the date on*
8 *which the court order was issued unless the Commissioner*
9 *receives a letter issued to the holder of the license by the district*
10 *attorney or other public agency pursuant to NRS 425.550 stating*
11 *that the holder of the license has complied with the subpoena or*
12 *warrant or has satisfied the arrearage pursuant to NRS 425.560.*

13 **2.** *The Commissioner shall reinstate a license as an*
14 *employer-integrated on-demand pay provider that has been*
15 *suspended by a district court pursuant to NRS 425.540 if the*
16 *Commissioner receives a letter issued by the district attorney or*
17 *other public agency pursuant to NRS 425.550 to the person whose*
18 *license was suspended stating that the person whose license was*
19 *suspended has complied with the subpoena or warrant or has*
20 *satisfied the arrearage pursuant to NRS 425.560.*

21 **Sec. 15. 1.** *On or before June 30 of each year, an*
22 *employer-integrated on-demand pay provider shall submit to the*
23 *Commissioner:*

24 **(a)** *Except as otherwise provided in subsection 2, financial*
25 *statements for the immediately preceding year that have been*
26 *audited by an independent certified public accountant; and*

27 **(b)** *A copy of each complaint that has been filed against the*
28 *employer-integrated on-demand pay provider with the Better*
29 *Business Bureau or the Consumer Financial Protection Bureau*
30 *and a description of the resolution, if any, of each such complaint.*

31 **2.** *If audited financial statements are not available to an*
32 *employer-integrated on-demand pay provider on or before June 30*
33 *in any year, the provider may satisfy the requirements of*
34 *paragraph (a) of subsection 1 by submitting to the Commissioner:*

35 **(a)** *Unaudited financial statements on or before June 30; and*

36 **(b)** *Audited financial statements when such statements become*
37 *available to the provider.*

38 **Sec. 16.** *An employer-integrated on-demand pay provider*
39 *shall:*

40 **1.** *Develop and implement policies and procedures to respond*
41 *to questions raised by users and address complaints from users in*
42 *an expedient manner;*

43 **2.** *Before entering into an agreement with a user for the*
44 *provision of on-demand pay services:*



1 (a) Inform the user of his or her rights under the agreement;
2 and

3 (b) Fully and clearly disclose all fees associated with the on-
4 demand pay services;

5 3. Allow the user to cancel, at any time and without incurring
6 a fee, his or her participation in an agreement for the provision of
7 on-demand pay services; and

8 4. Comply with all local, state and federal privacy and
9 information security laws.

10 **Sec. 17. 1.** If an employer-integrated on-demand pay
11 provider provides on-demand pay services to a user and is unable
12 to be repaid the amount of money delivered to the user, the
13 provider shall not, absent fraud by the user:

14 (a) Collect or attempt to collect that money from the user; or

15 (b) Report any information regarding the inability of the
16 provider to be repaid to a consumer reporting agency.

17 2. As used in this section, "consumer reporting agency" has
18 the meaning ascribed to it in NRS 686A.640.

19 **Sec. 18.** An employer-integrated on-demand pay provider
20 shall not:

21 1. Share with an employer any fees that were received from
22 or charged to a user; or

23 2. Pay any other compensation to an employer that is directly
24 related to any fees received from or charged to a user.

25 **Sec. 19.** The Commissioner may adopt regulations for the
26 administration and enforcement of this chapter, in addition to and
27 not inconsistent with this chapter.

28 **Sec. 20.** Nothing in this chapter shall be construed to cause
29 any on-demand pay services provided by an employer-integrated
30 on-demand pay provider in compliance with this chapter to be
31 deemed a loan or to be subject to any of the provisions of law
32 governing loans. On-demand pay services provided by an
33 employer-integrated on-demand pay provider in compliance with
34 this chapter are not subject to any other statutory or regulatory
35 provisions governing loans. If there is a conflict between the
36 provisions of this chapter and any other statute, the provisions of
37 this chapter control.

38 **Sec. 21. 1.** On-demand pay services provided by a third-
39 party on-demand pay provider shall be deemed a loan for the
40 purposes of chapters 604A and 675 of NRS. The amount of fees
41 and any other charges charged for the provision of such on-
42 demand pay services shall be deemed to be interest or charges on
43 the loan for the purposes of those chapters.



1 **2. A person shall not engage in the business of a third-party**
2 **on-demand pay provider unless the person has been issued the**
3 **applicable license pursuant to chapter 604A or 675 of NRS.**

4 **Sec. 22.** NRS 671.020 is hereby amended to read as follows:

5 671.020 1. This chapter does not apply to any:

6 (a) Bank, its parent or holding company or any subsidiary
7 thereof, trust company, savings bank, savings and loan association,
8 credit union, industrial bank or industrial loan and investment
9 company, organized and regulated under the laws of this state or of
10 the United States;

11 (b) Foreign banking corporation licensed to do banking business
12 in this state; or

13 (c) Telegraph company providing a public message service.

14 **(d) Employer-integrated on-demand pay provider who is**
15 **licensed pursuant to the chapter consisting of sections 2 to 21,**
16 **inclusive, of this act.**

17 2. Subsection 1 does not reduce or alter any liability otherwise
18 attaching to the sale, issuance, receipt for transmission or
19 transmission of checks or money in any form.

20 **Sec. 23.** 1. This act becomes effective on January 1, 2022.

21 2. Sections 13 and 14 of this act expire by limitation on the
22 date on which the provisions of 42 U.S.C. § 666 requiring each state
23 to establish procedures under which the state has the authority to
24 withhold or suspend, or to restrict the use of professional,
25 occupational and recreational licenses of persons who:

26 (a) Have failed to comply with a subpoena or warrant relating to
27 a proceeding to determine the paternity of a child or to establish or
28 enforce an obligation for the support of a child; or

29 (b) Are in arrears in the payment of the support of one or more
30 children,

31 ↪ are repealed by the Congress of the United States.



