

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 125

Introduced by **Emmeline Y. Aglipay**

Explanatory Note

This bill seeks to protect private sector minimum wage earners by increasing the penalty imposed on employers for non-compliance with the applicable minimum wage rates.

Preliminarily, the important role played by labor is underscored by its vinculum to the fundamental law. Section 18, Article II (Declaration of Principles and State Policies) of the Constitution affirms labor as a primary social economic force and mandates the State to protect the rights of workers and promote their welfare. Corollarily, Section 3, Article XIII (Social Justice and Human Rights) directs the State to afford full protection to labor and guarantees that workers shall be entitled to, among others, a "living wage," in recognition of the right of labor to its just share in the fruits of production. The term "living wage," in turn, has been defined by the National Wages and Productivity Commission as "the amount of family income needed to provide for the family's food and non-food expenditures with sufficient allowance for savings and investments for social security, so as to enable the family to live and maintain a decent standard of human existence beyond mere subsistence level, taking into account all of the family's psychological, social and other needs."

Certainly, the minimum wage rates fixed by the different Regional Tripartite Wages and Productivity Boards (RTWPBs) are lower than the ideal living wage. Be that as it may, compliance by employers or establishments of the regional mandated minimum wages has remained a persistent problem.

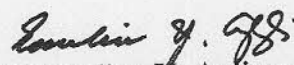
Data culled by the Department of Labor and Employment reveal that one in every five workers is not paid the applicable minimum wage. The compliance rates for the past three (3) years may be summarized as follows:

Year	Establishments Inspected	Compliance Rate
2007	24,581	80.8%
2008	26,169	82.3%
2009	4,670	78.7

It should be emphasized, however, that these compliance rates were based *solely* on the number of establishments *inspected* nationwide. For instance, only 26,169 establishments (out of a total of 761,409, or 3.44%) were inspected in 2008. Admittedly, as the Department of Labor and Employment is undermanned to conduct consistent monitoring and enforcement strategies, the actual non-compliance rate may in fact be higher.

Increasing the penalty for non-compliance with the prescribed daily minimum wage rates will thus serve as a deterrent to the commission of wage violations by unscrupulous employers.

The approval of this measure is earnestly requested.


Emmeline Y. Aglipay
Representative
DIWA Party-list

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AN ACT
INCREASING THE PENALTIES FOR NON-COMPLIANCE WITH THE
GOVERNMENT PRESCRIBED MINIMUM WAGES, AMENDING FOR THE
PURPOSE SECTION 12 OF REPUBLIC ACT NO. 6727, OTHERWISE KNOWN AS
THE WAGE RATIONALIZATION ACT, AS AMENDED BY REPUBLIC ACT NO. 8188,
AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section 12 of Republic Act 6727, as amended, is hereby further amended to be read as follows:

Section 12. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay any of the prescribed increases or adjustments in the wage rates made in accordance with this Act shall be punished by a fine **OF AT LEAST** [twenty-five thousand pesos (25,000.00)] **FIFTY THOUSAND PESOS BUT NOT MORE THAN [ONE HUNDRED THOUSAND PESOS] THREE HUNDRED THOUSAND PESOS, PLUS MORAL DAMAGES OF AT LEAST FIFTY THOUSAND PESOS FOR EACH AFFECTED WORKER AND THE COSTS OF LITIGATION INCLUDING ATTORNEY'S FEES** and/or imprisonment of not less than two (2) years nor more than four (4) years or both such fine and imprisonment at the discretion of the court: Provided, that any person convicted under this Act shall not be entitled to the benefits provided for under the Probation Law.

The employer concerned shall be ordered to pay an amount equivalent to double the unpaid benefits owing to the employees: Provided, that payment of indemnity shall not absolve the employer from the criminal liability imposable under this Act.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed on the entity's responsible officers, including, but not limited to, the president, vice-president, chief executive officer, general manager, managing director or partner.

IN CASES WHERE A FINE IS DECREED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE) OR THE NATIONAL LABOR RELATIONS COMMISSION (NLRC), WHERE APPLICABLE, AGAINST PERSON/S WHO VIOLATED THE PROVISIONS OF THIS ACT, AND SAID FINE CANNOT BE IMMEDIATELY SATISFIED BECAUSE OF THE UNAVAILABILITY OR INADEQUACY OF FUNDS, THE ASSETS OF THE OWNER, PRESIDENT, OR MANAGER OF THE CORPORATION OR ANY OTHER ENTITY, OR FRACTION THEREOF, EITHER MOVABLE OR IMMOVABLE PROPERTY, ESTIMATED TO BE CAPABLE OF FULLY SATISFYING THE IMPOSED FINES SHALL BE THE SUBJECT OF A SUMMARY FORFEITURE AND GARNISHMENT PROCEEDING TO BE LITIGATED BY THE SAME BODY WHICH IMPOSED THE SAID PENALTY.

SECTION 2. Separability Clause. - If any provision of this Act shall be declared unconstitutional, any other provision not affected thereby shall remain in full force and effect.

SECTION 3. Repealing Clause. - All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SECTION 4. Effectivity. - This Act shall take effect fifteen (15) days after is publication in at least two (2) national newspapers of general circulation.

Approved.