

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

16th Congress
First Regular Session

HOUSE BILL NO. 656



Introduced by: **HON. MA. VICTORIA R. SY-ALVARADO**

EXPLANATORY NOTE

Continued economic growth can only be assured if the workers, on whose backs capital is transformed to profit returns and further capital, are adequately recompensed for the goods and services they produce; it is after all from the pockets of these workers that domestic consumption comes from. However, proper compensation is, on not normal situations, not solely dependent upon the quality and quantity of work done. Special consideration should be accorded to extra ordinary situations wherein employees are faced with the additional burdens other than their workload. It is in the interest of our People that we, as their representatives, act in furtherance of their well being.

This bill seeks to increase the night shift differential rate, as provided by the Labor Code of the Philippines. The rate is currently pegged at ten percent (10%) over and above the regular wage. However, recent social experience and reality have shown that the rate is grossly inadequate. Employees burning the midnight oil are deprived of the ordinary and natural course of their biological clock, adversely affecting their health and wellness. They are highly susceptible to illness, both common and serious, and to various aches and pains in their body. It is highly suspect that the current differential can even meet the expense of medical attention, traditional or alternative, they will need as they progress in life.

The adverse effects of nighttime works are not confined to the old-age rational of health and wellness. The night also holds more secrets that can lead to a more direct danger to the life, liberty and property of this special class of employees. Criminal elements are notorious in seeking the special cover provided by darkness in the furtherance of their malicious intent. It is only but proper that additional compensation should be accorded to those who risk life and limb more in the exercise of their livelihood or profession; the case is similar to an incorporation of hazard pay to the night differential. The same justification can be extended to a multitude of other dangers nighttime employees' face, in the performance of their work, duties and responsibilities, and in going to and from their work places.

Lastly, it should be noted that unscrupulous employers might be able to circumvent the spirit and intendments of having a night shift differential in favor of the nighttime workers. In reclassifying the nomenclature of their workforce, daytime and nighttime employees performing essentially the similar and related works, duties and functions are treated in different categories with unequal base regular wage. This ought to be corrected, and safeguards within the law should be enacted such that the law may prevail over those who seek to bend it.


MA. VICTORIA R. SY-ALVARADO

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HOUSE BILL NO. 656

Introduced by: Rep. Ma. Victoria R. Sy-Alvarado

AN ACT PROVIDING FOR THE INCREASE IN THE RATE AND CHANGING OF THE TIME WINDOW OF THE NIGHT SHIFT DIFFERENTIAL, AS PROVIDED BY THE LABOR CODE OF THE PHILIPPINES

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

Section 1. Short Title – This Act shall be known as the “Night Workers’ Additional Compensation Act of 2013.”

Sec. 2. Declaration of Principles and Policies

- (a) The State, in light of the ever growing demands of modern businesses and industries for round-the-clock supply of labor, recognizes the rights of employees to be properly compensated for hours worked, which by the ordinary and natural course of things, are supposed to be time spent for rest and recreation. Cognizant of this, the legislature, exercising its wisdom as entrusted by the people, hereby declare that additional compensation shall be granted in exchange for the foregone health and wellness benefits of following the ordinary and natural biological rhythm of the human body.
- (b) The State, in the exercise of its duty to safeguard the safety and welfare of the people and mindful of the growing threat of criminal activities carried out at the cover of the dead hours of night, hereby declare, through the wisdom of the people entrusted upon their representatives, do hereby declare that additional compensation shall be granted to nighttime workers.



(c) The State, through the wisdom of the people as exercised by their legislature, takes notice of the business practice of treating nighttime workers as a separate and distinct class or category of worker within a business entity, thereby avoiding the payment of the mandatory night time differential to said nighttime workers which should have been in the first place be over and above the regular wage of their daytime counterparts, in the performance of highly similar duties and functions.

Sec. 3. In the interests of tempering laissez faire with welfare economics, Article 86 of Presidential Decree No. 442, as amended, entitled "A DECREE INSTITUTING A LABOR CODE THEREBY REVISING AND CONSOLIDATING LABOR AND SOCIAL LAWS TO AFFORD PROTECTION TO LABOR, PROMOTE EMPLOYMENT AND HUMAN RESOURCES DEVELOPMENT AND INSURE INDUSTRIAL PEACE BASED ON SOCIAL JUSTICE," otherwise known as "THE LABOR CODE OF THE PHILIPPINES," is hereby amended to read as follows:

Art. 86. Night shift differential. Every employee shall be paid a night shift differential of not less than fifteen percent (15%) of his regular wage for each hour of work performed between eight o'clock in the evening and four o'clock in the morning.

Employees working within said window, performing the same work, duties and functions as employees working outside said window, shall be deemed to have the regular wage equal to that of the latter, regardless of different titles, designation, or other nomenclature of position between the two. The night shift differential shall be computed over and above said regular wage.

Sec. 4. Exemptions – The Department of Labor and Employment shall promulgate the necessary rules and regulations for employers to apply for an exemption from said increase in the night shift differential, PROVIDED that such exemption, if granted, shall not be exempted from the previous differential of ten percent (10%).

Sec. 5. The proper government agencies are hereby directed to implement this Act.

Sec. 6. Effectivity – This Act shall take effect fifteen (15) days from the date of its complete publication in at least two (2) newspapers of general circulation.

Approved,



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