

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4562



Introduced by **Rep. Dennis C. Laogan**
Ang Kabuhayan Party-List

EXPLANATORY NOTE

For the longest time, rank-and-file employees of various establishments who collect service charges from clients and customers have been receiving only 85% of such charges, pursuant to the limit established in Article 96 of P.D. 442, otherwise known as the Labor Code of the Philippines.

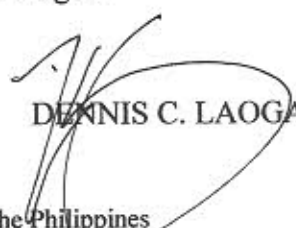
The current provision entitles rank-and-file employees of service charging employers to an equal share in the eighty-five (85%) of the total of such charges, with the remaining fifteen (15%) percent being retained by management to answer for losses and breakages, and the rest to be distributed to managerial employees, at the discretion of the management¹.

In an effort to further aid Filipino rank-and-file employees, however, I want to ensure that they are better compensated compared to their managerial counterparts because they are the ones who deal with clients and customers most of the time anyway, and more importantly, they are the ones whose wages are barely compliant with minimum wage statutes, hence, they earn so much less than managerial staff or employees.

In addition, it is imperative that we finally elevate to the level of legislated law what has been merely provided in the Implementing Rules and Regulations of the Labor Code and in the DOLE's Handbook on Workers' Statutory Monetary Benefits: the frequency of distribution² and the treatment of similar practices³ (i.e. tips instead of service charges).

However, hand in hand with such protection, we must also address the consumer side of the situation, hence, I also seek that the waiver of the payment of some or all of such service charge be allowed, if the service was grossly poor or negligent, depending on the circumstances.

With this, the immediate approval of this bill is earnestly sought.


DENNIS C. LAOGAN

¹ Sec. 3, Rule VI, Book III of the Implementing Rules of the Labor Code of the Philippines

² Sec. 4, Rule VI, Book III of the Implementing Rules of the Labor Code of the Philippines

³ Paragraph C of Chapter 6 (Service Charges, Art. 96), Handbook on Workers' Statutory Monetary Benefits, p. 25

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**AN ACT STRENGTHENING RANK-AND-FILE EMPLOYEES' BENEFITS
FROM SERVICE CHARGES, AMENDING FOR THE PURPOSE ARTICLE 96
OF PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN
AS THE LABOR CODE OF THE PHILIPPINES**

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

1 **SECTION 1. Declaration of Policy** – The State, in accordance with the constitutional
2 mandate in Article XIII of the 1987 Constitution, shall afford full protection to labor, and entitle
3 all workers to a living wage. The State is also mandated to regulate the relations between
4 workers and employers, recognizing the right of labor to its just share in the fruits of production.

5 More importantly, the Congress is constitutionally mandated to give the highest priority
6 to the enactment of measures reduce economic inequalities by diffusing wealth for the common
7 good.

8 **SECTION 2. Amendment of Article 96 of Labor Code** – Article 96 of the Labor Code is
9 hereby further amended to read as follows:

10 **“ART. 96. Service charges.** All service charges collected by hotels, restaurants
11 and similar establishments shall be distributed at the rate of [eighty-five percent (85%)]
12 **ninety percent (90%)** for all covered employees and [fifteen percent (15%)] **ten percent**
13 **(10%)** for management. The share of the employees shall be equally distributed among
14 them.

15 **Provided, the shares of covered employees in the service charges shall be**
16 **distributed to them once every (2) weeks at intervals not exceeding sixteen (16) days.**

1 ***Provided further,*** that in case an establishment is not engaged in collecting
2 service charges, but instead has a policy or practice of consolidating tips given
3 voluntarily by clients and customers to such rank-and-file employees, the collected
4 consolidated tips shall be treated, accounted for, and distributed in the same
5 manner as service charges, as stated in the preceding paragraphs.

6 ***Provided finally,*** that paying clients or customers may opt not to pay the
7 service charge in whole or in part if the service of the employees or establishment
8 was grossly poor or negligent. To determine what is grossly poor or negligent
9 service, the facts and circumstances of the situation, the nature of the establishment,
10 the manner and behavior of the parties involved, and the like, must be taken in
11 consideration. In such disputes, the decision of the head manager, supervisor, or the
12 person who may be in charge of the establishment, as to whether the client or
13 customer may opt not to pay the service charge in whole or in part shall be final.

14 In case the service charge is abolished, the share of the covered employees shall
15 be considered integrated in their wages.”

16 **SECTION 3. *Repealing Clause.*** – Any law, presidential decree or issuance, executive
17 order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent
18 with the provisions of this Act is hereby repealed, modified or amended accordingly.

19 **SECTION 4. *Effectivity Clause.*** – This Act shall take effect after fifteen (15) days
20 following its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,