

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

17th Congress
First Regular Session

HOUSE BILL NO. **4651**



Introduced by Honorable Leo Rafael M. Cueva

EXPLANATORY NOTE

This bill seeks to impose stiffer penalties on private security agencies for non-payment of the prescribed minimum wage rates or other statutory benefits, amending for the purpose Republic Act No. 5487, otherwise known as the "Private Security Agency Law."

With the time honored principle of the State which is to promote welfare and ensure that everyone is afforded with equal opportunity, it is just but right to give the "*Security guards*" of what is due to them and all what they deserved. For after all, like the policemen, they also put their lives and limbs on the line in the performance of their duties. They risk their lives in securing the lives and properties owned by their principals. Sadly though, most of them are underpaid and had been deprived of the benefits like that of what is due to private employees under the existing laws.

Nowadays, a private security agency employs licensed security guards or private security personnel for deployment to individuals, corporations, offices and organizations, whether public or private, for their security needs. These security guards are considered by the Philippine National Police (PNP) as "force multipliers" in areas where no policemen are assigned or in cases when the PNP is unable to send mobile cars for regular patrols. Statistically and based on the licensing office of the Philippine National Police (PNP), there are approximately 500,000 licensed private security guards in the country and this does not include those hired directly as personal bodyguards. Regrettably, with the increasing number of employed Security Guards goes also with the increasing labor cases. Most of the Labor cases filed were underpayment, non-payment of salaries, night shift differential, holiday pay and other benefits.

This proposed measure intends to deter these gross, inhumane and continued violations of Labor Standards Law by private security agencies. It endeavors to maintain industrial peace through providing stiffer penalties on private security agencies for non-payment of the prescribed minimum wage rates or other statutory benefits.

In view of the foregoing, approval of this bill is earnestly recommended.

A handwritten signature in black ink, consisting of a series of loops and a long, sweeping upward stroke on the right side.

REP. LEO RAFAEL M. CUEVA

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AN ACT
IMPOSING STIFFER PENALTIES ON PRIVATE SECURITY AGENCIES
FOR NON-PAYMENT OF THE PRESCRIBED MINIMUM WAGE RATES OR OTHER
BENEFITS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 5487 AS
AMENDED, OTHERWISE KNOWN AS THE "PRIVATE SECURITY AGENCY LAW"

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

SECTION 1. Section 15 of Republic Act No. 5487, as amended, is hereby amended to read as follows:

"SEC. 15. Compensation AND BENEFITS of Watchmen or Security Guards. – Watchmen or security guards **[shall]** ARE ENTITLED TO receive a salary OF not LESS **[lower]** than THE MINIMUM WAGE RATE [that] prescribed **[in the Minimum Wage Law]**. FOR NON-AGRICULTURAL SECTOR OR INDUSTRY IN THE REGION WHERE THE SECURITY GUARD IS ASSIGNED, UNLESS A HIGHER MINIMUM WAGE IS AGREED UPON BY THE PARTIES, REGARDLESS OF THE NATURE OF BUSINESS OF THEIR PRINCIPAL.

WATCHMEN OR SECURITY GUARDS ARE ENTITLED TO NOT LESS THAN THE FOLLOWING BENEFITS DEPENDING ON THE WORKING HOURS, WORK SHIFT AND WORKDAYS AND OTHER ANALOGOUS CONDITIONS, WHICH BENEFITS SHOULD BE INCLUDED IN THE COST DISTRIBUTION IN THE SERVICE AGREEMENT:

A. BASIC SALARY FOR ALL ACTUAL WORKDAYS AND FOR THE TWELVE (12) REGULAR HOLIDAYS (AS HOLIDAY PAY) WHICH MUST NOT BE LOWER THAN THE MINIMUM WAGE RATES DESCRIBED IN THE FIRST PARAGRAPH OF THIS SECTION. WHENEVER WORK IS RENDERED ON A REGULAR HOLIDAY, AN ADDITIONAL PAY OF ONE HUNDRED PERCENT (100%) OF THE MINIMUM WAGE RATE MUST BE PAID;

B. ALLOWANCE IN ADDITION TO THE BASIC SALARY, IF PRESCRIBED BY THE APPLICABLE REGIONAL WAGE ORDER;

C. PREMIUM PAY OF THIRTY PERCENT (30%) OF THE DAILY RATE FOR WORK ON SPECIAL DAYS OR ON REST DAYS, WHICH IS INCREASED TO FIFTY PERCENT (50%) WHENEVER WORK IS PERFORMED COINCIDING THE REST DAYS AND SPECIAL DAYS;

D. OVERTIME PAY FOR WORK RENDERED IN EXCESS OF EIGHT (8) HOURS A DAY, EQUIVALENT TO AT LEAST TWENTY-FIVE PERCENT (25%) OF THE REGULAR HOURLY RATE ON ORDINARY DAYS AND THIRTY PERCENT (30%) OF THE HOURLY RATE ON REGULAR HOLIDAYS, SPECIAL DAYS AND REST DAYS;

E. NIGHT SHIFT DIFFERENTIAL EQUIVALENT TO TEN PERCENT (10%) OF THE REGULAR HOURLY RATE FOR WORK RENDERED BETWEEN 10:00 P.M. AND 6:00 AM OF THE FOLLOWING DAY;

F. FIVE DAYS (5) SERVICE INCENTIVE LEAVE FOR EVERY YEAR OF SERVICE WHICH BENEFITS MAY BE AVAILED OF DURING DAYS OF ABSENCE AND, IF NOT USED, ARE CONVERTIBLE INTO ITS CASH EQUIVALENT, A PROPORTIONATE LEAVE BENEFIT PER MONTH MAY BE DERIVED BY DIVIDING FIVE (5) DAYS BY TWELVE (12) MONTHS MULTIPLIED BY THE CURRENT DAILY RATE;

G. MATERNITY LEAVE AS PROVIDED FOR UNDER REPUBLIC ACT NO. 1161, AS AMENDED, OTHERWISE KNOWN AS THE "SOCIAL SECURITY LAW," FOR

FEMALE SECURITY GUARDS WHO ARE UNABLE TO WORK DUE TO CHILDBIRTH OR MISCARRIAGE, UP TO THE FIRST FOUR (4) DELIVERIES OR MISCARRIAGES;

H. "PATERNITY LEAVE OF SEVEN (7) DAYS WITH FULL PAY FOR MALE SECURITY GUARDS UNDER REPUBLIC ACT NO. 8187," OTHERWISE KNOWN AS THE "PATERNITY LEAVE ACT NO. 8187, OTHERWISE KNOWN AS "PATERNITY LEAVE ACT OF 1996, "WHICH SHALL BE GRANTED AFTER THE DELIVERY, WITHOUT PREJUDICE TO AN EMPLOYERS POLICY OF ALLOWING THE EMPLOYEE TO AVAIL OF THE BENEFIT BEFORE OR DURING THE DELIVERY.THE PATERNITY LEAVE WITH PAY IS GRANTED FOR THE FIRST FOUR DELIVERIES INCLUDING MISCARRIAGES, OF THE MALE EMPLOYEE'S LAWFUL WIFE WITH WHOM HE IS COHABITING;

I. PARENTAL LEAVE OF SEVEN (7) DAYS EVERY YEAR FOR SECURITY GUARDS WHO ARE LEFT ALONE WITH THE RESPONSIBILITY OF PARENTHOOD AS SOLO PARENTS AS DEFINED UNDER REPUBLIC ACT NO. 8972, OTHERWISE KNOWN AS THE *"SOLO PARENTS WELFARE ACT OF 2000,"*

J. LEAVE FOR VICTIMS OF VIOLENCE AGAINST WOMEN AND THEIR CHILDREN OF TEN (10) DAYS FOR QUALIFIED VICTIM-FEMALE SECURITY GUARDS UNDER REPUBLIC ACT NO.9262, OTHERWISE KNOWN AS "ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN ACT OF 2004,"

K. SPECIAL LEAVE OF NOT MORE THAN TWO (2) MONTHS FOR FEMALE SECURITY GUARDS WITH FULL PAY BASED ON HER GROSS MONTHLY COMPENSATION FOLLOWING SURGERY CAUSED BY GYNECOLOGICAL DISORDERS, UNDER REPUBLIC ACT NO. 9710, OTHERWISE KNOWN AS "THE MAGNA CARTA OF WOMEN"

L. 13TH MONTH PAY WHICH IS ONE-TWELFTH (1/12) OF THE TOTAL BASIC SALARY EARNED WITHIN A CALENDAR YEAR;

M. SEPARATION PAY IF THE TERMINATION OF EMPLOYMENT IS FOR AN AUTHORIZED CAUSE AS PROVIDED BY LAW AND AS ENUMERATED BELOW:

1. ONE HALF (1/2) MONTH PAY PER YEAR OF SERVICE, BUT GUARANTEED TO ONE (1) MONTH PAY IF SEPARATION IS DUE TO:
 - I. RETRENCHMENT OR REDUCTION OF PERSONNEL EFFECTED BY MANAGEMENT TO PREVENT SERIOUS LOSSES;
 - II. CLOSURE OR CESSATION OF OPERATION OF AN ESTABLISHMENT DUE TO SERIOUS LOSSES OR FINANCIAL REVERSES;
 - III. ILLNESS OR DISEASE NOT CURABLE WITHIN A PERIOD OF SIX (6) MONTHS AND CONTINUED EMPLOYMENT IS PROHIBITED BY LAW OR PREJUDICIAL TO THE EMPLOYEES HEALTH OR THAT OF THE CO-EMPLOYEES; OR
 - IV. LACK OF SERVICE ASSIGNMENT FOR A CONTINUOUS PERIOD OF SIX (6) MONTHS.
2. ONE (1) MONTH PAY PER YEAR OF SERVICE IF SEPARATION IS DUE TO:
 - I. INSTALLATION OF LABOR-SAVING DEVICE, SUCH AS REPLACEMENT OF EMPLOYEES BY EQUIPMENT OR MACHINERY;
 - II. REDUNDANCY, AS WHEN THE POSITION HAS BEEN FOUND TO BE A SURPLUSAGE OR UNECESSARY IN THE OPERATION OF THE PRIVATE SECURITY AGENCY;
 - III. IMPOSSIBLE REINSTATEMENT OF THE EMPLOYEE TO THE FORMER POSITION OR TO A SUBSTANTIALLY EQUIVALENT POSITION FOR REASONS NOT ATTRIBUTABLE TO THE FAULT OF THE EMPLOYER, AS WHEN THE REINSTATEMENT ORDERED BY A COMPETENT AUTHORITY CANNOT BE IMPLEMENTED DUE TO CLOSURE OR CESSATION OF OPERATIONS OF THE SECURITY SERVICE CONTRACTOR, OR THE POSITION TO WHICH THE EMPLOYEE IS TO BE REINSTATED NO LONGER EXISTS AND THERE IS NO SUBSTANTIALLY EQUIVALENT POSITION TO WHICH THE EMPLOYEE MAY BE ASSIGNED; OR
 - IV. LACK OF SERVICE ASSIGNMENT BY REASON OF AGE.

N. BENEFITS UNDER THE EMPLOYEES COMPENSATION PROGRAM PURSUANT TO PRESIDENTIAL DECREE 626;

O. PHILHEALTH BENEFITS UNDER REPUBLIC ACT NO. 7875, AS AMENDED;

P. SOCIAL SECURITY BENEFITS UNDER REPUBLIC ACT NO. 1161, AS AMENDED;

Q. SAFE AND HEALTHFUL WORKING CONDITIONS AS PROVIDED IN THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS;

R. RETIREMENT PAY AS PROVIDED UNDER REPUBLIC ACT NO. 7641; AND

S. OTHER BENEFITS GRANTED BY LAW, INDIVIDUAL OR COLLECTIVE AGREEMENT, OR COMPANY POLICY OR PRACTICE."

SEC. 15-A: Security Guards under Service Agreement-The Terms and Conditions governing the contracting arrangement shall include the agreed amount of Security Services to be rendered and the Standard Administrative fee of not less than Twenty Percent (20%) of the total contract price. (N)

SECTION 2. Section 18 of the same Act is hereby further amended to read as follows:

"SEC. 18. Penal **[Provision]** PROVISIONS. -(A) Any violation of this Act or the rule or regulation issued hereunder shall be punished by suspension, or fine not exceeding **[200.00]** FIVE THOUSAND PESOS (P5,000.00), cancellation of his or its licenses to operate, conduct, direct or manage a private detective, watchman or security guard agency and all its members in the discretion of the court together with the forfeiture of its bond filed with the **[Philippine Constabulary]** PHILIPPINE NATIONAL POLICE;

(B) If the violation is committed by those persons mentioned under paragraph two, section four of this Act, the penalty shall be imprisonment ranging from one to four years and fine ranging from **[one to four]** TWENTY-FIVE thousand pesos (P25,000.00) TO FIFTY THOUSAND PESOS (P50,000.00), in the discretion of the court;

(C) Any provision of this or other law to the contrary notwithstanding, the Chief of **[Constabulary]** THE PHILIPPINE NATIONAL POLICE or his authorized representative may impose, after confirming any violation of this law and its amendatory decrees and implementing rules and regulations, the penalty of suspension, or cancellation of the license of a private watchman or security guard: Provided, That in cases of violations committed by any private security agency or company guard force the administrative penalty which may be imposed shall only be administrative fine or cancellation of license without prejudice to any criminal action against the violator **[.] PROVIDED, FURTHER, THAT A VIOLATION OF SECTION 15 OF THIS ACT OR THE FAILURE TO PAY THE PRESCRIBED MINIMUM WAGE RATES OR BENEFITS TO WATCHMEN OR SECURITY GUARDS SHALL BE PUNISHED WITH THE FOLLOWING PENALTIES:**

1) FIRST OFFENSE- A FINE IN THE AMOUNT OF ONE HUNDRED THOUSAND PESOS (P100,000.00) AND IMPRISONMENT OF NOT LESS THAN SIX (6) MONTHS NOR MORE THAN ONE (1) YEAR;

2) SECOND OFFENSE- A FINE IN THE AMOUNT OF FIVE HUNDRED THOUSAND PESOS (P500,000.00) AND IMPRISONMENT OF NOT LESS THAN ONE (1) YEAR NOR MORE THAN THREE (3) YEARS;

3) THIRD OFFENSE- A FINE IN THE AMOUNT OF ONE MILLION PESOS (P1,000,000.00) AND IMPRISONMENT OF NOT LESS THAN THREE (3) YEARS NOR MORE THAN SIX (6) YEARS AND CANCELLATION OF LICENSE TO OPERATE.

THE PENALTY OF IMPRISONMENT SHALL BE IMPOSED UPON THE SECURITY AGENCY'S RESPONSIBLE OFFICERS, INCLUDING THE PRESIDENT, VICE-PRESIDENT, CHIEF EXECUTIVE OFFICER, GENERAL MANAGER, MANAGING DIRECTOR OR PARTNER.

ANY PERSON CONVICTED UNDER THIS ACT ARE NOT ENTITLED TO THE BENEFITS PROVIDED UNDER PRESIDENTIAL DECREE NO. 968, AS AMENDED, OTHERWISE KNOWN AS THE "PROBATION LAW OF 1976."

SECTION 3. All laws, presidential decrees, executive orders, rules and regulations or part thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 4. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,