

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
First Regular Session



HOUSE BILL NO. 246

Introduced by
BAYAN MUNA Party-List Representatives FERDINAND R. GAITE
CARLOS ISAGANI T. ZARATE, and EUFEMIA C. CULLAMAT,
ACT TEACHERS Party-List Representative FRANCE L. CASTRO,
GABRIELA Women's Party Representative ARLENE D. BROSAS,
and KABATAAN Party-List Representative SARAH JANE I. ELAGO

EXPLANATORY NOTE

When Pres. Cory Aquino signed into law Republic Act 6727 in 1989, the country abandoned the old practice of legislating national minimum wage and entered into the regime of regional wage boards setting the wage increases for workers in each region. The Aquino administration justified this set up as 'wage rationalization'.

But its results were contrary to its avowed end. It created a wage system that is irrational in the sense that it is anti-worker, detached from evolving economic realities, unjust and inequitable operated against the formation of a decent minimum wage across the country and even in the regions. To start with, the wage boards were not really intended to rationalize wages. They have been actually weaponized to keep the wages of workers low as part of the "come on package" of the Cory Aquino government to attract foreign investors in its foreign investments-led economic programs that dispersed industries in the regions, which later were expanded into "regional industrial centers", "agriculture and fisheries development zones" and "growth areas" by succeeding governments.

This was the real "rationale" that animated the wage boards and it continues to animate them to this day. They conducted no independent in-depth studies that would have informed them and the workers of the minimum level of living wage that should go to the workers in the light of soaring price increases of goods and services. If they did any study at all, it was only for deciding particular petitions for wage increases per region. Even on this, they are passive

instruments for deciding wage increases. They are slow to react to movements in the market and to the periodic economic crisis that hit the country in 1998 and 2008.

Its irrationality became even more evident when the build-up of investment zoning of the regions for attracting foreign investments had so connected local markets to capital cities in the regions and the regions to Metro Manila that it dissolved significant differences in the price formation of goods and services among localities, among regions and between the regions and Metro Manila. In one important sense, the investment zoning of regions became the vehicle for monopolies and cartel-type commercial operations to penetrate the regions which enabled them to fix prices that affect not just a locality but all corners of the country. Consequently, workers across the country now buy from one big monopoly-dominated market where price differences across regions are minimal if not non-existent. One example is the price of rice which is an everyday staple of the Filipino people, including ordinary wage-earners. As we now speak, there is no longer any significant variation of rice prices between the regions and Metro Manila. Since their creation, the 17 RTWPBs had issued a total of 341 wage orders in 28 years. These total issuances had increased the wages of Filipino workers from the 1989 national minimum wage of P 89.00/day to today's 17 different regional minimum wage scales, ranging from as high as P537/day in NCR to as low as P280/day in ARMM. If these 17 regional minimum wage scales are totaled and translated into a median, the increases accruing in those twenty-eight years amounted only to an average of P316.43. That means that the Filipino workers as a class received only an average real increase of P227.43 (P316.43 – P89) since 1989 or during the entire twenty-eight-year regime of regionalized minimum wage. That's an increase of 155 per cent which is not something to crow about considering its twenty-eight-year journey. In contrast, the prices of basic necessities increased since 1989 as follows:

Basic needs item	1989 price/kilo	2018 price/kilo	% increase
Rice	P 7.00/kilo	P 46.00	557 %
Meat	P 60.00/kilo	P 210.00	250 %
Fish (galunggong)	P 20.00/kilo	P 120.00	500 %
Egg	P 1.50/kilo	6.00	300 %
Cooking Oil/bottle	P 3.00/bottle	P 22.00	633 %

To point out the obvious, while the minimum wages in the 17 regions increased by hesitant small steps as its formation has been occluded by regional wage boards, the prices of basic goods and services increased by wild leaps and bounds across the country, unobstructed by any government intervention. This resulted in a widening gap between minimum wage and cost of living. According to IBON, it now requires a daily income of P1,004/day to sustain a Filipino family of five. Given the pace of wage increases through the twenty-eight-year period of regionalized wage regime, this is a gap that no worker in the country can ever hope to close

even if the reference is the highest regional minimum wage of P537/day in the National Capital Region.

It is not only that the current level of wages per region no longer answers to the basic daily needs of workers' families. It is also no longer commensurate to the contribution of labor to the economy. Since 1991, labor productivity across all sectors has increased from P60,342 in 1991 to P353,206 in 2016, a whopping 353% increase of labor productivity.

RA 6727 laid down ten factors for RTWPBs to consider in setting the wage increases in their respective regions. But their wage orders lack the transparency as to how the boards balanced or interplayed the factors in setting their wage increases. It is hard to appreciate the rationality of their wage orders in the light of those ten factors.

Under RA 6727, the RTWPBs are allowed to issue wage increase orders once a year. But there were instances of two-year intervals that, without giving any reason, the RTWPBs across all regions did not issue any wage orders so that workers did not receive any wage increase during those intervals. In many instances on specific years, some RTWPBs issued wage orders while other RTWPBs did not. This must be because RTWPBs are generally petition-driven although they have the power to initiate *motu proprio* the process of deciding wage increases. So that where there were no petitions, there were no wage increases. In a case of extreme particularism, RTWPBs set differentiated wage increases for the provinces, cities and major towns covered by its jurisdiction ostensibly to avert wage distortion. In other instances, some RTWPBs issued wage orders that granted only cost-of-living allowances while others ordered wage increases. Some RTWPBs separated the COLAs, others ordered their integration to the daily wage and then suddenly removed the COLAs on their next wage order. Given these variances, it appears that RTWPBs do not have a unified understanding of the criteria the law had set for determining wage increases.

Their wage orders resulted in situations in which regions with more or less the same level of economic development and standard of living have highly contrasting and if not highly disparate minimum wage scales. Examples of this are Region VI and Region VII. While concededly Region VII is more developed than Region VI in terms of infrastructure, industrial and commercial build up, the latter is fast catching up so that its inflation rate is on the level with the former. But their minimum wage scales are so disparate as to be whimsical, P295-365/day in Region VI as against P318-386/day in Region VII. Ditto with Region I and Region II. These regions are both predominantly agricultural and almost the same level of commercial development and inflation rate. But Region I has a minimum wage of P273-340/day as against P360/day in Region II.

When Region IV-B was still part of Region IV, it used to enjoy the same minimum wage scale with Region IV-A. When it became a separate region, a succession of wage orders lowered its minimum wage scale through pittance increases until it finally lagged so far behind from Region IV-A by almost a hundred pesos, P294-320/day in Region IV-B as against P317-400/day in Region IV-A.

The irrationality of the regionalized minimum wage scheme is brought to focus if we note that the poorest regions in the country have the lowest levels of minimum wage. This is telling of

the unjust theory behind the scheme: a worker living in dirt-poor ARMM is not entitled to the wages that workers earn in high-standard and well-off Metro Manila even though that worker has the same productivity skills as his counterparts in Metro Manila. This injustice feeds on another injustice: it preserves the economic inequality among regions and between the poor regions and Metro Manila and resultantly perpetuates the poverty of those poor regions and their workers.

Wages are supposed to represent the commodity price of labor power. But it is one of the injustices of our times that unlike other commodities whose prices automatically move up and down the base line according to the swings in the market, workers have to fight for their minimum wage. It is thus the duty of society and the state to create that level field on which workers can fairly fight for their minimum wage and through which the real price of labor power can freely assume form according to the motions of prices. Instead of creating that level playing field, the wage rationalization scheme as embodied by regional wage boards destroyed it. It not only weakened the power of workers to fight for their minimum wage as one whole organized mass but also closed the arena for the workers to take their fight fairly.

Our workers have weighed the regionalized wage regime through twenty-eight years and found it a big failure. So they are now demanding that it be scrapped and for this country to return to the regime of legislated national minimum wage that is based on family living wage.

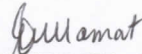
That demand assumes utmost urgency given the exploding impact of Tax Reform for Acceleration and Inclusion Law on wages. The surge in the prices of oil, electricity, rice and other basic goods and services brought about by the new TRAIN taxes have devoured, according to some estimates, the wages of our workers by 25-30%. They are now groaning under the crushing effect of TRAIN on their wages and income. The fact that the prices of oil and other petroleum products generally get higher as the region gets farther from Metro Manila exposes the unfairness to the non-NCR regions and the iniquity of the present regionalized wage regime.

Finally, this bill also seeks to impose stiffer penalties for companies that do not follow the national minimum wage.

Approved,



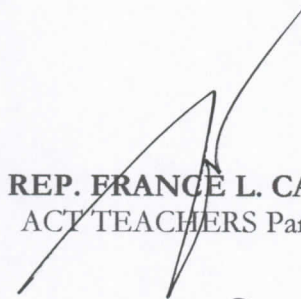
REP. FERDINAND R. GAITE
BAYAN MUNA Partylist



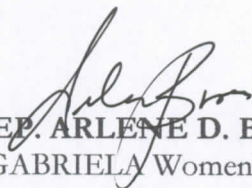
REP. EUFEMIA C. CULLAMAT
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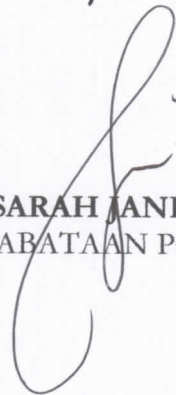
REP. CARLOS ISAGANI T. ZARATE
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REP. FRANCE L. CASTRO
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**AN ACT ESTABLISHING A NATIONAL MINIMUM WAGE FOR
PRIVATE SECTOR WORKERS
AND IMPOSING STIFFER PENALTIES FOR VIOLATIONS THEREOF,
AMENDING FOR THIS PURPOSE THE LABOR CODE OF THE PHILIPPINES**

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

Section 1. This Act shall be known as the "*National Minimum Wage Act of 2019.*"

Section 2. It is hereby declared the policy of the State to ensure workers' right to a living wage and to humane conditions of work.

In order to promote a living wage for the workers, the State adopts and hereby institutionalizes the legislation of a national minimum wage as the primary mode of setting wages for private sector workers in the country and to address regional wage disparities and to harmonize wage levels across regions with the national economic and social development plans. Legislated national wage increases should not be in prejudice of existing terms and conditions on wages as contained in collective bargaining agreements.

Section 3. In line with this declared policy, Article 99 of the Labor Code is hereby amended to read as follows:

“ART. 99. [Regional] **NATIONAL minimum wage[s]**. - The NATIONAL minimum wage [rates] for agricultural and non-agricultural employees and workers in each and every region of the country shall be [those] THAT prescribed by [the Regional Tripartite Wages and Productivity Boards] THE PRESIDENT, BY VIRTUE OF A LAW.

THE NATIONAL MINIMUM WAGE SHALL APPLY TO ALL ENTERPRISES, REGARDLESS OF LOCATION, SIZE OR INDUSTRY CLASSIFICATION.”

Section 4. Abolition of the Commission. Article 121 of the Labor Code is hereby repealed and the National Wages Productivity Commission abolished.

Section 5. Abolition of the RTWPB. Articles 122 and 123 of the Labor Code are hereby repealed. Hence, the Regional Tripartite Wages and Productivity Boards (RTWPB) created under Republic Act 6727 are hereby abolished.

Section 6. Article 124 of the Labor Code is hereby amended to read as follows:

“ART. 124. Standards/Criteria for minimum wage fixing. - The [regional] NATIONAL minimum wage[s] to be established [by the Regional Board] shall be [as nearly adequate as is economically feasible to maintain the minimum standards of living necessary for the health, efficiency and general well-being of the employees within the framework of the national economic and social development program.] THAT WAGE RATE NECESSARY FOR RAISING A FAMILY AND MAINTAINING ITS DECENT EXISTENCE. IT SHALL BE OF SUCH AMOUNT WHICH IS SUFFICIENT FOR A WORKER TO PROVIDE HIS/HER FAMILY THE BASIC AND NECESSARY EXPENDITURES THAT TAKE INTO CONSIDERATION ALL OF HIS/HER FAMILY’S PHYSIOLOGICAL, SOCIAL AND OTHER NEEDS, SO AS TO ENABLE THEM TO LIVE AND MAINTAIN A DECENT STANDARD OF LIVING BEYOND MERE SUBSISTENCE, WITH ADEQUATE ALLOWANCE FOR SOCIAL SECURITY. In the determination of such [regional] NATIONAL minimum wage[s], [the Regional Board] CONGRESS shall, among other relevant factors, consider the following:

(a) The [demand for living wages] COST FOR PROVIDING THE FOOD, CLOTHING, SHELTER, EDUCATION, HEALTH MAINTENANCE AND OTHER NON-FOOD NECESSITIES FOR RAISING THE FAMILY OF A WORKER;

(b) [Wage adjustment vis-a-vis the consumer price index] THE PHYSIOLOGICAL, SOCIAL AND OTHER RELATED NEEDS OF WORKERS AND THEIR FAMILIES;

(c) [The cost of living and changes or increases therein] WAGE ADJUSTMENT VIS-À-VIS THE CONSUMER PRICE INDEX;

(d) The [needs of workers and their families] COST OF LIVING AND CHANGES OR INCREASES IN THEM;

[(e) The need to induce industries to invest in the countryside;]

[(f)] (E) Improvements in standards of living;

[(g)] The prevailing wage levels;]

[(h)] Fair return of the capital invested and capacity to pay of employers;]

(F) Effects on employment generation and family income; and

(G) The equitable distribution of income and wealth along the imperatives of economic and social development.

[The wages prescribed in accordance with the provisions of this Title shall be the standard prevailing minimum wages in every region. These wages shall include wages varying with industries, provinces or localities if in the judgment of the Regional Board, conditions make such local differentiation proper and necessary to effectuate the purpose of this Title.]

Any person, company, corporation, partnership or any other entity engaged in business shall file and register annually with the appropriate [Regional Wage Boards, Commission] REGIONAL OFFICE OF THE DEPARTMENT OF LABOR AND EMPLOYMENT and the [National Statistics Office] PHILIPPINE STATISTICS AUTHORITY, an itemized listing of their labor component, specifying the names of their workers and employees below the managerial level, including learners, apprentices and disabled/handicapped workers who were hired under the terms prescribed in the employment contracts, and their corresponding salaries and wages

Where the application of any prescribed wage increase by virtue of a law [or wage order issued by any Regional Board] results in distortions of the wage structure within an establishment, the employer and the union shall negotiate to correct the distortions. Any dispute arising from wage distortions shall be resolved through the grievance procedure under their collective bargaining agreement and, if it remains unresolved, through voluntary arbitration. Unless otherwise agreed by the parties in writing, such dispute shall be decided by the voluntary arbitrators within ten (10) calendar days from the time said dispute was referred to voluntary arbitration.

In cases where there are no collective agreements or recognized labor unions, the employers and workers shall endeavor to correct such distortions. Any dispute arising therefrom shall be settled through the National Conciliation and Mediation Board and, if it remains unresolved after ten (10) calendar days of conciliation, shall be referred to the [appropriate branch of the National Labor Relations Commission (NLRC)] SECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT. It shall be mandatory for the [NLRC] DOLE SECRETARY to conduct continuous hearings and decide the dispute within twenty (20) calendar days from the time said dispute is submitted for compulsory arbitration.

The pendency of a dispute arising from a wage distortion shall not in any way delay the applicability of any increase in prescribed wage rates pursuant to the provisions of law or wage order.

As used herein, a wage distortion shall mean a situation where an increase in prescribed wage rates results in the elimination or severe contraction of intentional quantitative differences in wage or salary rates between and among employee groups in an establishment as to effectively obliterate the distinctions embodied in such wage structure based on skills, length of service, or other logical bases of differentiation.

All workers paid by result, including those who are paid on piecework, takay, pakyaw or task basis, shall receive not less than the prescribed wage rates per eight (8) hours of work a day, or a proportion thereof for working less than eight (8) hours.

All recognized learnership and apprenticeship agreements shall be considered automatically modified insofar as their wage clauses are concerned to reflect the prescribed wage rates.”

Section 7. Amount of National Minimum Wage. Upon effectivity of this Act, the daily statutory minimum wages of private sector workers in both agricultural and non-agricultural enterprises nationwide shall be increased to a uniform national minimum wage rate of Seven Hundred and Fifty pesos (P750.00). Provided, that the wage increases arising from the new national minimum wage rate should not prejudice other wage increases through collective bargaining.

Subsequent to the implementation of a Uniform National Minimum Wage Rate of P750.00, the National Minimum Wage shall be adjusted on an annual basis by the President upon the signing into law prescribing a national minimum wage increase.

Section 8. Credible Wage Increase. No wage increase arising from collective bargaining agreements shall be credited as compliance with the increases prescribed under the Act.

Section 9. Prohibition on layoffs and downsizing. It shall be unlawful for a company, corporation, partnership or any other entity engaged in business to lay off workers or resort to downsizing on the mere basis of complying to the payment of wage increases arising from the establishment of the national minimum wage.

Section 10. Penalties. Section 12 of Republic Act of 6727 which was amended by Section 1 of Republic Act 8188 is hereby further amended to read as follows:

“Section 12. Any person, corporation, trust, firm, partnership, association or entity which refuses or fails to pay their workers the national minimum wage set herein and any of the succeeding legislated wage increases or adjustments in accordance with this Act shall be punished by a fine [not less than Twenty-five thousand pesos (P25,000.00) nor more than One-hundred thousand pesos (P100,000.00)] WHICH SHALL BE FIXED AT ONE HUNDRED PERCENT (100%) OF THE TOTAL AMOUNT OF THE WAGE INCREMENT DUE THE

EMPLOYEES TO BE MULTIPLIED BY THE NUMBER OF WORKING DAYS THE WAGE INCREMENT HAS BEEN UNPAID TO THE EMPLOYEES or imprisonment of not less than [two (2)] THREE (3) years nor more than [four (4)] FIVE (5) 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 THE EMPLOYEES MORAL DAMAGES OF FIFTY THOUSAND PESOS (P50,000.00) EACH EMPLOYEE PLUS an amount equivalent to double the unpaid benefits owing to the employees: Provided, That payment of MORAL DAMAGES AND indemnity shall not absolve the employer from the criminal liability imposable under this Act.

FURTHERMORE, THE BUSINESS PERMIT OF THE VIOLATING ENTITY SHALL BE SUSPENDED FOR ONE (1) MONTH TO THREE (3) YEARS FOR SECOND OFFENSES; FOR THIRD OFFENSES, THE BUSINESS PERMIT OF THE OFFENDER SHALL BE CANCELLED.

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

The Department of Labor and Employment shall have the authority to impose such other administrative penalties it sees fit to impose under the circumstances of each case of violation."

Section 11. Constitutionality. Should any provision of this Act be declared invalid or unconstitutional, the validity of the other provisions shall not be affected thereby.

Section 12. Repealing Clause. All laws, orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of the Act and this Rules are hereby repealed, amended or modified accordingly.

Section 13. Effectivity. This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,