

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

Eighteenth Congress
First Regular Session

HOUSE BILL NO. 5988



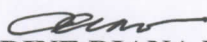
Introduced by Representative **Claudine Diana D. Bautista**

EXPLANATORY NOTE

This bill seeks to establish a Magna Carta for Public Utility Drivers (PUD) which shall establish their rights, particularly to a living wage, to be considered employees of Public Utility Vehicle operators, and to humane working conditions. This bill also provides mechanisms and institutes bodies for the PUDs exercise of their right to associate and form organizations for mutual aid.

Under this Act, the boundary system as currently in force shall be prohibited, and PUDs shall be accorded rights granted to employees under the Labor Code. There shall likewise be instituted a requirement for health check-ups to ensure that said PUDs are fit for work as drivers of Public Utility Vehicles.

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


CLAUDINE DIANA BAUTISTA

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AN ACT

**TO PROTECT AND PROMOTE THE RIGHTS OF PUBLIC UTILITY DRIVERS,
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES**

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

ARTICLE I

GENERAL PROVISIONS

Section 1. Title. This Act shall be known as the “Magna Carta for Public Transportation Drivers”.

Section 2. Declaration of Policy. It is hereby declared the policy of the State to recognize and promote a just and dynamic social order that will ensure the prosperity of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living and an improved quality of life.

In the Declaration of Principles and State Policies in Article II, Sections 10 and 11 of the 1987 Constitution, it is further declared that the State shall value the dignity of every human person.

Towards these ends, the State shall institute and establish the necessary mechanisms to enforce and guarantee the realization of the rights of all drivers of Public Utility Vehicle Drivers, taking into consideration the nature of their work and the integral part they play in the economy, industry, and in the daily lives of the Filipino public and in.

Section 3. Construction. The best interest of the public utility driver shall be considered in the interpretation of the provisions of this Act, including its implementing rules and regulations.

ARTICLE II

DEFINITIONS

Section 4. Words and Phrases Defined. As used in this Act:

- (a) "Boundary system" refers to the arrangement between owners or operators of public utility vehicles and public utility drivers wherein public utility drivers pay a fixed fee or "boundary" to the owners/operators for its use as a public utility vehicle.
- (b) "Certificate of Public Convenience" refers to the permit issued by the LTFRB for the operation of public utility vehicles.
- (c) "Driver" shall mean every licensed operator of a motor vehicle.
- (d) "Motor Vehicle" shall mean any vehicle propelled by any power other than muscular power using the public highways, streets, and thoroughfares, but excepting road rollers, trolley cars, street-sweepers, sprinklers, lawn mowers, bulldozers, graders, fork-lifts, amphibian trucks, and cranes if not used on public highways, streets or thoroughfares, and tractors, trailers, and traction engines of all kinds used exclusively for agricultural purposes.

Trailers having any number of wheels, when propelled or intended to be propelled by attachment to a motor vehicle, shall be classified as separate motor vehicle with no power rating.

- (e) "Operator" shall mean the holder or grantee of a valid and subsisting Certificate of Public Convenience by the LTFRB;
- (f) "Owner" shall mean the actual legal owner of a motor, in whose name such vehicle is duly registered with the Land Transportation Office
- (g) "Public Utility Driver" shall mean any driver hired or paid for driving or operating a public utility vehicle.
- (h) "Public Utility Vehicle" (PUV) refers to a motor vehicle considered as a public transport conveyance or common carrier duly registered with the Land Transportation Office (LTO) and granted a franchise by the Land Transportation Franchising Regulatory Board (LTFRB);
- (i) "Transport Network Vehicle" refers to a ridesharing entity that matches passengers with vehicles through the use of websites or mobile applications.

ARTICLE III

RIGHTS OF PUBLIC UTILITY DRIVERS

Section 5. Employer-Employee Relationship. Upon the effectivity of this act, there shall be deemed to exist an employer-employee relationship between the owners or operators of public utility vehicles and public utility drivers, regardless of the existing arrangements between the owners or operators of public utility vehicles and public utility drivers.

Section 6. Wages. Public utility drivers shall have the right to a living wage. Wages for all actual work during the normal work hours and days shall not be lower than the applicable prescribed minimum wage of the National Wages Productivity Commission.

Section 7. Prohibition of the Boundary System. To ensure the orderly, efficient and optimal dispatching of public utility vehicles, the boundary system arrangement is hereby prohibited.

Section 8. Maximum Hours of Work. The normal hours of work of Public Utility Drivers shall not exceed ten (10) hours a day. Hours worked shall include (a) the time during which a public utility driver is required to be on duty or to be at a prescribed location, and (b) the time during which a public utility driver is suffered or permitted to work, but shall not include the one (1) hour lunch break period given to all public utility drivers. Rest periods of short duration during working hours shall be counted as hours worked; *provided:* that the aggregate amount of time spent on such rest periods must not exceed one (1) hour a day.

Section 9. Minimum Benefits. Public utility drivers shall be entitled to the following benefits:

- a) Twelve (12) Regular Holidays with pay pursuant to *Republic Act No. 9849*. The public utility driver shall be paid holiday pay of 100% of the minimum wage even if he/she does not report for work, provided he/she is present or is on leave of absence with pay on the workday immediately preceding the holiday. If the public utility driver is required to work on said holiday, he shall be paid 200% of the minimum wage;
- b) Rest day of twenty-four (24) consecutive hours for every six (6) consecutive working days. If the public utility driver is required to work on a rest day, he/she shall be paid an additional premium pay of 30% of the basic wage. If the public utility driver is required to work on special days under Republic Act. No. 9849, he/she shall also be paid an additional premium of 30% of the basic wage. Whenever work is performed on a rest day, which happens to also be a special day, he/she is entitled to an additional 50% of the basic wage;

- c) Overtime pay equivalent to at least 25% of the basic wage on ordinary days and 30% on regular holidays, special days and rest days for work beyond eight (8) hours per day;
- d) Night shift pay of an additional 10% of the basic wage for work between 10:00 p.m. and 6:00 a.m. of the following day;
- e) Paid service incentive leave of five (5) days for every year of service;
- f) 13th month pay pursuant to the Presidential Decree No. 851, as amended which entitles the employee to receive an amount equivalent to 1/12 of the total basic salary earned within the calendar year, not later than 24 December of each year;
- g) Paid maternity leave of sixty (60) days for normal delivery or seventy eight (78) days for caesarian section, pursuant to Republic Act No. 8282, otherwise known as the Social Security Act of 1997;
- h) Paid paternity leave of seven (7) days, pursuant to Republic Act No. 8187, otherwise known as Paternity Leave Act of 1996;
- i) Paid parental leave of seven (7) days for solo parents pursuant to Republic Act No. 8972, otherwise known as the Solo Parents' Welfare Act of 2000;
- j) Paid leave of ten (10) days for victims of violence against women and children, pursuant to R.A. 9262 otherwise known as the Anti-Violence Against Women and Their Children Act of 2004;
- k) Paid special leave for women who underwent surgery caused by gynecological disorders, pursuant to Republic Act 9710, otherwise known as the Magna Carta of Women; and

- 1) Retirement pay upon reaching the age of sixty (60) or more, pursuant to Republic Act No. 7641.

Section 10. Right to Security of Tenure. Public utility drivers shall enjoy security of tenure in their employment as provided by law. Their employment can only be terminated for just or authorized causes pursuant to the provisions of the Labor Code, as amended.

Section 11. Observance of Required Standards of Due Process; Requirements of Notice.

In all cases of termination of employment, the standards of due process laid down in the Labor Code, as amended, and settled jurisprudence on the matter, must be observed. Accordingly, the following is hereby set out to clarify the standards of due process that must be observed:

- a) For termination of employment based on just causes as defined in the Code, the requirement of two written notices served on the employee shall observe the following:
 - a. The first written notice should contain:
 - i. The specific causes or grounds for termination;
 - ii. Detailed narration of the facts and circumstances that will serve as the basis for the charge against the employee. A general description of the charge will not suffice;
 - iii. The company rule, if any, that is violated and/or the ground that is being charged against the employee; and
 - iv. A directive that the employee is given opportunity to submit a written explanation within a reasonable period.
 - b. After serving the first notice, the employer should afford the employee ample opportunity to be heard and to defend himself/herself with the assistance of a representative if he/she so desires, as provided in Article 277(b) of the Labor Code, as amended.

- c. After determining that termination of employment is justified, the employer contractor shall serve the employee a written notice of termination indicating that: (1) all circumstances involving the charge against the employees have been considered; and (2) the grounds have been established to justify the severance of their employment.

The foregoing notices shall be served on the employee's last known address.

- b) For termination of employment based on authorized causes defined in Article 283 of the Labor Code, the requirement of due process shall be deemed complied with upon service of a written notice to the employee and the appropriate regional office of the Department of Labor and Employment at least thirty days before the effectivity of the termination, specifying the ground or grounds for termination.
- c) If the termination is brought about by the completion of the contract or phase thereof, no prior notice is required. If the termination is brought by the failure of a probationary employee to meet the reasonable standards of the employer, which was made known to the employee at the time of his/her employment, it shall be sufficient that a written notice is served upon the employee within a reasonable time prior to the expiration of the probationary period.

Section 12. Protection from Fluctuation of Oil Prices. Public utility drivers shall have the right to be protected from the increase or fluctuation of the price of fuel. Operators shall bear the cost of the fuel of the public utility vehicle. These costs shall not be taken from the wages or earnings of the public utility drivers.

Section 13. Public Utility Drivers' Insurance. Public utility drivers shall be protected from pecuniary loss as a consequence of vehicular accidents.

There shall be a car insurance policy for all public utility vehicles, which policy shall cover all types of vehicular accidents. No public utility driver shall bear the loss of vehicular accidents

he or she has been a party to, except if said public utility driver is found to be at fault by competent judicial authority.

Section 14. Health Checkup Requirement. Owners and operators who intend to employ public utility drivers shall acquire a certification from accredited healthcare providers in order to ascertain the driver's fitness to operate public utility vehicles.

Public utility drivers are required to secure health certifications one (1) year after their last certification of fitness. Owners and operators shall cover the costs of the annual health checkups for public utility drivers under their employ.

This certification shall be submitted to the LTFRB within thirty (30) days after the last checkup of the public utility driver.

Section 15. Mutual Aid Associations for Public Utility Drivers. To ensure that the goals of this Act are fulfilled, there shall be constituted a mutual aid association for public utility drivers, which shall be composed of all public utility drivers in every province or independent component city. The Department of Social Welfare and Development, the Department of Health, the Bangko Sentral ng Pilipinas, and the Department of Trade and Industry are hereby enjoined to create programs for trainings and lectures to be administered in every mutual aid association for public utility drivers, for instruction in financial literacy, first aid, family planning, and nutrition, among other subjects, as may be deemed necessary by the mutual aid association concerned.

Section 16. National Federation of PUD Mutual Aid Associations. There shall be established a National Federation of PUD Mutual Aid Associations, which shall comprise all Mutual Aid Associations of public utility drivers. The Federation shall convene quarterly, and shall submit to the LTFRB a report on the concerns and recommendations of public utility drivers in relation to the transport sector.

Section 17. Consultative Council on Transport. There shall be formed a Consultative Committee on Transport (“CCT”), which shall be composed of the following:

- (a) The Secretary of the Department of Transportation;
- (b) The Chairman of the LTFRB
- (c) The Chairman of the LTO
- (d) Two (2) representatives from the National Federation of PUD Mutual Aid Associations;
and
- (e) Two (2) representatives from an association or federation of public utility vehicle operators

Section 18. The Consultative Council on Transport shall have the following functions:

- (a) Coordinating and Oversight Body for all Transport-related regulations. – The CCT shall act as the coordinating and supervising body for all agencies tasked with the implementation of transport-related regulations. Further, the CCT shall monitor and assess the implementation of this Act, as well as the progress of programs and trainings conducted by the DSWD, DOH, BSP and the DTI for the mutual aid associations of public utility drivers.
- (b) Provision of a Compliance Guide. – For each rule or group of related rules issued by any government agency for compliance by public utility drivers, the CCT shall publish compliance guidelines which shall be written in plain language or in the local dialect, whenever necessary.
- (c) Conduct of Research on Transport Regulation. – The CCT shall conduct research on a periodic basis to assess the effect of regulations on the transport sector, particularly on public utility drivers, and submit a report on said research to Congress and the agencies tasked with implementing transport-related laws and regulations.

ARTICLE IV

IMPLEMENTING AGENCY

Section 19. Implementing Agencies. The Department of Transportation (DOTr), through the LTFRB, shall be the primary implementing agency of this Act, in coordination with the Land Transportation Office (LTO), Metropolitan Manila Development Authority (MMDA), Department of Environmental and Natural Resources (DENR), Department of Social Welfare and Development (DSWD), the Department of Health (DOH), the Bangko Sentral ng Pilipinas (BSP), and the Department of Trade and Industry (DTI), and concerned local government units shall be the Implementing Agencies for this Act.

Section 20. Enforcement of Labor Provisions. Compliance with minimum wages, wage-related benefits, hours of work and other labor related provisions shall be enforced by the appropriate DOLE-Regional Office having jurisdiction over the principal office of the bus owner/operator in accordance with the prescribed rules and regulations.

Consistent with Article 128 (Visitorial and Enforcement Power) of the Labor Code, as amended, the Regional Director through his/her duly authorized representatives, shall conduct routine inspection of the workplace and shall also have access to employer's records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and investigate any fact, condition, or matter which may be necessary to determine violations or which may aid in the enforcement of the Labor Code and of any labor law, wage order, or rules and regulations issued pursuant thereto.

Based on the visitorial and enforcement power of the Secretary of Labor and Employment in Article 128 (a), (b), (c), and (d), the Regional Director shall issue compliance orders to give effect to the labor standards provision of the Labor Code.

Section 21. Implementing Rules and Regulations. Within one hundred (100) days from the effectivity of this Act, the DOTr, and the other implementing agencies will prepare the implementing rules and regulations (IRR) of this Act, with the participation of non-government organizations, civil society organizations, and academic institutions advocating for the welfare of public utility drivers.

Section 22. Funding. The initial funding requirements for the implementation of this Act shall be charged against the current appropriations of the agencies concerned. Thereafter, such sums as may be necessary for the implementation of this Act shall be included in the agencies' yearly budgets under the General Appropriations Act.

ARTICLE V

MISCELLANEOUS

Section 23. Sanctions. Any violation of the labor provisions of this Act shall be resolved through the disposition of labor case procedures and conciliation-mediation services of the DOLE pursuant to Department Order No. 107, series of 2010, as may be applicable.

Violation of any provisions of this Act shall subject the owner or operator concerned to appropriate civil and/or criminal sanctions, including revocation of the Certificate of Public Convenience.

Section 24. Separability Clause. If any provision of this Act is declared unconstitutional or invalid, other parts or provisions hereof not affected shall continue to be in full force and effect.

Section 25. Repealing Clause. All laws, decrees, orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

Section 26. Effectivity Clause. This Act shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation.