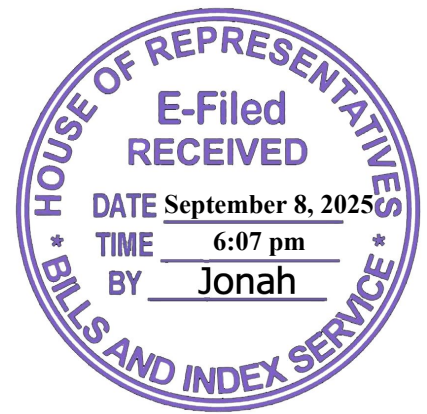


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session
House Bill No. **4441**



Introduced by: Congressman **BIENVENIDO M. ABANTE, JR.**

AN ACT
REQUIRING EMPLOYERS IN THE PRIVATE SECTOR TO PAY 14th MONTH
PAY

EXPLANATORY NOTE

Article II of the Constitution declares that: the maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy (*Sec. 5*); the State shall promote a just and dynamic social order that will ensure the prosperity and independence 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 for all (*Sec. 9*); the State shall promote social justice in all phases of national development (*Sec. 10*); and the State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare (*Sec. 18*); The Constitution likewise declares that the goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged (*Sec. I, Art. XII*).

In this regard, Presidential Decree No. 851 was issued that required employers to pay a 13th month pay, which was deemed necessary to further protect the level of real wages from the ravages of worldwide inflation. The 13th month pay stood as a cornerstone benefit designed to provide financial relief to employees during the holiday season. This mandatory monetary entitlement is rooted in the principle of social justice, aiming to augment workers' income and ensure equitable distribution of economic gains. The decree mandates that employers provide this benefit to alleviate the financial burdens faced by workers, particularly during year-end festivities. The 13th month pay right, therefore, embodies the government's commitment to labor protection, ensuring workers share in prosperity. This benefit not only provides financial support but also reinforces the social contract between labor and management in our country.

But Presidential Decree No. 851 was enacted on December 16, 1976, or almost fifty (50) years ago. Since then, we have witnessed the ever-changing work and labor environment and the skyrocketing prices of prime commodities aggravated, if not caused by the uncontrolled rise in the price of oil and oil products, while big companies, especially in the oil industry, continue to maintain huge income, of which they seem bent on increasing year after year. Meanwhile, wages have not caught up as apparently its upward movement is being hindered, if not prevented, by self-interest and greed.

Consistent with the wisdom of the Constitution to promote a rising standard of living, an improved quality of life for all, especially the underprivileged, and to promote the welfare of workers and their families, this Bill seeks to mandate employers in the private sector to provide 14th month pay to their employees. And to serve its purpose, the 13th month pay can be given in the middle of the year, and the 14th month pay can be given at the end of the year.

The early passage of this Bill is, therefore, earnestly requested.



BIENVENIDO M. ABANTE, JR.

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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 “**14th Month Pay Law**”

SEC. 2. Declaration of Objective. - It is the objective of this Act to provide financial support to and alleviate the financial burdens faced by workers and to give full meaning to the government’s commitment to labor protection, ensuring workers share in prosperity as well as the social contract between labor and management in our country.

SEC. 3. Declaration of Policy. - The State affirms labor as a primary social economic force and is committed to carry out its Constitutional mandate to protect the rights of workers and promote their welfare, free them from poverty, promote a rising standard of living and an improved quality of life for all, and attain the goal for a more equitable distribution of opportunities, income, and wealth, and shall promote expansion of productivity as key to raising the quality of life for all especially the underprivileged.

SEC. 4. Coverage. The Act shall cover all non-government rank and file employees regardless of their employment status or designation and irrespective of the method by which their wages are paid, as well as domestic workers under the Domestic Workers Act (R.A. No. 10361) or the Kasambahay Law and other workers who are presently entitled by law to 13th month pay, provided that they have worked at least six (6) months during the calendar year.

SEC. 5. Definition of Terms. - As used in this Act:

- a. *Rank and File Employees* - are those not considered as managerial employees. They are not vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, layoff, recall, discharge, assign, or discipline employees or to effectively recommend such managerial actions.
- b. *Basic Salary* - for the purpose of computing the 14th month pay shall include all remunerations or earnings paid by the employer for services rendered by the employee but does not include allowances and monetary benefits which are not considered or integrated as part of the regular or basic salary.

SEC. 6. Mandatory Payment of 14th Month Pay. - All non-government rank and file employees, qualified workers under the Kasambahay Law, and other workers who are presently entitled by law to 13th month pay, shall be entitled to 14th month pay every year except where the employee is -

- a. *Managerial or Supervisory Employee*, which refers to one vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, layoff, recall, discharge, assign, or discipline employees or to effectively recommend such managerial actions. Provided that an employer, as a matter of policy, may extend these benefits to them voluntarily.
- b. *Household Helper or worker* under Republic Act No. 10361 or the Kasambahay Law who is in purely personal service (e.g., family driver). Provided that such household helper or worker in purely personal service may be extended these benefits voluntarily by his employer.
- c. Addicted to vices such as but not limited to drinking, gambling;
- d. Found using illegal drugs as defined under existing laws, whether addicted or not;
- e. Has abandoned his family or not supporting them;
- f. Has been subjected to disciplinary suspension by the employer for an aggregate period of at least five (5) days in one year of service.
- g. Has been charged with a criminal offense before the Prosecutor's Office or in Court by reason of or in connection with his employment or for a civil case involving property of his employer; or
- h. Has absconded with any property of, or has committed a crime against, his employer.

SEC. 7. *Time of Payment.* - The 13th month pay shall be paid not later than June 14th, and the 14th month pay shall be paid not later than December 24th of every year, provided, however, that the frequency of payment of these monetary benefits may be the subject of agreement between employer and employee or any recognized/collective bargaining agent of employees.

SEC. 8. *Minimum Amount.* - The minimum amount of the 14th month pay shall not be less than one twelfth (1/12) of the total basic salary earned by the employee within the calendar year.

SEC. 9. *Employers Covered.* – This law shall apply to all employers except to:

- a. Distressed employers, such as (1) those which are currently incurring substantial losses or (2) in the case of non-profit institutions and organizations, where their income, whether from donations, contributions, grants and other earnings from any source, has consistently declined by more than forty (40%) percent of their normal income for the last two (2) years, subject to the authorization process of the Department of Labor and Employment;
- b. Employers with only one hundred (100) employees or less;
- c. The government and any of its political subdivisions, including government-owned and controlled corporations, except those corporations operating essentially as private subsidiaries of the Government;
- d. Employers already paying their employees 14-month pay or more in a calendar year or its equivalent at the time of the effectivity of this law; and
- e. Employers of those who are paid on purely commission, boundary, or task basis, and those who are paid a fixed amount for performing a specific work including project-based employees, irrespective of the time consumed in the performance thereof, except where the workers are paid on piece-rate basis in which case the employer shall be covered insofar as such workers are concerned.

New businesses/employers that incurred losses in their first three years of operation may apply for exemption by proving such losses.

SEC. 10. *Penalties.* - Any employer found to have violated this law shall, in addition to the monetary liability due to the employee shall be punished with a fine of not less than Php50,000.00 nor more than Php200,000.00 per violation.

SEC. 11. *Implementing Rules.* - Within sixty days from the enactment of this law, the Secretary of the Department of Labor and Employment (DOLE) shall promulgate the implementing rules of this law.

SEC. 12. *Separability Clause.* - If any provision of this Act is declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 13. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with any provision of this Act are hereby repealed, amended, or modified accordingly.

SEC. 14. *Effectivity Clause.* - This Act shall take fifteen (15) days following its publication in the Official Gazette or in at least two (2) newspaper of general circulation.

Approved,