

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

SENATE
OFFICE OF THE SECRETARY

'04 AUG 17 P3:35

RECEIVED BY _____

SENATE
S. B. No. 1484

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution provides:

Article 2, Section 18. The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.

Article 13, Section 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

The Labor Code (P. D. No. 442) was enacted to revise and consolidate all labor and social laws to afford protection to labor, promote employment, and human resources development. It was subsequently amended by laws addressed to meet the special and peculiar needs of various classes of workers under different conditions.

The bill complements these laws in seeking to: (1) to remove the restraints on nationwide commerce caused by activities detrimental to traveling sales crew workers; (2) to require the employers for such workers to register under this Act; and (3) to assure necessary protections for such employees.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 AUG 17 P3:35

SENATE
S. B. No. 1484

RECEIVED BY: _____

Introduced by Senator Miriam Defensor Santiago

AN ACT
TO PROTECT EMPLOYEES OF TRAVELING SALES CREW

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

SECTION 1. *Short Title.* – This Act shall be known as the “Traveling Sales Crew Protection Act”.

SECTION 2. *Declaration of Policy.* – The State shall afford protection to labor, promote full employment, and equality of employment opportunities for all.

SECTION 3. *Definition of Terms.* – As used in this Act;

(1) The term “Certificate of registration” means a Certificate issued by the Secretary under Section 4.

(2) The term “Employ” means to suffer or to permit to work.

(3) The term “Goods” means wares, products, commodities, merchandise, or articles or subjects of interstate commerce of any character, or any part or ingredient of the same.

(4) The term “Person “ means any individual partnership, association, joint stock company, trust, cooperative, or corporation.

(5) The term “Sale” or “Sell” include any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition of goods.

(6) The term “Secretary” means secretary of Labor and Employment.

(7) Traveling Sales Crew Worker

(A) In General – Except provided in subparagraph (B), the term “Traveling Sales Crew Worker” means an individual who –

(i) is employed as a sales person or in related support work;

(ii) travels with a group of sales persons, including a supervisor; and

(iii) is required to be absent overnight from his or her permanent place of residence.

(B) Limitation – The term “Traveling Sales Crew Worker” does not include –

(i) any individual who meets the requirements of subparagraph (A) if such individual is traveling to a trade show or convention; or

(ii) any immediate family member of a traveling sales crew employer.

SECTION 4. – *Registration of Employers and Supervisors of Traveling Sales Crew Workers.* –

(1) REGISTRATION REQUIREMENT

(A) In General – No person shall engage in any form of employment of traveling sales crew workers, unless such person has a certificate of registration from the Secretary.

(B) Supervision – A traveling sales crew employer shall not hire, employ, or use any individual as a supervisor of a traveling sales crew, unless such individual has a certificate of registration from the Secretary.

(C) Display of Certificate of Registration – Each traveling sales crew employer and each registered traveling sales crew supervisor shall

carry at all times while engaging in traveling sales crew activities a certificate of registration from the Secretary and, upon request, shall exhibit that certificate to all persons with whom they intend to deal.

(2) APPLICATION FOR REGISTRATION – Any person desiring to be issued a certificate of registration from the Secretary, as either a traveling sales crew employer or traveling sales crew supervisor, shall file with the Secretary a written application that contains the following:

(A) A declaration, subscribed and sworn by the applicant, stating the applicant's permanent place of residence, the type or types of sales activities to be performed, and such other relevant information as the Secretary may require.

(B) A statement identifying each vehicle to be used to transport any member of any traveling sales crew and, if the vehicle is or to be owned and controlled by the applicant, documentation showing that the applicant is in compliance with the requirements of Section (E) (IV) with respect to each such vehicle.

(C) A statement identifying, with as much specificity as the Secretary may require, each facility or real property to be used to house any member of any traveling sales crew and, if the facility or real property is or will be owned or controlled by the applicant, documentation showing that the applicant is in compliance with Section (E) (V) with respect to each such facility or real property.

(D) A set of fingerprints of the applicant.

(3) ISSUANCE OF CERTIFICATE OF REGISTRATION –

(A) In General – In accordance with regulations, and after any investigation which the Secretary may deem appropriate, the Secretary shall issue a crew supervisor, to any person who meets the standards for such registration.

(B) Refusal to Issue or Renew, Suspension and Revocation –

The Secretary may refuse to issue or renew, or may suspend or revoke, a Certificate of Registration if the applicant for or holder of the Certificate –

(a) has knowingly made any misrepresentation in the application for such Certificate of Registration;

(b) is not the real party in interest with respect to the application of Certificate of registration and the real party in interest is a person who -

(I) has been refused issuance or renewal of Certificate;

(II) has had a Certificate suspended or revoked;

or

(III) does not qualify for a Certificate under this section;

(c) has failed to comply with this title or any regulation promulgated under this title;

(d) has failed –

(I) to pay any court judgment obtained by the Secretary or any other person under this title or any regulation promulgated under this title; or

(II) to comply with any final order issued by the Secretary as a result of a violation of this title or any regulation promulgated under this title;

(e) has been convicted within the five (5) years preceding the date on which the application was filed or the Certificate was issued, of any crime relating to the sale, distribution or possession of unlawful objects, in connection with or incident to any traveling crew activities; or

(f) has failed to satisfy any other requirement which the Secretary may by regulation establish.

(4) ADMINISTRATIVE PROCEEDINGS AND JUDICIAL REVIEW

(A) In General – A person who is refused the issuance or renewal of a Certificate of Registration, or whose Certificate of Registration is suspended or revoked, shall be afforded an opportunity for an agency hearing, upon a request made within thirty (30) days after the date of issuance of the notice of refusal, suspension, or revocation. If no hearing is requested as provided for in this subsection, the refusal, suspension, or revocation shall constitute a final and unappealable order.

(B) Review – Any person against whom an order has been entered after an agency hearing under this subsection may obtain review pursuant to the implementing rules and regulations.

(5) TRANSFER OR ASSIGNMENT OF CERTIFICATE;
EXPIRATION; RENEWAL –

(A) Limitation – A Certificate of Registration may not be transferred or assigned.

(B) Expiration and extension –

(a) Expiration – Unless earlier suspended or revoked, a certificate of Registration shall expire 12 months from the date of issuance.

(b) Extension – A Certificate of Registration may be temporarily extended, at the Secretary's discretion, by a filing of an application with the Secretary at least thirty (30) days prior to the Certificate's expiration date.

(C) Renewal – A Certificate of Registration may be renewed through the application process provided for in subsections (2) and (3).

(6) NOTICE OF ADDRESS CHANGE; AMENDMENT OF
CERTIFICATE OF REGISTRATION – During the period for which a Certificate

of Registration is in effect, the traveling sales crew employer or supervisor named on the Certificate shall –

(A) provide to the Secretary within thirty (30) days a notice of each change of permanent place of residence; and

(B) apply to the Secretary to amend the Certificate of Registration whenever the person intends to –

(a) engage in any form of traveling sales crew activity not identified on the Certificate;

(b) use or cause to be used any vehicle not covered by the Certificate to transport any traveling sales crew worker; or

(c) use or cause to be used any facility or real property not covered by the Certificate to house any traveling sales crew worker.

(7) FILING FEE – The Secretary shall require the payment of a fee by an employer filing an application for the issuance or renewal of a Certificate of Registration. Sums collected pursuant to this section shall be applied by the Secretary toward reimbursement of the costs of administering the title.

SECTION 5. *Obligations of Employees of Traveling Sales Crew Workers –*

(1) DISCLOSURE OF TERMS AND CONDITIONS OF EMPLOYMENT

(A) Written Disclosure – At the time of recruitment, each traveling sales crew worker shall be provided with a written disclosure of the following information, which shall be accurate and complete to the best of the employer's knowledge:

(a) the people or places of employment, stated with as much specificity as possible;

(b) the wage rate or rates to be paid;

(c) the type or types of work on which the worker may be employed;

(d) the period of employment;

(e) the transportation, housing, and any other employee benefit to be provided, and any costs to be charged to the worker for each such benefit;

(f) the existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment;

(g) Whether workers' compensation insurance is provided and, if so, the name of the workers' compensation insurance carrier, the name of the policyholder of such insurance, the name and the telephone number of each person who must be notified by an injury or death, and the time period within such notice must be given.

(B) Records and Statements – Each employer of traveling sales crew workers shall -

(a) with respect to each such worker, make, keep, and preserve records for three (3) years of the -

(I) basis on which wages are paid;

(II) number of piecework units earned, if paid on a piecework basis;

(III) number of hours worked;

(IV) total pay period earnings;

(V) specific sums withheld and the purpose of each sum withheld; and

(VI) net pay; and

(b) provide to each worker on a monthly basis, an itemized written statement of the information required under subparagraph (1).

(2) PAYMENT OF WAGES WHEN DUE – Each traveling sales crew worker shall be paid the wages owed that worker when due.

(3) COSTS OF GOODS, SERVICES, AND BUSINESS EXPENSES -

(A) Prohibition – No employer or traveling sales crew workers shall -

(a) require any worker to purchase any goods or services solely from such employer; or

(b) impose on any worker any of the employer's business expenses, such as the costs of maintaining and operating a vehicle used to transport the traveling sales crew.

(B) Inclusion as Part of Wages - An employer may include as part of the wages paid to traveling sales crew worker the reasonable cost to the employer of furnishing board, lodging, or other facilities to such worker, so long as -

(a) such facilities are customarily furnished by such employer to the employees of the employer; and

(b) such cost does not exceed the fair market value of such facility and does not include any profit to the employer.

(4) SAFETY AND HEALTH INTRANSPORTATION -

(A) Standards – An employer of traveling sales crew worker shall provide transportation for such workers in a manner that is consistent with the following standards:

(a) The employer shall ensure that each vehicle which the employer uses or causes to be used for such transportation conforms to the standards prescribed by the

Secretary under paragraph (B) and conforms to the other applicable safety standards.

(b) The employer shall ensure that each driver of each such vehicle has a valid and appropriate license, as provided by law, to operate the vehicle.

(c) The employer shall have an insurance policy.

(B) Promulgation by Secretary – The Secretary shall prescribe, by regulation, such safety and health hazards as may be appropriated for vehicles used to transport traveling sales crew workers. In establishing such standards, the Secretary shall consider –

(a) the type of vehicle used;

(b) the passenger capacity of the vehicle;

(c) the distance which such workers will be carried by such vehicle;

(d) the type of roads and highways on which such workers will be carried in the vehicle;

(e) the extent to which a proposed standard would cause an undue burden on an employer of traveling sales crew workers; and

(f) any standard prescribed by the Secretary of Transportation.

(5) SAFETY AND HEALTH IN HOUSING – An employer of traveling sales crew workers shall provide housing for such workers in a manner that is consistent with the following standards:

(A) If the employer owns or controls the facility or real property which is used for housing traveling sales crew workers, the employer shall be responsible for ensuring that the facility or real property complies with substantive safety and health standards applicable to that housing. Prior to occupancy by such workers, the facility or real property

shall be certified by a local health authority or other appropriate agency as meeting applicable safety and health standards. Written notices shall be posted in the facility or real property, prior to and throughout the occupancy by such workers, informing such workers that the applicable safety and health standards are met.

(B) If the employer does not own or control the facility or real property which is used for housing traveling sales crew workers, the employer shall be responsible for ensuring that the owner or operator of such facility or real property complies with substantive safety and health standards applicable to that housing. Such assurance by the employer shall include the verification that the owner or operator of such facility or real property is licensed and insured in accordance with all applicable State and local laws. The employer shall obtain such assurance prior to housing any workers in the facility or real property.

(6) INSURANCE OF VEHICLES – an employer of traveling sales crew workers shall ensure that there is in effect, for each vehicle used to transport such workers, an insurance policy or a liability bond which insures the employer against liability for damage to persons and property arising from the ownership, operation, or the causing to be operated of such vehicle for such purpose. The level of insurance or liability bond required shall be determined by the Secretary considering at least the factors set forth in subsection (4)(B) and any relevant law.

SECTION 6. *Implementing Rules and regulations.* – The Secretary of Labor and Employment, in coordination with other government agencies, non-governmental organizations or labor associations shall, within sixty (60) days from the effectivity of this Act, issue such rules and regulations necessary for its proper implementation.

SECTION 7. *Penalties.* - Any person, corporation, trust, firm, partnership, association or entity found violating this Act shall be punished by a fine not exceeding

Twenty Five Thousand Pesos (P25,000.00) or imprisonment of not less than thirty (30) days nor more than six (6) months, or both such fine and imprisonment at the discretion of the court.

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

SECTION 8. *Separability Clause.* - If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 9. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with, the provision of this Act is hereby repealed, modified or amended accordingly.

Section 10. *Effectivity Clause.* - This Act shall take effect fifteen days (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.