

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



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SENATE
S. No. 1814

RECEIVED BY: *je*

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 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 of such workers to register under this Act; and (3) to assure necessary protections for such employees.*

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Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

* This bill was originally filed during the Thirteenth Congress, First Regular Session.

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1 AN ACT
2 PROTECTING TRAVELING SALES CREW EMPLOYEES

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

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

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

7 SECTION 3. *Definition of Terms.* – For the purpose of this Act, the term:

8 (A) “Certificate of registration” means a Certificate issued by the Secretary under
9 Section 4;

10 (B) “Employ” means to suffer or to permit to work;

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

13 (D) “Person” means any individual partnership, association, joint stock company, trust,
14 cooperative, or corporation;

15 (E) “Sale” or “sell” include any sale, exchange, contract to sell, consignment for sale,
16 shipment for sale, or other disposition of goods;

17 (F) “Secretary” means the Secretary of Labor and Employment; and

18 (G) “Traveling sales crew employee” means an individual who –

19 (1) Is employed as a sales person or in related support work;

20 (2) Travels with a group of sales persons, including a supervisor; and

1 (3) Is required to be absent overnight from his or her permanent place of
2 residence.

3 The term "traveling sales crew employee" does not include any individual
4 who meets the requirements above if such individual is traveling to a trade show
5 or convention; or any immediate family member of a traveling sales crew
6 employer.

7 SECTION 4. -- *Registration of Employers and Supervisors of Traveling Sales Crew*
8 *Employees.* --

9 (A) *Registration Requirement.* --

10 (1) *In General.* -- No person shall engage in any form of employment of
11 traveling sales crew employees, unless such person has a certificate of
12 registration from the Secretary.

13 (2) *Supervision.* -- A traveling sales crew employer shall not hire, employ, or
14 use any individual as a supervisor of a traveling sales crew, unless such
15 individual has a certificate of registration from the Secretary.

16 (3) *Display of Certificate of Registration.* -- Each traveling sales crew
17 employer and each registered traveling sales crew supervisor shall carry at
18 all times while engaging in traveling sales crew activities a certificate of
19 registration from the Secretary and, upon request, shall exhibit that
20 certificate to all persons with whom they intend to deal.

21 (B) *Application for Registration.* -- Any person desiring to be issued a certificate of
22 registration from the Secretary, as either a traveling sales crew employer or traveling sales crew
23 supervisor, shall file with the Secretary a written application that contains the following:

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

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

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

11 (4) A set of fingerprints of the applicant.

12 (C) *Issuance of Certificate of Registration.* –

13 (1) *In General.* – In accordance with regulations, and after any investigation
14 which the Secretary may deem appropriate, the Secretary shall issue a
15 certificate of registration, to any person who meets the standards for such
16 registration.

17 (2) *Refusal to Issue or Renew; Suspension and Revocation.* – The Secretary
18 may refuse to issue or renew, or may suspend or revoke, a certificate of
19 registration if the applicant for or holder of the certificate –

20 (a) Has knowingly made any misrepresentation in the application for
21 such certificate of registration;

22 (b) Is not the real party in interest with respect to the application of
23 certificate of registration and the real party in interest is a person
24 who–

25 (i) Has been refused issuance or renewal of certificate;

26 (ii) Has had a certificate suspended or revoked; or

27 (iii) Does not qualify for a certificate under this section;

28 (c) Has failed to comply with this Act or any regulation promulgated
29 pursuant to this Act;

- 1 (d) Has failed to pay any court judgment obtained by the Secretary or
2 any other person under this Act or any regulation promulgated
3 pursuant to this Act; or to comply with any final order issued by
4 the Secretary as a result of a violation of this Act or any regulation
5 promulgated pursuant to this Act;
- 6 (e) Has been convicted within the five (5) years preceding the date on
7 which the application was filed or the certificate was issued, of any
8 crime relating to the sale, distribution, or possession of unlawful
9 objects, in connection with or incident to any traveling crew
10 activities; or
- 11 (f) Has failed to satisfy any other requirement which the Secretary
12 may by regulation establish.

13 (D) *Administrative Proceedings and Judicial Review.* —

14 (1) *In General.* — A person who is refused the issuance or renewal of a
15 certificate of registration, or whose certificate of registration is suspended
16 or revoked, shall be afforded an opportunity for an agency hearing, upon a
17 request made within thirty (30) days after the date of issuance of the notice
18 of refusal, suspension, or revocation. If no hearing is requested as
19 provided for in this subsection, the refusal, suspension, or revocation shall
20 constitute a final and unappealable order.

21 (2) *Review.* — Any person against whom an order has been entered after an
22 agency hearing under this subsection may obtain review pursuant to the
23 implementing rules and regulations.

24 (E) *Transfer or Assignment of Certificate; Expiration; Renewal.* —

25 (1) *Transfer or Assignment.* — A certificate of registration may not be
26 transferred or assigned.

27 (2) *Expiration.* — Unless earlier suspended or revoked, a certificate of
28 registration shall expire twelve (12) months from the date of issuance.

1 (3) *Extension.* – A certificate of registration may be temporarily extended, at
2 the Secretary’s discretion, by the filing of an application with the
3 Secretary at least thirty (30) days prior to the certificate’s expiration date.

4 (4) *Renewal.* – A certificate of registration may be renewed through the
5 application process provided for under this Section.

6 (F) *Notice of Address Change; Amendment of Certificate of Registration.* – During
7 the period for which a certificate of registration is in effect, the traveling sales crew employer or
8 supervisor named on the certificate shall –

9 (1) Provide to the Secretary within thirty (30) days a notice of each change of
10 permanent place of residence; and

11 (2) Apply to the Secretary to amend the certificate of registration whenever
12 the person intends to –

13 (a) Engage in any form of traveling sales crew activity not identified
14 on the certificate;

15 (b) Use or cause to be used any vehicle not covered by the certificate
16 to transport any traveling sales crew worker; or

17 (c) Use or cause to be used any facility or real property not covered by
18 the certificate to house any traveling sales crew worker.

(G) *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.

19 SECTION 5. *Obligations of Employers of Traveling Sales Crew Employees.* –

20 (A) *Disclosure of Terms and Conditions of Employment.* –

21 (1) *Written Disclosure.* – At the time of recruitment, each traveling sales
22 crew employee shall be provided with a written disclosure of the
23 following information, which shall be accurate and complete to the best of
24 the employer’s knowledge:

25 (a) The places of employment, stated with as much specificity as
26 possible;

- 1 (b) The wage rate or rates to be paid;
- 2 (c) The type or types of work on which the employee may be
3 employed;
- 4 (d) The period of employment;
- 5 (e) The transportation, housing, and any other employee benefit to be
6 provided, and any costs to be charged to the employee for each
7 such benefit;
- 8 (f) The existence of any strike or other concerted work stoppage,
9 slowdown, or interruption of operations by employees at the place
10 of employment;
- 11 (g) Whether employees' compensation insurance is provided and, if so,
12 the name of the employees' compensation insurance carrier, the
13 name of the policyholder of such insurance, the name and the
14 telephone number of each person who must be notified by an
15 injury or death, and the time period within such notice must be
16 given.

17 (2) *Records and Statements.* – Each employer of traveling sales crew
18 employees shall with respect to each such worker, make, keep, and
19 preserve records for three (3) years of the basis on which wages are paid;
20 number of piecework units earned, if paid on a piecework basis; number
21 of hours worked; total pay period earnings; specific sums withheld and the
22 purpose of each sum withheld; and net pay.

23 (B) *Payment of Wages When Due.* – Each traveling sales crew employee shall be paid
24 the wages owed that employee when due.

25 (C) *Costs of Goods, Services, and Business Expenses.* –

26 (1) *Prohibition.* – No employer of traveling sales crew employees shall -

27 (a) Require any employee to purchase any goods or services solely
28 from such employer; or

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

4 (2) *Inclusion as Part of Wages.* – An employer may include as part of the
5 wages paid to a traveling sales crew employee the reasonable cost to the
6 employer of furnishing board, lodging, or other facilities to such employee,
7 so long as –

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

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

12 (D) *Safety and Health in Transportation.* -

13 (1) *Standards.* – An employer of traveling sales crew employees shall provide
14 transportation for such employees in a manner that is consistent with the
15 following standards:

16 (a) The employer shall ensure that each vehicle which the employer
17 uses or causes to be used for such transportation conforms to the
18 standards prescribed by the Secretary and conforms to other
19 applicable safety standards.

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

23 (c) The employees shall be covered by an appropriate insurance policy.

24 (2) *Promulgation by Secretary.* – The Secretary shall prescribe, by regulation,
25 such safety and health standards as may be appropriate for vehicles used to
26 transport traveling sales crew employees. In establishing such standards,
27 the Secretary shall consider –

28 (a) The type of vehicle used;

29 (b) The passenger capacity of the vehicle;

- 1 (c) The distance which such employees will be carried by such vehicle;
- 2 (d) The type of roads and highways on which such employees will be
- 3 carried in the vehicle;
- 4 (e) The extent to which a proposed standard would cause an undue
- 5 burden on an employer of traveling sales crew employees; and
- 6 (f) Any standard prescribed by the Secretary of Transportation and
- 7 Communications.

8 (E) *Safety and Health in Housing.* – An employer of traveling sales crew employees
9 shall provide housing for such employees in a manner that is consistent with the following
10 standards:

- 11 (1) If the employer owns or controls the facility or real property which is used
12 for housing traveling sales crew employees, the employer shall be
13 responsible for ensuring that the facility or real property complies with
14 substantive safety and health standards applicable to that housing. Prior to
15 occupancy by such employees, the facility or real property shall be
16 certified by a local health authority or other appropriate agency as meeting
17 applicable safety and health standards. Written notice shall be posted in
18 the facility or real property, prior to and throughout the occupancy by such
19 employees, informing such employees that the applicable safety and health
20 standards are met.
- 21 (2) If the employer does not own or control the facility or real property which
22 is used for housing traveling sales crew employees, the employer shall be
23 responsible for ensuring that the owner or operator of such facility or real
24 property complies with substantive safety and health standards applicable
25 to that housing. Such assurance by the employer shall include the
26 verification that the owner or operator of such facility or real property is
27 licensed and insured in accordance with all applicable laws. The employer
28 shall obtain such assurance prior to housing any employees in the facility
29 or real property.

1 (F) *Insurance of Vehicles.* – An employer of traveling sales crew employees shall
2 ensure that there is in effect, for each vehicle used to transport such employees, an insurance
3 policy or a liability bond which insures the employer against liability for damage to persons and
4 property arising from the ownership, operation, or the causing to be operated of such vehicle for
5 such purpose. The level of insurance or liability bond required shall be determined by the
6 Secretary considering at least the factors set forth in this section and any relevant law.

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

11 SECTION 7. *Penalties.* – Any person, corporation, trust, firm, partnership, association, or
12 entity found violating this Act shall be punished by a fine not exceeding Twenty Five Thousand
13 Pesos (P25,000.00) or imprisonment of not less than thirty (30) days but not more than six (6)
14 months, or both such fine and imprisonment at the discretion of the court.

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

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

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

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

Approved,