

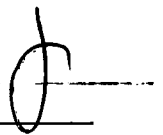
NINETEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

Office of the Secretary

25 JAN 27 P4:27

SENATE
S.B. No. 2962

RECEIVED



Introduced by **SENATOR IMEE R. MARCOS**

**AN ACT
ESTABLISHING A NATIONAL MINIMUM WAGE FOR PRIVATE SECTOR
WORKERS, IMPOSING STRICTER PENALTIES FOR VIOLATIONS THEREOF,
AND AMENDING FOR THIS PURPOSE PRESIDENTIAL DECREE NO. 442, AS
AMENDED, OTHERWISE KNOWN AS THE "LABOR CODE OF THE
PHILIPPINES"**

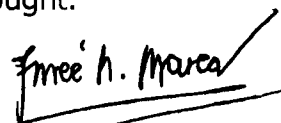
EXPLANATORY NOTE

Article XIII Section 3 of the 1987 Constitution states that workers, "*shall be entitled to security of tenure, humane conditions of work, and a living wage.*" Article XV Section 3 further says that the State shall defend the right of the family to a living wage.

The enactment of Republic Act No. 6727, also known as the "*Wage Rationalization Act*" in 1989 resulted in the abandonment of legislating national minimum wage and established the mechanism of regionalized wage setting and wage increases via regional wage boards. However, instead of the decentralizing growth to the countryside, the system preserves the economic inequality between the poor regions and Metro Manila and resultantly perpetuates the poverty of these poor regions and their workers.

This measure seeks to establish a National Minimum Wage rate and abolish the Regional Tripartite Wages and Productivity Boards, to eliminate the difference in the minimum wage between regions. The National Wages and Productivity Board will be tasked with determining the proper minimum wage for the country through the issuance of wage orders, subject to annual review.

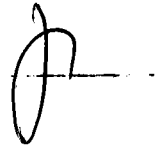
The immediate passage of this legislation is earnestly sought.


IMEE R. MARCOS

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

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

2 **Section 2.** Article 99 of the Labor Code, as amended, is hereby amended to
3 read as follows:

4 "ART. 99. [Regional] **NATIONAL** Minimum Wage[s]. – The **NATIONAL**
5 minimum wage [rates] for agricultural and non-agricultural employees and workers
6 across the country shall be [those] **PRESCRIBED BY THE NATIONAL WAGES**
7 **AND PRODUCTIVITY BOARD (NWPB)** [the Regional Tripartite Wages and
8 Productivity Boards]."

9 **Section 3.** *Creation of the National Wages and Productivity Board.* – Articles
10 120 and 121 of the Labor Code, as amended, are hereby further amended to read as
11 follows:

12 "ART. 120. Creation of the National Wages and Productivity [**Commission**]
13 **BOARD.** — There is hereby created a National Wages and Productivity
14 [Commission] **BOARD**, hereinafter referred to as the [Commission] **BOARD**, which
15 shall be attached to the Department of Labor and Employment (DOLE) for policy and
16 program coordination."

1 "ART. 121. Powers and Functions of the **[Commission] BOARD**. — The
2 **[Commission] BOARD** shall have the following powers and functions:

3 "(a) To act as the national consultative and advisory body to the President of
4 the Philippines and Congress on matters relating to wages, incomes and
5 productivity;

6 "(b) To formulate policies and guidelines on wages, incomes and productivity
7 improvement at the enterprise, industry and national levels;

8 "(c) To prescribe rules and guidelines for the determination of THE
9 appropriate minimum wage and productivity measures at the [regional, provincial or
10 industry] NATIONAL level[s];

11 **"(D) TO ANNUALLY DETERMINE AND PRESCRIBE ADJUSTMENTS,**
12 **WHENEVER NECESSARY, TO THE NATIONAL MINIMUM WAGE;**

13 "[(d) To review regional wage levels set by the Regional Tripartite Wages and
14 Productivity Boards to determine if these are in accordance with prescribed
15 guidelines and national development plans;]

16 "[(e)] **(E)** To undertake studies, researches and surveys necessary for the
17 attainment of its functions and objectives, and to collect and compile data and
18 periodically disseminate information on wages and productivity and other related
19 information, including, but not limited to, employment, cost-of-living, labor costs,
20 investments and returns;

21 "[(f) To review plans and programs of the Regional Tripartite Wages and
22 Productivity Boards to determine whether these are consistent with national
23 development plans;]

24 "[(g) To exercise technical and administrative supervision over the Regional
25 Tripartite Wages and Productivity Boards;]

26 "[(h)] **(F) To [call, from time to time,] CONVENE** a national tripartite
27 conference of representatives of government, workers and employers for the
28 consideration of measures to promote higher wages and improved standards of
29 living. The national tripartite conference on wages shall be convened on an annual
30 basis, or as the situation demands it;

31 "[(i)] **(G)** To exercise such powers and functions as may be necessary to
32 implement this Act.

1 "The [Commission] **BOARD** shall be composed of the Secretary of Labor and
2 Employment as ex-officio chairman, the Director-General of the National Economic
3 and Development Authority (NEDA) as ex-officio vice-chairman, and two (2)
4 members each from workers and employers sectors upon recommendation of the
5 Secretary of Labor and Employment to be made on the basis of the list of nominees
6 submitted by the workers and employers sectors, respectively, and who shall serve
7 for a term of five (5) years. The Executive Director of the [Commission] **BOARD**
8 shall also be a member of the [Commission] **BOARD**.

9 "The [Commission] **BOARD** shall be assisted by a Secretariat to be headed by
10 an Executive Director and two (2) Deputy Directors, who shall be appointed by the
11 President of the Philippines, upon the recommendation of the Secretary of Labor and
12 Employment.

13 "The Executive Director shall have the same rank, salary, benefits and other
14 emoluments as that of a Department Assistant Secretary, while the Deputy Directors
15 shall have the same rank, salary, benefits and other emoluments as that of a Bureau
16 Director. The members of the [Commission] **BOARD** representing labor and
17 management shall have the same rank, emoluments, allowances and other benefits
18 as those prescribed by law for labor and management representatives in the
19 Employees' Compensation Commission."

20 **Section 4. Abolition of the Regional Tripartite Wages and Productivity Board.**

21 – Articles 122 and 123 of the Labor Code, as amended, are hereby repealed.

22 **Section 5. Standards for National Minimum Wage Fixing.** – Article 124 of the
23 Labor Code is hereby amended and renumbered to read as follows:

24 "ART. [124] 122. - The [regional] **NATIONAL** minimum wage[s] to be
25 established [by the Regional Board] shall be as nearly adequate as is economically
26 feasible to maintain the minimum standards of living necessary for the health,
27 efficiency and general well-being of the employees within the framework of the
28 national economic and social development program. In the determination of such
29 [regional] **NATIONAL** minimum wage[s], [the Regional Board] the **NWPB** shall,
30 among other relevant factors, consider the following:

31 (a) The [demand for] **RIGHT TO** living wage;

1 **(b) THE COST FOR PROVIDING THE FOOD, CLOTHING, SHELTER,**
2 **EDUCATION, HEALTH MAINTENANCE AND OTHER NON-FOOD**
3 **NECESSITIES FOR RAISING THE FAMILY OF A WORKER;**

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

7 **(d) [The cost of living and changes or increases therein] MOVEMENTS IN**
8 **THE CONSUMER PRICE INDEX (CPI);**

9 **(e) The [needs of workers and their families] COST OF LIVING**
10 **EXPENSES;**

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

12 [(f)] (F) Improvements in standards of living; **AND**

13 [(g) The prevailing wage levels;]

14 [(h) Fair return of the capital invested and capacity to pay of employers;] [(F)
15 Effects on employment generation and family income; and]

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

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

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

1 **Section 6. *Amount of National Minimum Wage (NMW).*** – Upon effectivity of
2 this Act, the daily statutory minimum wages of private sector workers in both
3 agricultural and non-agricultural enterprises nationwide shall be those prescribed by
4 the Regional Tripartite Wages and Productivity Board in the National Capital Region
5 on the date this Code takes effect. Provided, that the wage increases arising from
6 the new national minimum wage should not prejudice other wage increases through
7 collective bargaining agreements.

8 The national minimum wage shall be adjusted on an annual basis or
9 whenever a supervening event arises such as extraordinary increase in prices of
10 basic goods and services.

11 **Section 7. *Terms of Service of the Secretariat of RTWPB.*** – The terms of
12 service of the members of the secretariat of each of the regional tripartite wages
13 and productivity board (RTWPB) shall cease upon the effectivity of this Act. The
14 affected personnel hired on a permanent basis and with appointments attested to by
15 the CSC shall be entitled to retirement benefits and separation incentives subject to
16 existing laws and regulations.

17 **Section 8. *Non-Diminution of Benefits.*** – Nothing in this Act shall be
18 construed as to diminish or discontinue existing benefits currently enjoyed whether
19 or not these are granted under collective bargaining agreements (CBA) or present
20 laws.

21 **Section 9. *Penalties.*** – Section 12 of Republic Act 6727, which was amended
22 by Section 1 of Republic Act 8188, is hereby further amended to read as follows:

23 "Section 12. Any person, corporation, trust, firm, partnership, association or
24 entity which refuses or fails to pay [any of the prescribed] **THEIR WORKERS THE**
25 **NATIONAL MINIMUM WAGE SET HEREIN AND ANY OF THE SUCCEEDING**
26 **LEGISLATED WAGE** increases or adjustments [in the wage rates] made in
27 accordance with this Act shall be punished by a fine [not less than Twenty-five
28 thousand pesos (P25,000.00) nor more than One-hundred thousand pesos
29 (P100,000.00)] **WHICH SHALL BE FIXED AT ONE HUNDRED PERCENT**
30 **(100%) OF THE TOTAL AMOUNT OF THE WAGE INCREMENT DUE THE**
31 **EMPLOYEES TO BE MULTIPLIED BY THE NUMBER OF WORKING DAYS THE**
32 **WAGE INCREMENT HAS BEEN UNPAID TO THE EMPLOYEES** or imprisonment

1 of not less than [two (2)] **THREE (3)** years nor more than [four (4)] **FIVE (5)**
2 years, or both such fine and imprisonment at the discretion of the court. Provided,
3 That any person convicted under this Act shall not be entitled to the benefits
4 provided for under the Probation Law.

5 The employer concerned shall be ordered to **PAY THE EMPLOYEES MORAL**
6 **DAMAGES OF FIFTY THOUSAND PESOS (P50,000.00) EACH EMPLOYEE**
7 **PLUS** an amount equivalent to double the unpaid benefits owing to the employees:
8 Provided, That payment of indemnity shall not absolve the employer from the
9 criminal liability imposable under this Act.

10 **FURTHERMORE, THE BUSINESS PERMIT OF THE VIOLATING ENTITY**
11 **SHALL BE SUSPENDED FOR ONE (1) MONTH TO THREE (3) YEARS FOR THE**
12 **SECOND OFFENSE; FOR THIRD OFFENSE, THE BUSINESS PERMIT OF THE**
13 **OFFENDER SHALL BE REVOKED.**

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

18 **Section 10. *Implementing Rules and Regulations.*** – The Department of
19 Labor and Employment (DOLE) and other agencies charged with carrying out the
20 provisions of this Act shall, within sixty (60) days after the effectivity of this Act,
21 formulate the necessary rules and regulations for its effective implementation.

22 **Section 11. *Separability Clause.*** – Should any provision of this Act be
23 declared invalid or unconstitutional, the validity of the other provisions shall not be
24 affected thereby.

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

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

30 *Approved,*