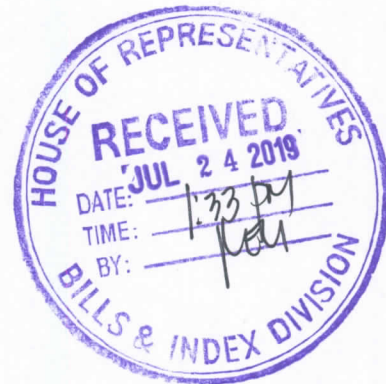


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 2635



Introduced by TUCP Party-List Representative
RAYMOND DEMOCRITO C. MENDOZA

EXPLANATORY NOTE

The Trade Union Congress of the Philippines (TUCP), as the largest aggrupation of labor federations and labor unions in the country, has laboriously strived and worked for investment generation and job creation. It has continuously supported and provided assistance to sunrise industries, especially for the micro to medium scale enterprises. This is because these small businesses are the ones that account for a very big fraction of new jobs created.

A most recent growth industry is the wellness centers. More often, these wellness centers are an amalgamation of beauty and grooming salons, fitness gyms, spas and massage parlors, and other interrelated services. The size of the business of such centers range from micro, which are found in very small communities to really large enterprises, located in very affluent areas.

This industry is the bread and butter of thousands of barbers, haircutters or hairstylists; manicurists or pedicurists; make-up artists or beauty professionals; masseuse, reflexologists or therapists; and, gym trainers, fitness instructors or dieticians. Most of these are "experts" in their individual fields who have undergone professional training.

However, in most instances, the services of these persons are merely "outsourced" by the wellness centers. In other words, they are not employed but are treated as independent contractors.

They "lease" the facilities of the centers and bring their own set of clients there. Their compensation or payment is based on a per "head" basis. They earn a commission or share in the payments due from their clients. They are not required to observe office hours or report to the company every day. They are not devoting their time exclusively for one company. They are free to work on any other wellness facility, or to engage in any other employment.

One of the predicaments for such persons is their membership in the Social Security System (SSS). With the above mentioned arrangement, they are considered as self-employed. Thus they pay their entire SSS membership dues. There is no one to pay the heftier employer counterpart.

Consequently, it is very expensive for them to continuously pay and be an active SSS member. In most instances, they just discontinue their payment of their SSS dues.

This bill seeks to remove the said persons from the definition of self-employed under the SSS law. Irrespective of the contractual arrangement or their non- recognition as employees, or of the kind or source of their commissions. Earnings, compensation or payment for their services, they shall not be considered as self-employed.

The wellness center or the barbershop, salon, spa, massage parlor, fitness gym or any other similar entity to which they are affiliated or regularly report to render their services shall be considered their employer. For this purpose such wellness center shall deduct and withhold from the concerned person's average monthly commissions, earnings, compensation or payment, his/her employee's contribution, as well as pay for and remit the counterpart employer's contribution.

With this, the said persons would be able to continue being an active SSS member and reap the benefits thereof, whether while they are still working or upon their retirement.

In view of the foregoing, the immediate passage of the bill is earnestly sought.



RAYMOND DEMOCRITO C. MENDOZA
TUCP Party-List Representative

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HON. RAYMOND DEMOCRITO C. MENDOZA

AN ACT
PROMOTING THE WELFARE OF WORKERS IN THE WELLNESS SPA, BEAUTY SALON, FITNESS GYM AND RELATED BUSINESSES BY FACILITATING THEIR MEMBERSHIP IN THE SSS, FURTHER AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 1161, AS AMENDED, OTHERWISE KNOWN AS THE SOCIAL SECURITY LAW, AND FOR OTHER PURPOSES

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

SECTION 1. *Declaration of Policy.* – As declared under Section 18, Article II of the 1987 Constitution, the State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.

The social security of workers in the wellness centers, beauty and grooming salons, fitness gyms, spas and massage parlors, and other interrelated services should always be protected and promoted.

SECTION 2. – *Bi-annual Review and Determination of Regional Minimum Wages.* – Section 9-A of Republic Act no. 1161, as amended, otherwise known as the “Social Security Law”, is hereby further amended, to read as follows:

“SECTION 9-A. Compulsory Coverage of the Self-employed.- Coverage in the SSS shall be compulsory upon such self-employed persons as may be determined by the Commission under such rules and regulations as it may prescribe, including but not limited to the following:

1. All self-employed professionals;
2. Partners and single proprietors of business;
3. Actors and actresses, directors, scriptwriters and news correspondents who do not fall within the definition of the term “employee” in Sec. 8 (d) of this Act;
4. Professionals athletes, coaches, trainers and jockeys; and
5. Individual farmers and fishermen.

FOR PURPOSES OF THIS ACT, IRRESPECTIVE OF THE CONTRACTUAL ARRANGEMENT OF THEIR NON-RECOGNITION AS EMPLOYEES, OR OF THE KIND OR SOURCE OF THE COMMISSIONS, EARNINGS, COMPENSATION OR PAYMENT FOR THEIR SERVICES, THE FOLLOWING SHALL NOT BE CONSIDERED AS SELF-EMPLOYED:

1. BARBERS, HAIRCUTTERS OR HAIRSTYLISTS;
2. MANICURISTS OR PEDECURISTS;
3. MAKE-UP ARTISTS;
4. MASSEUSE, REFLEXOLOGISTS OR THERAPISTS: AND,
5. GYM TRAINERS, FITNESS INSTRUCTORS OR DIETICIANS.

THE BARBERSHOP, SALON, SPA, MASSAGE PARLOR, WELLNESS/FITNESS CENTER OR GYM, OR ANY OTHER SIMILAR ENTITY TO WHICH ANY OF THE ABOVE ENUMERATED PERSONS OR AFFILIATED OR REGULARLY REPORT TO RENDER HIS/HER SERVICES SHALL BE CONSIDERED THEIR EMPLOYER WHO SHALL DEDUCT AND WITHHOLD FROM SUCH PERSON'S AVERAGE MONTHLY COMMISSIONS, EARNINGS, COMPENSATION OR PAYMENT, AS AN EMPLOYEE'S CONTRIBUTION, AS WELL AS PAY FOR AND REMIT FOR THE EMPLOYER'S CONTRIBUTION IN ACCORDANCE WITH SECTIONS 18 AND 19 OF THIS ACT.

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SECTION 3. *Implementing Rules* – Within (60) days after the effectivity of this Act, the Secretary of Labor and Employment is hereby mandated to issue its Implementing Rules.

SECTION 4. *Separability Clause*. – If any provision of this Act, or any parts thereof, is declared unconstitutional, the same shall not affect the validity and effectivity of the other portions.

SECTION 5. *Repealing Clause*. – All laws, executive orders, presidential decrees, proclamations, rules, regulations, issuances and enactments of parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 6. *Effectivity*. – This Act shall take effect fifteen (15) days from its complete publication in the official Gazette or in a newspaper of general circulation in the Philippines, whichever comes earlier.

APPROVED.