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POSITION PAPER

Center for Trade Union and Human Rights

in support of

HB 3370 or “An Act Regulating the Compensation of Public Utility Bus Drivers and Conductors By Requiring Bus Operators to Pay them Fixed Monthly Salaries and Providing Penalties of Violations thereof”

The Center for Trade Union and Human Rights (CTUHR) expresses its support to the HB 3370 to the need for bus drivers and conductors to have monthly fixed salaries and fixed working hours is not just imperative but urgent, but we also recommend some improvements of the Bill, to cover not only the aspects of wage and working hours but also other labour standards mandated by law to provide the bus drivers and conductors with better protection and dignity;

In addition, CTUHR recommends to this honourable committee that in considering the approval of the bill, the Committee also include a thorough review of other existing policies and practices prevalent in bus companies that constitutes violations of the existing laws, exacerbates the already poor working conditions in the industry and push the road accidents upward as a result thereof;

CTUHR position is based on the following:

1 Bus drivers and conductors’ working hours are excessively long that are detrimental to their physical, psychological and behavioural well being

HB 3370 already noted the 16-18 hours that bus drivers and conductors spend on the road. CTUHR would like to add, that in most cases, these workers in fact spend 20-22 hours on work, including the waiting time in the terminal before the first trip commence and another hour or two, to remit the income. These hours are in fact unpaid. This is common, particularly for reliever or contractual drivers or conductors wherein they do not have regular bus to drive. Almost always, they are required to report to terminal at 2:00-3:00 AM, much earlier than 4:00AM to be in the queue (normal first bus trip), some of them stay in the terminal for the night in the hope that they will be given bus to ride. When they are given work for the day, their last trip reaches terminal at 11:00pm, then remit the income, and officially end their work by 12:00MN. They rest for two to three hours and began their day again.

Even machine will not last in this kind of condition. These sub-humane working hours not only endanger the physical, psychological, and behavioural well-being of bus workers, but also the safety of the passengers and the public. Accidents are just one of the results and number gets alarming every day. Socially and family wise, CTUHR have received lots of complaints from families of drivers where children grow up without regularly seeing or knowing their fathers.

Thus, CTUHR reiterates that bus workers be included in the normal 8-hour work and be given a maximum limit of overtime to ensure that they are not subjected to fatigue, stress, depression or post traumatic disorder and other behavioural outcome such as alcoholism, excessive smoking and even drug use. This has been proven by 50 years of research on bus drivers made by an industrial psychologist in the United Kingdom.¹ In most countries in the world, bus drivers work only for an average of 38-42 hours or maximum of 53 hours a week as against 89-90 hours per week in the Philippines.

Reduction in working hours into two-eight hour work will increase employment of bus workers operators can employ two team of workers instead of one team of worker in double shift (16-20) hours. This will also help address the irony the unemployment state in our country, where there is high unemployment and yet we are also one of the countries with excessively long working hours.

2. **that monthly fixed salary, commensurate to the nature of work, i.e. include the risk involve and skills required in the calculation- must be legislated and implemented by the operators, instead of commission basis will undercut as HB 3370 noted, stiff competition amongst bus workers, and reduce accidents **

Having no fixed income and the drive to earn their living pushes bus workers to do everything they can or do the impossible to get passengers and raise their income. As what the group of drivers told CTUHR in one of the forums, *“kung sa terminal o sa inuman kami ay magkakapatid o magkakabarkadang magturingan, kapag sumampa na kami sa bus, higit pa kami sa magkakaaway, walang pakialam kung sino ang masagasaan’*. Like any other workers in manufacturing industry, this desire to earn more for their families is forcing drivers and conductors to accept the punitive long working hours at the expenses of their health.

Monthly fixed salary should not mean diminution of income or benefits of bus drivers and conductors, thus the amount should be calculated base on the risk involved and skills

¹ John L.M. Tse, , Rhona Flin and Kathryn Mearns, The Industrial Psychology Research Centre, School of Psychology, College of Life Sciences and Medicine, University of Aberdeen, King's College, Old Aberdeen AB24 2UB, Scotland, UK

required by the work, which means they should be paid higher than the current minimum wage earners. An industry-wage covering bus workers is highly recommended.

Whilst the race for higher income is a push factor in the stiff competition between and amongst bus workers, we would like to bring to the committee's attention and consideration, other contributing factors for the committee to examine and investigate as well:

- 2.1) bus company imposed quota on workers and failure to meet the quota means reduction in workers' income even if the reasons for such inability are not the workers' fault:

Bus workers are also complaining about what they called unfair quota system. Testimonies of workers that CTUHR spoke with that flooding, traffic jam, mechanical failure or breakdown which cause trip delays, less passengers all cause reduction in income, When they failed, they are paid even less than the prescribed minimum wage for workers.

- 2.2. other penalties that workers have to contend for traffic violations imposed by MMDA, LTO that are not often clear, such as extended dwell time in bus stops and loading and unloading passengers in prohibited places, - wherein fines are deducted from workers' commission.

- 2.3. In some companies, workers are also obliged to deposit or give a certain amount, previously minimum P50.day as 'Pondo' either for 'possible' damage they may cause on the vehicle, equipment or for unexplained purpose particularly imposed on contractual workers which is by law, tantamount to illegal deduction. Workers could not refuse payment as refusal will endanger their employment..

This compulsory deposit is in violation of ARTICLE 114 of the Labor Code of the Philippines. *Deposits for loss or damage, which clearly states the following:*

"No employer shall require his worker to make deposits from which deductions shall be made for the reimbursement of loss of or damage to tools, materials, or equipment supplied by the employer, except when the employer is engaged in such trades, occupations or business where the practice of making deductions or requiring deposits is a recognized one, or is necessary or desirable as determined by the Secretary of Labor and Employment in appropriate rules and regulations."

The 'Pondo' which for some companies serves as a sort of employment assurance for workers could also be a violation of ARTICLE 117. *Deduction to ensure employment, to wit:*

.” It shall be unlawful to make any deduction from the wages of any employee for the benefit of the employer or his representative or intermediary as consideration of a promise of employment or retention in employment”

In the light of the above, CTUHR recommends to this honourable committee to include a mechanism in the proposed bill to monitor and examine such practices of bus companies, such as the quota system, working hours, that give undue pressure to their workers which can negatively affect public safety.

CTUHR is also of view that this will also benefit the bus operators, as every accident avoided, is also a penalty avoided.

3. CTUHR would also to propose that in the light of broadening the protection for the bus workers, we would like to reiterate that bus workers should be covered by other benefits mandated by law and that strict enforcement be included in the Bill –

Although by law, they are supposedly covered by mandatory benefits such as Philhealth, SSS etc. enforcement of the law in the bus transport sector is extremely weak. CTUHR in has been receiving complaints and requests for assistance from workers in different bus companies that do not comply with the labour standards. In some cases, and similar to the other industries, bus companies do deduct the employees contribution from their workers, but they failed , whether it is intentional or unintentional, to remit the workers’ contributions as well as employers’ share to the respective agencies. Consequently, the workers income is further reduced.

On top of these, bus workers are also obliged to pay for repair (broken glass) or spare parts if certain untoward incidents happened on the road,

These practices are hardly monitored and addressed unless bus workers are organized, which unfortunately, unions are few and hardly survive in the bus industry,

4. Lastly, while it may not be a jurisdiction of this honourable committee, we would also like to recommend that the committee looks into the regulation and franchising rules and policies with regard to bus companies, specifically, if these affect working conditions and labour relations in the industry

There are too many buses in EDSA alone which tightens competition to the detriment of public health and safety, - a study of UP Professor estimates that there are

about 3,500 franchised buses and 1,500 colorum buses², even with the number coding scheme to reduce the volumes of buses, there remains more than a thousand buses plying EDSA alone competing for passengers that began to thin out after 9:30 in the morning until most part of the day. It is not hard to imagine that during the morning or the afternoon rush, the cut-throat competition resumes to meet the workers twin objectives; meet the quota and get higher share in income. This is also the time where accidents are higher.#

Eof

Presented by Ms. Daisy Arago, CTUHR Executive Director, at the Congressional Committee on Labor and Employment public hearing held on 10 August 2011, Mitra Hall, House of Representatives, Constitutional Hills, Quezon city

² "Towards and Environment Friendly Bus Transport along EDSA; Shared Growth and the Environment, a case of Urban Land Transportation", Dr. Edwin N. Quiros, Officer in Charge, Vehicle Research and Testing Laboratory, University of the Philippines, Diliman, QC, April 28, 2010