

Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Intramuros, Manila

DEPARTMENT ORDER NO. 118-12
Series of 2012

**RULES AND REGULATIONS GOVERNING THE EMPLOYMENT AND
WORKING CONDITIONS OF DRIVERS AND CONDUCTORS IN THE PUBLIC
UTILITY BUS TRANSPORT INDUSTRY**

Pursuant to the provision of Article 5 of the Labor Code of the Philippines, as amended, the following rules and regulations are hereby issued to ensure the protection and welfare of drivers and conductors employed in the public utility bus transport industry:

**RULE I
COVERAGE AND DEFINITION OF TERMS**

SECTION 1. Coverage. – This Rules shall apply to all public utility bus owners and/or operators employing drivers and conductors.

SECTION 2. Definition of Terms. – As used herein, the following terms shall mean:

- a) “**Minimum Wage**” refers to the lowest wage rate that an employer should pay his/her worker as fixed by the appropriate RTWPB of the NWPC.
- b) “**Fixed and Performance-based Compensation Scheme**” refers to compensation scheme for bus drivers and conductors wherein the fixed component shall be based on an amount mutually agreed upon by the owner/operator and the driver/conductor, which shall in no case be lower than the applicable minimum wage. The performance based component shall be based on safety performance, business performance and other related parameters.
- c) “**DOLE-RO**” refers to the Department of Labor and Employment- Regional Office.
- d) “**Public utility bus driver**” refers to a professional-licensed driver hired or paid to drive a public utility bus.
- e) “**Public utility bus conductor**” refers to a person hired or paid to serve as conductor in a public utility bus.
- f) “**Public utility bus operator**” refers to a person issued a Certificate of Public Convenience to operate a public utility bus by the Land Transportation Franchising and Regulatory Board.
- g) “**Ridership**” refers to the number of persons who ride the public utility bus transport system.

- h) **“Workplace”** refers to the office, premises or worksite, where the workers are habitually employed and shall include the place where the workers, who have no fixed or definite work site, regularly report for assignment in the course of their employment. For the public utility bus transport industry, workplace includes the bus, bus terminals, garage, and the company office.
- i) **“NWPC”** refers to the National Wages and Productivity Commission.
- j) **“RTWPB”** refers to the Regional Tripartite Wage and Productivity Board.
- k) **“NTIPC”** refers to the National Tripartite Industrial Peace Council.
- l) **“TESDA”** refers to the Technical Education and Skills Development Authority.
- m) **“OSHC”** refers to the Occupational Safety and Health Center.
- n) **“BWC”** refers to the Bureau of Working Conditions.
- o) **“NCMB”** refers to the National Conciliation and Mediation Board.
- p) **“LTO”** refers to the Land Transportation Office.
- q) **“LTFRB”** refers to the Land Transportation Franchising and Regulatory Board.
- r) **“MMDA”** refers to the Metropolitan Manila Development Authority.
- s) **“Kapatiran (WISE)-TAV Program”** refers to the Kapatiran Work Improvement in Small Enterprises-Technical and Advisory Visit.
- t) **“CBA”** refers to a Collective Bargaining Agreement.

RULE II
TERMS AND CONDITIONS OF EMPLOYMENT

SECTION 1: *Employment Agreement for Drivers and Conductors.* – There shall be an agreement in writing between the public utility bus owner/operator and the public utility bus driver and/or conductor, which shall include the following terms:

- a) Driver or conductor’s full name, date of birth or age, address, civil status, and SSS ID no.;
- b) Public Utility Bus owner’s/operator’s name and address;
- c) Place where and date when the employment agreement is entered into;
- d) Amount of the driver’s or conductor’s fixed wage and formula used for calculating the performance based compensation in accordance with Rule III (Compensation), as provided hereunder;

- e) Hours of work;
- f) Wages and wage-related benefits such as overtime pay, holiday pay, premium pay, 13th month pay and leaves;
- g) Social security and welfare benefits;
- h) Separation or retirement pay; and
- i) Other benefits under existing laws.

The public utility bus owner/operator shall provide the public utility bus driver/conductor the signed and notarized original copy of the agreement.

SECTION 2. Minimum Benefits. – The public utility bus drivers and conductors are entitled to the following benefits:

- a) Wages for all actual work during the normal work hours and days shall not be lower than the applicable minimum wage rates. Wages shall be paid at least once every two weeks or twice a month at intervals not exceeding 16 days;
- b) Twelve (12) Regular Holidays with pay pursuant to *Republic Act No. 9849 (An Act Declaring The Tenth Day of Zhul Hijja, The Twelfth Month of The Islamic Calendar, A National Holiday For The Observance of Eidul Adha, Further Amending For The Purpose Section 26, Chapter 7, Book I of Executive Order No. 292, Otherwise Known As The Administrative Code of 1987, As Amended)*. The driver/conductor shall be paid holiday pay of 100% of the minimum wage even if he/she does not report for work, provided he/she is present or is on leave of absence with pay on the workday immediately preceding the holiday. If the driver/conductor is required to work on said holiday, he/she shall be paid 200% of the minimum wage;
- c) Rest day of twenty-four (24) consecutive hours for every six (6) consecutive working days. If the driver/conductor is required to work on a rest day, he/she shall be paid an additional premium pay of 30% of the basic wage. If the driver/conductor is required to work on special days under Republic Act No. 9849, he/she shall also be paid an additional premium pay of 30% of the basic wage. Whenever work is performed on a rest day, which happens to be also a special day, he/she is entitled to an additional 50% of the basic wage;
- d) Overtime pay equivalent to at least 25% of the basic wage on ordinary days and 30% on regular holidays, special days and rest days for work beyond eight (8) hours per day;
- e) Night shift pay of an additional 10% of the basic wage for work between 10:00 pm and 6:00 am of the following day;
- f) Paid service incentive leave of five (5) days for every year of service;

- g) 13th month pay pursuant to Presidential Decree No. 851, as amended, which entitles the employee to receive an amount equivalent to 1/12 of the total basic salary earned within the calendar year, not later than 24 December of each year;
- h) Paid maternity leave of sixty (60) days for normal delivery or seventy eight (78) days for caesarian section delivery, pursuant to Republic Act No. 8282, otherwise known as the Social Security Act of 1997;
- i) Paid paternity leave of seven (7) days, pursuant to Republic Act No. 8187, otherwise known as Paternity Leave Act of 1996;
- j) Paid parental leave of seven (7) days for solo parents pursuant to Republic Act No. 8972, otherwise known as the Solo Parents' Welfare Act of 2000;
- k) Paid leave of ten (10) days for victims of violence against women and their children, pursuant to Republic Act No. 9262 otherwise known as the Anti-Violence Against Women and Their Children Act of 2004;
- l) Paid special leave for women who underwent surgery caused by gynecological disorders, pursuant to Republic Act No. 9710, otherwise known as the Magna Carta of Women; and
- m) Retirement pay upon reaching the age of sixty (60) or more, pursuant to Republic Act No. 7641.

SECTION 3. *Hours of Work and Hours of Rest.* – The normal hours of work of a driver and conductor shall not exceed eight (8) hours a day.

If the driver/conductor is required to work overtime, the maximum hours of work shall not exceed twelve (12) hours in any 24-hour period, subject to the overriding safety and operational conditions of the public utility bus.

Drivers and conductors shall be entitled to rest periods of at least one (1) hour, exclusive of meal breaks, within a 12-hour shift.

SECTION 4. *Right to Security of Tenure.* – Drivers and conductors shall enjoy security of tenure in their employment as provided by law. Their employment can only be terminated for just or authorized causes pursuant to the provisions of the Labor Code, as amended.

SECTION 5. *Observance of Required Standards of Due Process; Requirements of Notice.* - In all cases of termination of employment, the standards of due process laid down in the Labor Code, as amended, and settled jurisprudence on the matter, must be observed. Thus, the following is hereby set out to clarify the standards of due process that must be observed:

- a) For termination of employment based on just causes as defined in the Code, the requirement of two written notices served on the employee shall observe the following:

1. The first written notice should contain:

- 1.1 The specific causes or grounds for termination;
- 1.2 Detailed narration of the facts and circumstances that will serve as basis for the charge against the employee. A general description of the charge will not suffice;
- 1.3 The company rule, if any, that is violated and/or the ground that is being charged against the employee; and
- 1.4 A directive that the employee is given opportunity to submit a written explanation within a reasonable period.

“Reasonable period” should be construed as a period of at least five (5) calendar days from receipt of the notice to give the employee an opportunity to study the accusation, consult a union official or lawyer, gather data and evidence, and decide on the defenses against the complaint.

2. After serving the first notice, the employer should afford the employee ample opportunity to be heard and to defend himself/herself with the assistance of his/her representative if he/she so desires, as provided in Article 277(b) of the Labor Code, as amended.

“Ample opportunity to be heard” means any meaningful opportunity (verbal or written) given to the employee to answer the charges against him/her and submit evidence in support of his/her defense, whether in a hearing, conference or some other fair, just and reasonable way. A formal hearing or conference becomes mandatory only when requested by the employee in writing or substantial evidentiary disputes exist or a company rule or practice requires it, or when similar circumstances justify it.

3. After determining that termination of employment is justified, the employer contractor shall serve the employee a written notice of termination indicating that: (1) all circumstances involving the charge against the employees have been considered; and (2) the grounds have been established to justify the severance of their employment.

The foregoing notices shall be served on the employee’s last known address.

- b) For termination of employment based on authorized causes defined in Article 283 of the Labor Code, the requirement of due process shall be deemed complied with upon service of a written notice to the employee and the appropriate regional office of the Department of Labor and Employment at least thirty days before the effectivity of the termination, specifying the ground or grounds for termination.
- c) If the termination is brought about by the completion of the contract or phase thereof, no prior notice is required. If the termination is brought about by the failure of a probationary employee to meet the reasonable standards of the employer, which was made known to the employee at the time of his/her employment, it shall be sufficient

that a written notice is served upon the employee within a reasonable time prior to the expiration of the probationary period.

SECTION 6. *Right to Self-Organization and Collective Bargaining.* – Drivers and conductors shall have the right to form, join or assist in the formation of a labor organization, association, or cooperatives of their own choice for purposes of collective bargaining or for mutual aid or protection.

RULE III COMPENSATION

SECTION 1. *Fixed and Performance Based Compensation Scheme.* – Bus owners and/or operators shall adopt a mutually-agreed upon “part-fixed, part-performance” based compensation scheme for their bus drivers and conductors.

SECTION 2. *Method of Determining Compensation.* – Bus owners and/or operators, in consultation with their drivers and conductors shall determine the following:

- a) The fixed component shall be based on an amount mutually agreed upon by the owner/operator and the driver/conductor, which shall take into account minimum ridership requirement and in no case be lower than the applicable minimum wage for work during normal hours/days. They shall also be entitled to wage related benefits such as overtime pay, premium pay and holiday pay, among others.
- b) The performance-based component shall be based on safety performance and business performance such as ridership, revenues/profitability, and other related parameters.

SECTION 3. *Operational Guidelines.* The NWPC shall develop operational guidelines to implement the part-fixed, part performance-based compensation scheme including the formula that should be used by public utility bus companies within fifteen (15) days after publication of this Rules.

SECTION 4. *Submission of Proposed Compensation Scheme.*– All public utility bus owners and/or operators shall submit a proposed compensation scheme, mutually agreed upon with their drivers/conductors, to the appropriate RTWPB for information and reference purposes based on Rule III, Section 2 of this Rules, within sixty (60) days after the effectivity of this Order.

RULE IV OCCUPATIONAL SAFETY AND HEALTH

SECTION 1. *Occupational Safety and Health Policy and Program.*– The bus owners and/or operators shall adopt, implement and promote occupational safety and health programs consistent with the provisions of the Occupational Safety and Health Standards (OSHS) and other related DOLE issuances to include the prevention and control of tuberculosis, HIV and AIDS, hepatitis B and drugs in the workplace.

The bus owners and/or operators shall also implement and promote workplace policies and programs on Anti-Smoking, Anti-Sexual Harassment and Disaster and Climate Risk Reduction.

SECTION 2. *Safety and Health Committee.* – A Safety and Health Committee shall be organized by the bus owner/s and/or operators in accordance with existing OSH Standards.

SECTION 3. *Operational Guidelines.* The BWC and the OSHC shall develop a Safety and Health Manual for the Bus Industry within fifteen (15) days after publication of this Rules.

RULE V SOCIAL PROTECTION

SECTION 1. *Social Welfare Benefits.* – Without prejudice to established company policy, collective bargaining agreement or other applicable employment agreement, all bus drivers and conductors shall be entitled to coverage for social welfare benefits such as Pagibig Fund (Republic Act No. 7742), PhilHealth (Republic Act No. 7875, as amended by Republic Act No. 9241), Employees' Compensation Law (Presidential Decree No. 626), Social Security Law (Republic Act No 1161 as amended by Republic Act No. 8282) and other applicable laws.

The cost of health services for the illnesses and injuries suffered by the driver and conductor shall be covered by mandatory social welfare programs under existing laws.

RULE VI TRAINING AND DEVELOPMENT

SECTION 1. *Assessment and Certification.* – The TESDA, in coordination with the OSHC, the LTO, the LTFRB and the MMDA shall implement an assessment and certification program for professional drivers. The assessment will focus on knowledge, attitude and skills.

SECTION 2. *Driver Proficiency Standards.* – The TESDA shall work closely with LTFRB in the implementation of its Department Order No. 2011-25 "Inclusion of Driver Proficiency Standard as Additional Requirement in the Exercise of the Regulatory Powers of LTFRB to Issue Certificates of Public Convenience (CPC)". Applicants for CPCs shall present sufficient proof and submit a list of its drivers who are duly certified by the TESDA.

RULE VII LABOR-MANAGEMENT SCHEMES

SECTION 1. *Labor-Management Schemes.* – The National Conciliation and Mediation Board (NCMB) shall encourage and assist public utility bus companies in creating a labor management committee or any labor management mechanism that shall be composed of representatives from management and drivers/conductors. The committee is tasked to develop and implement labor-management schemes and welfare programs for the workers.

RULE VIII COMPLIANCE AND ENFORCEMENT

SECTION 1. *Enforcement of Labor Standards.* – Compliance with minimum wages, wage-related benefits, hours of work and occupational safety and health standards shall be enforced by the appropriate DOLE-RO having jurisdiction over the principal office of the bus owner / operator in accordance with the prescribed rules and regulations.

Consistent with Article 128 (Visitorial and Enforcement Power) of the Labor Code, as amended, the Regional Director through his/her duly authorized representatives, shall conduct routine inspection of the workplace and shall also have access to employer's records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and investigate any fact, condition or matter which may be necessary to determine violations or which may aid in the enforcement of the Labor Code and of any labor law, wage order, or rules and regulations issued pursuant thereto.

The findings of the duly authorized representative shall be referred to the Regional Director for appropriate action as provided for in Article 128, and shall be furnished the collective bargaining agent, if any.

Based on the visitorial and enforcement power of the Secretary of Labor and Employment in Article 128 (a), (b), (c), and (d), the Regional Director shall issue compliance orders to give effect to the labor standards provisions of the Labor Code, other labor legislation, and this Rules.

SECTION 2. *Enrollment in DOLE programs on improving compliance with labor standards.* - For purposes of ensuring compliance with labor standards, public utility bus owners and/or operators and drivers and conductors covered by this Rules are encouraged to enroll and participate in the DOLE Kapatiran Work Improvement for Small Enterprise (WISE)-TAV Program (Department Advisory No. 06, dated 07 March 2011) and/or in the Incentivizing Compliance Program (Department Order No. 115-11).

SECTION 3. *Violations of Employment Agreement.* – Any violation of the provisions of the employment agreement uncovered during the conduct of inspection, as well as complaints filed relative to the other provisions of this Rules, shall be resolved through the disposition of labor case procedures and conciliation-mediation services of the DOLE pursuant to Department Order No. 107, series of 2010, as may be applicable.

SECTION 4. *Failure to Comply/Restitute.* – In case of violations committed by bus owners/operators and failure to comply or correct such violations, the DOLE shall coordinate with the LTFRB on the matter for appropriate action, including possible cancellation of franchise after due process.

SECTION 5. *Tripartite Monitoring Body.* – A region-based tripartite monitoring body shall be constituted within thirty (30) days from the effectivity of this Rules. It shall submit a quarterly regional monitoring report to the DOLE Secretary and to the National Tripartite Industrial Peace Council (NTIPC).

**RULE IX
MISCELLANEOUS PROVISIONS**

SECTION 1. *Transitory Provisions.* – This Rules shall initially cover the public utility bus transport companies exclusively serving or plying Metro Manila routes and shall apply to other public utility bus companies by July 2012.

In the first six months but not later than one year from the effectivity of this Rules, the provisions herein stated shall be liberally construed to enable compliance by the public utility bus companies.

SECTION 2. *Operational Guidelines.* Operational guidelines to implement this Rules shall be issued by concerned DOLE agencies (i.e., BWC, OSHC, NCMB, and TESDA) within fifteen (15) days after its publication.

SECTION 3. *Technical Assistance to Public Utility Bus Transport Companies.* – Public utility bus operators may request for technical assistance from concerned DOLE agencies in the implementation of this Rules.

SECTION 4. *Non-diminution of Benefits.* – Nothing herein shall be construed to authorize diminution of benefits being enjoyed by the bus drivers and conductors at the time of the issuance hereof.

SECTION 5. *Effect on Existing Company Policy, Contracts or CBAs.* – The minimum benefits provided in this Rules shall be without prejudice to any company policy, contract, or Collective Bargaining Agreement (CBA) providing better terms and conditions of employment.

SECTION 6. *Repealing Clause.* – All policies, issuances, rules and regulations and agreements inconsistent with this Rules are hereby repealed or modified accordingly.

SECTION 7. *Effectivity.* – This Order shall take effect fifteen (15) days upon its publication in a newspaper of general circulation.

Manila, Philippines, 13 January, 2012.


ROSALINDA DIMAPILIS BALDOZ
Secretary