

**NINETEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session**

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Senate
Office of the Secretary

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SENATE

S.B. No. 1373

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INTRODUCED BY SENATOR RISA HONTIVEROS

**AN ACT
REGULATING WORK MEDIATED, ORGANIZED, OR ALLOCATED THROUGH
ONLINE PLATFORMS FOR THE PROTECTION OF PHILIPPINE WORKERS IN THE
GIG ECONOMY**

EXPLANATORY NOTE

The so-called "Gig Economy" commonly refers to work mediated, organized, or allocated through an online platform, the objective of which is to contract out the performance, on demand, of specific services. This work usually involves three parties, namely the online platform provider, the end-user or customer, and the online platform worker. The Gig Economy is also characterized by the use of algorithmic management systems to remotely manage workers, and enable automated or semi-automated monitoring, supervision, evaluation, and decision-making.

In the Philippines, as stated in a report published by Fairwork, a large number of workers moved to platform or gig economy work during the height of the COVID-19 pandemic. In 2020, this led to revenues of USD 625 M for the ride-hailing sector, and USD 1.2 B in gross sales for food delivery businesses, respectively. However, because gig economy workers are commonly classified as independent contractors or self-employed by online platform providers, they have struggled to access social protection programs and other benefits guaranteed by law to regular employees.

Moreover, because work conditions in the gig economy are oftentimes precarious, workers in this sector are often adversely and disproportionately affected by economic shocks and the uncertain regulatory environment.

Thus, in accordance with the Constitutional mandate of the government to afford protection to labor, promote full employment, and regulate the relations between workers and employers, there is an urgent need to establish clear and comprehensive regulatory standards to ensure that workers performing services mediated or organized by way of digital labor platforms are provided with access to social protection programs; treated in a fair, transparent, and non-discriminatory manner; and allowed to freely exercise all of the rights guaranteed by the Constitution and applicable law, regardless of their employment status.

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

RISA HONTIVEROS
Senator

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

1 SECTION 1. *Title.* – This Act shall be known as the "*Protektadong Online Workers,*
2 *Entrepreneurs, Riders at Raketara ("POWERR") Act of 2022.*"

3 Sec. 2. *Declaration of Policy.* - It is the policy of the state to afford protection to
4 labor, promote full employment, and regulate the relations between workers and
5 employers. Towards this end, the State shall establish clear and comprehensive
6 regulatory standards to ensure that workers performing services mediated, organized, or
7 allocated by way of digital labor platforms are provided with access to social protection
8 programs; treated in a fair, transparent, and non-discriminatory manner; and allowed to
9 freely exercise all of the rights guaranteed by the Constitution and applicable law,
10 regardless of their employment status.

11 Sec. 3. *Coverage.* - This Act shall cover workers performing platform work, or
12 services within the Philippines mediated, organized, or allocated through the use of online
13 platforms, regardless of their employment status.

14 Sec. 4. *Definition of Terms.* – As used in this Act, the following terms shall be defined
15 as follows:

16 (A) The term "Online Platform" shall refer to a digital service that facilitates
17 interactions between two or more distinct but interdependent sets of users, whether
18 persons or juridical entities, who interact through the service by way of the Internet.

19 (B) The term "Platform Work" shall refer to paid work mediated, organized, or
20 allocated through an Online Platform, involving three parties, namely the online platform
21 provider, the end-user or customer, and the worker, the objective of which is to contract
22 out the performance, on demand, of specific services.

1 (C) The term "Online Platform Provider" shall refer to the person or juridical entity
2 who owns, manages, or operates an Online Platform that mediates, organizes, or
3 allocates the performance of specific services within the Philippines for end-users or
4 customers.

5 (D) The term "Online Platform Worker" shall refer to workers performing specific
6 services mediated, organized, or allocated by an Online Platform, regardless of
7 employment status under Philippine law.

8 (E) The term "Algorithmic Management System" shall refer to technological tools
9 and techniques used to remotely manage workers, relying on data collection and
10 surveillance to enable automated or semi-automated monitoring, supervision, evaluation,
11 and decision-making.

12 *Sec. 5. Determination of Employment Status.* Pursuant to this Act, the Department
13 of Labor and Employment ("DOLE") shall issue rules for the purpose of ensuring that
14 Online Platform Workers who would otherwise be classified as regular employees under
15 Philippine law, are not misclassified as independent contractors, self-employed, or any
16 other classification falling outside the ambit of an employer-employee relationship.

17 For this purpose, the correct determination of the employment status should be
18 guided primarily by the facts relating to the actual performance of work, and not by how
19 the relationship between the Online Platform Worker and Online Platform Provider is
20 contractually defined, taking the following circumstances into account: the selection and
21 engagement of the employee; the payment of wages and other benefits; the power of
22 dismissal; and the power to control the employee's conduct as to both the end achieved
23 and the manner and means used to achieve that end.

24 *Sec. 6. Regulatory Standards for Online Platform Workers* – The State shall ensure
25 that the following regulatory standards are observed *vis-à-vis* the services performed by
26 Online Platform Workers:

27 (A) *Written Agreement.* The agreements between the Online Platform Worker and
28 the Online Platform Provider shall specify, at the minimum, a description of the specific
29 services to be performed by the Online Platform Worker as well as the other terms and
30 conditions of the engagement; the rate and method of compensation; and the name and
31 registered address of the Online Platform Provider or, in the case of a foreign Online
32 Platform Provider, the name and address of its local representative. In the absence of a
33 written agreement, any written exchange or proof of submission and receipt of completed
34 services, whether electronic or printed, shall be sufficient basis for claiming compensation
35 or any other form of redress. Any provision purporting to waive any of the rights provided
36 under this Act shall be void as against public policy. Online Platform Providers shall publish

1 through their webpages and apps, or otherwise make available to the public, the full text
2 of all current and previous written agreements entered into with Online Platform Workers.

3 (B) *Equitable Compensation.* Online Platform Workers shall be entitled to
4 compensation not less than the minimum wage provided under Philippine law, computed
5 on an hourly or per-task basis, considering the specific services mediated, organized or
6 allocated by the Online Platform Provider, as well as the depreciation of any equipment
7 owned by the Online Platform Worker used in the performance of said services. If the
8 rate or price for the specific service to be performed is regulated by a government agency,
9 said agency shall ensure that these rates or prices are set or updated in a timely manner
10 for the purpose of ensuring that Online Platform Workers are equitable compensated.
11 Once performance of the service has commenced, no Online Platform Worker shall be
12 required to accept less than the specified or agreed contract price, as a condition for the
13 payment of the service or work rendered. No deduction shall be made on the agreed
14 contract price or compensation, unless the parties have agreed otherwise, or such
15 deduction is on account of payment of applicable taxes or social protection program
16 contributions.

17 (C) *Transparency in the Use of Algorithmic Management Systems.* Online Platform
18 Providers shall provide adequate written or published notice to the Online Platform
19 Workers performing the services organized, mediated, or allocated by their Online
20 Platforms of the use and key features of their Algorithmic Management Systems, including
21 information on the automated monitoring systems used to monitor, supervise or evaluate
22 their work performance, and the automated decision-making systems used to take or
23 support decisions significantly affecting their working conditions. The information to be
24 provided shall include the categories of actions monitored, supervised and evaluated, and
25 the main parameters that such systems take into account for automated decisions. The
26 operation of Algorithmic Management Systems shall be placed under human oversight
27 and supervision in such a way as to ensure that they do not put undue pressure on Online
28 Platform Workers, or otherwise put their physical and mental health at risk. In accordance
29 with applicable law, Online Platform Workers shall also have the right to request a copy
30 of any stored or retained data related to the worker's engagement with the Online
31 Platform Provider. For regulatory purposes, Online Platform Providers shall store or retain
32 the data produced or processed by their Algorithmic Management Systems for a period
33 of at least five (5) years, and provide the government with access to, and copies of, said
34 data upon request.

35 (D) *Due Process.* Online Platform Workers shall have the right to information related
36 to any decision or action taken by an Online Platform Provider, whether or not taken or

1 supported by an Algorithmic Management System, affecting their continued engagement
2 with the Online Platform Provider or their working conditions. For this purpose, the Online
3 Platform Provider shall provide Online Platform Workers with the opportunity to clarify
4 the facts, circumstances, and reasons for such decisions with a human contact person.
5 The Online Platform Provider shall also provide the Online Platform Worker with a written
6 statement of the basis for any decision to restrict, suspend or terminate the worker's
7 engagement, refuse compensation for services or performed, or affecting the worker's
8 contractual status. Any dispute arising under this Act shall be cognizable by the DOLE,
9 which shall promulgate the rules and regulations necessary therefor. Online Platform
10 Workers filing complaints pursuant to this Act shall be provided with immediate protection
11 against adverse treatment or discrimination from the Online Platform Providers involved.

12 (E) *Portability of Social Protection Programs.* Online Platform Providers shall ensure
13 that Online Platform Workers are enrolled with the Philippine Health Insurance
14 Corporation ("PhilHealth"), Social Security System ("SSS"), Home Development Mutual
15 Fund ("Pag-IBIG"), and all other applicable social protection programs managed or
16 administered by the government. For this purpose, in accordance with the rules
17 promulgated to implement this Act, a portion of each amount collected by an Online
18 Platform Provider shall be used to pay the social protection program contributions of the
19 Online Platform Worker performing the services involved. The government agencies and
20 instrumentalities administering or managing the relevant public social protection
21 programs shall ensure that these amounts are credited to the proper Online Platform
22 Worker, whatever Online Platform the said amounts may have been sourced from.

23 (F) *Right to Organize.* Online Platform Workers shall have the right to self-
24 organization, to collectively bargain and negotiate with Online Platform Providers, and to
25 engage in peaceful concerted activities. Online Platform Providers shall not discriminate,
26 or take any adverse action against, Online Platform Workers for exercising these rights,
27 or any of the other rights provided in this Act. Organizations of Online Platform Workers,
28 including unions, cooperatives, social and solidarity economic units, shall have the right
29 to freely function and act as the representatives of their members in policy and decision-
30 making processes, collective negotiations, and other similar bodies and processes in the
31 context of tripartism, as well as establish, join or affiliate with local unions, national and
32 international federations and organizations as a protected and supported right.

33 (G) *Occupation Safety and Health Standards.* Online Platform Providers shall ensure
34 that the performance of the services organized, mediated, or allocated by their online
35 platforms do not put the safety and health of the Online Platform Workers performing
36 these services at risk. Online Platform Providers shall be liable in the concept of an

1 employer for injuries sustained by Online Platform Workers arising from the performance
2 of above-described services.

3 (H) *Non-discrimination.* Discrimination, particularly in the recruitment and selection
4 of workers and the granting of emoluments and benefits, on the sole basis of religion,
5 race, color, marital status, age, disability, sexual orientation, gender identity and
6 expression shall be prohibited; *Provided*, that any distinction, exclusion or preference in
7 respect of a particular job based on the inherent requirements shall not be deemed to be
8 discrimination; *Provided further*, that a maternity benefit shall be provided to female
9 Online Platform Workers upon childbirth in a manner and amount determined by the SSS
10 pursuant to paragraph € of this Section.

11 *Sec. 7. Construction in Favor of Online Platform Workers.* All doubts in the
12 implementation of this Act, including its implementing rules and regulations, as well as in
13 contracts between the Online Platform Workers and the Online Platform Providers, shall
14 be resolved in favor of the Online Platform Workers.

15 *Sec. 8. Application of the Labor Code.* The provisions of the Labor Code, particularly
16 on general labor standards and occupational safety and health standards, shall apply to
17 work arrangements under this Code. Other provisions of the Code shall apply in
18 suppletory manner where applicable.

19 *Section 9. Implementing Rules and Regulations* – Within sixty (60) days from the
20 effectivity of this Act, the DOLE, Department of Information and Communications
21 Technology, and Department of Transportation shall promulgate the implementing rules
22 and regulations as may be necessary to carry out the provisions of this Act.

23 *Sec. 10. Separability Clause.* – If any provision of this Act or the application thereof
24 to any person or circumstance is declared invalid or unconstitutional, the other provisions
25 or sections of this Act and the application of such provision or section to other persons
26 or circumstances, not affected thereby shall continue to be in full force and effect.

27 *Sec. 11. Repealing Clause.* – All laws, presidential decrees or issuances, executive
28 orders, letters of instruction, administrative orders, rules or regulations contrary to or
29 inconsistent with the provisions of this Act are hereby repealed, modified or amended
30 accordingly.

31 *Sec. 12. Effectivity.* – This Act shall take effect fifteen (15) days after its publication
32 in the Official Gazette or in a newspaper of general circulation.

33 Approved,
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