

26 June 2020

REP. WESLIE GATCHALIAN

Chairperson

Committee on Trade and Industry

House of Representatives

3/F Annex Building, House of Representatives, Quezon City

Dear Rep. Gatchalian:

We are pleased to submit the Department's comments and recommendations on the **House Bill No. 6958**, entitled:

“An Act Providing Protection to Individuals Engaged in the Food and Grocery Delivery Services”

This is without prejudice to the Department's submission of additional comments.

With my best regards.

Very truly yours,


RAMON M. LOPEZ
Secretary



OFFICE OF THE SECRETARY

DTI Position on:

House Bill No. 6958

“An Act Providing Protection to Individuals Engaged in the Food and Grocery Delivery Services”

The Department recognizes the noble intention of the proposed legislation that seeks to protect the interests of food and grocery delivery riders who constantly risk their lives to provide alternative ways of procuring meals and groceries for Filipino consumers. In an era where social distancing and staying at home are part of the new normal, the efficiency, comfort, and security these services provide are often overlooked, underappreciated, and sometimes taken for granted. Thus, DTI supports the enactment of the bill that seeks to strengthen the protection of these workers and at the same time penalize those who seek to abuse and exploit the system.

Although data on the actual usage of these delivery services per household have yet to be measured, online platforms like Lazada reported that its grocery delivery service increased by 15 times during the enhanced community quarantine (ECQ).¹ Maybank also stated that with the new normal, online food delivery is expected to rise as limitations in people’s mobility and strict social distancing measures are continuously being implemented.²

As the risk of contracting COVID19 is high for these delivery riders and their families, it is only proper to put measures that will safeguard their livelihood and income. Although these workers might not be covered by the Labor Code due to the nature of their employment, certain laws provide them protection from unscrupulous and deceitful practices. Under the Civil Code of the Philippines, Article 1305 clearly states that:

“A contract is a meeting of minds between two persons whereby one binds himself, with respect to the other, to give something or to render some service.”

It is furthered by Article 1318 of the same code which elaborates that:

“There is no contract unless the following requisites concur:

- (1) Consent of the contracting parties;***
- (2) Object certain which is the subject matter of the contract;***

¹ ABS-CBN News. (2020, April 16). *Lazada: Grocery demand grew 15 times during lockdown*. Retrieved June 23, 2020, from <https://news.abs-cbn.com/business/04/16/20/lazada-grocery-demand-grew-15-times-during-lockdown>

² De Vera, B. O. (2020, April 21). *PH e-commerce gains during COVID-19 lockdown*. Retrieved June 23, 2020, from <https://business.inquirer.net/295234/ph-e-commerce-gains-during-covid-19-lockdown>

(3) Cause of the obligation which is established.

From the provisions stated above, it can be inferred that a contract is formed once a user orders through the platform and the delivery rider agrees to purchase and deliver the goods. Thus, enacting laws that will also protect these individuals will be vital and prerequisite towards a healthy and inclusive electronic commerce (e-commerce).

The following are the Department's comments/recommendations on the matter:

Stipulations Under House Bill No. 6958	DTI Comments and Recommendations
<i>Section 2. Definition of Terms</i>	On the definition of <i>e. Confirmed Orders</i> , it must be clarified and spelled-out that confirmed orders are sent via the Service Provider's application and not directly to the Delivery Rider.
<i>Section 3. Prohibited Acts</i>	<p>The provision regarding pranking or those customers who have no intention of availing the service in the first place can already be generalized as those customers cancelling orders. Hence, it would be better to state it as such since it already makes it illegal to cancel orders when delivery service providers are already <i>en route</i> or have already paid for the orders, whatever the reason the customers may provide.</p> <p>This will ensure and promote responsibility to people ordering online, and in the long run, promote trust in e-commerce.</p>
<i>Section 4. Exception</i>	The DTI supports the third provision that allows customers to decline orders that are delayed for at least one (1) hour from the expected time of arrival, unless the rider or the delivery application specifies, before finalizing the order, that there will be delay in the service delivery due to certain conditions such as i.e. bulk orders, natural calamity (typhoon, earthquake, etc.), lack of drivers, surge, which happens at certain times of day or when there are national events or occasions being celebrated.

<p><i>Section 5. Penalties</i></p>	<p>The Department opines that imposing both <i>Prisión mayor</i> (six years and one day to twelve years) and <i>Prisión correccional</i> (six months and one day to six years)³ may be too severe.</p> <p>We believe that imposing fines and compensating the aggrieved parties will suffice as punishment for violators. The fines can be cumulative based on the number of offense committed to discourage repeat offenders. Furthermore, permanently banning the accounts, including the phone number or device used, the social media account linked, and the email can also help cull out individuals with ill intent to defraud the service.</p> <p>We also recommend moving this specific provision before the <i>Section 9. Separability Clause</i>.</p>
<p><i>Section 6. Application of Other Laws</i></p>	<p>The Punishable Acts enumerated under Republic 10175 or the Cybercrime Prevention Act of 2012 do not cover the proposed violation identified in this proposed bill. We also note that this proposed legislation may best make reference to the Republic Act No. 8792 or the Electronic Commerce Act of 2000.</p>
<p><i>Section 7. Role of Food and Grocery Delivery Services Provider</i></p>	<p>The Department supports this provision that promotes responsibility of online platforms to their riders. However, the provision must clearly identify the needed evidence or proof that must be presented by the delivery riders to reimburse their loss (i.e. screenshots of conversation, receipt, etc.). Other recommendations include:</p> <ul style="list-style-type: none"> • Establishment of a reimbursement mechanism that will compensate the Delivery Rider's payment to the business establishment and his commission from the online platform; and • Creation of an ethics committee to orient and prevent the delivery riders from posting on their personal social media account the confidential information of the person they are transacting with. This practice may lead to identity theft and cyberbullying.

³ Revised Penal Code accessed at: <https://www.officialgazette.gov.ph/1930/12/08/act-no-3815-s-1930/>

<p><i>Sec. 8. Mandatory requirement for proof of identity and residential address</i></p>	<p>We recognize the intention of this provision to protect the interests of the riders to be compensated for their loss of income. However, safeguards should also be put into place to ensure that the data and information of customers are also protected and used for the intended purpose. Data leakage has happened even to big companies such as Apple, Facebook, and Sony that made their customers prone to identity theft.</p> <p>It would also be prudent to first assess the number of malicious cancellation cases vis-à-vis the total number of deliveries to provide information on whether stringent data collection is really the answer to the problem.</p> <p>Moreover, we wish to submit our specific comments on this provision, as follows:</p> <ul style="list-style-type: none">• The companies should adhere to the principles of transparency, legitimate purpose, and proportionality in processing personal data as spelled-out in Section 18 of the Implementing Rules and Regulations of the Data Privacy Act of 2012; and• On the consideration of the users' ability to provide identification requirement, it needs to be guaranteed that users or customers provide valid and legitimate identification cards and not counterfeit IDs as proof of identity. <p>Finally, the collection of user's data is covered by the Data Privacy Act and we defer to the National Privacy Commission (NPC) for more detailed comments on this provision.</p>
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The Department wishes to reiterate its support to the provisions of the bill that aim to protect food and grocery delivery service providers from unscrupulous practices of online delivery platforms users. The DTI believes that in order to attain a healthy and reliable e-commerce ecosystem, trust between consumers and service providers must first be fostered and institutionalized.



Bureau of Trade and Industrial Policy Research

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