

***On the Mandatory Requirement of Drug Test for Applicants of
Professional and Non-Professional Driver's Licenses***

Memorandum Circular EM-MA-01338 of the Land Transportation Office (LTO), dated 19 July 2001, was issued to require all applicants for driver licenses to operate any motor vehicle to show a negative drug test laboratory report, with a validating period of 15 days before their license is issued. The Circular is effective on 04 September 2001. The Circular cites Section 22 of Republic Act No. 4126, as amended by Batas Pambansa Blg. 398, which provides that:

"Every person who desires to personally operate any motor vehicle shall file an application to the Director or his deputies for a license to drive motor vehicles. Provided, however, that no person shall be issued a professional driver's license who is suffering from contagious diseases and epilepsy or who is an alcohol or drug addict or dependent." (Underscoring supplied)

Inquiries have been made from the media and public as to whether the mandatory requirement of drug test violates the human rights of liberty of applicants for driver's license.

The issuance of driver's license is not a right but only a privilege. It is a privilege granted only to qualified persons of sufficient age who have the capacity to operate a motor vehicle which is not only for the safety of the driver but also of persons using public highways. The license to drive can be validly suspended or withdrawn on grounds provided for under Section 27 of Republic Act No. 4136 as amended, known as the "Land Transportation and Traffic Code." With the increasing incidents of drug addicts and the possibility of violating the law, the State in its exercise of police power may validly impose restriction or limitation on the applicant's driver's license to those who are afflicted with drug addiction.

The State Parties to the International Covenant on Economic, Social and Cultural Rights recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society. (*Article 4, International Covenant on Economic, Social and Cultural Rights*)

Police power is the right of the State, or a state functionary, to prescribe regulations for the good order, peace, health, protection, comfort, convenience and morals of the community, which do not violate any of the provisions of the organic law.

The name to that inherent sovereignty which it is the right and duty of the government or its agent to exercise whenever public policy in a broad sense, demands, for the benefit of society at large, regulation to guard its morals, safety and health, order or ensure in any respect such economic conditions as an advancing civilization of a high complex character requires. (*Churchill v. Rafferty, 32 Phil 603*)

In view thereof, we find that the aforesaid Memorandum Circulars is not violative of any human rights. On the other hand, it is consistent with the primary intention of screening out unfit applicants from securing any license to drive in order to minimize if not totally prevent untoward vehicular accidents that often result in serious injuries/damages to lives and properties, all applicants for driver's license will comply with the following rules and regulations.

In order not to unduly delay the issuance of driver's licenses, steps should be taken by the Land Transportation Office to see to it that drug laboratory tests be made available near the premises of all its offices to facilitate drug tests required. The drug test should be at no cost or at least for minimal fees.

Quezon City, 20 August 2001

