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SENATE

S. B. No. 3590

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Prepared jointly by the Committees on Labor, Employment and Human Resources Development and Youth Women and Family Relations in substitution of S. B. Nos. 378, 529 and 802 with Senators Ejercito Estrada, Revilla and Madrigal as authors thereof

AN ACT

EXPANDING THE PROHIBITED ACTS OF DISCRIMINATION AGAINST WOMEN ON ACCOUNT OF SEX, AMENDING FOR THE PURPOSE ARTICLES 135 AND 137 OF PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES

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

1 **SECTION 1.** Article 135 of Presidential Decree No. 442, as amended.
2 otherwise known as the Labor Code of the Philippines, is hereby further
3 amended to read as follows:

4 "ART. 135. *DISCRIMINATION PROHIBITED* - It shall be unlawful
5 for any employer to discriminate against any woman employee with
6 respect to terms and conditions of employment solely on account of
7 her sex.

8 The following are acts of discrimination:

9 (a) Payment of a lesser compensation, including wage, salary
10 or other form of remuneration and fringe benefits, to a female
11 employee as against a male employee, for work of equal value;
12 [and]

13 (b) Favoring a male employee over a female employee with
14 respect to promotion, **ASSIGNMENT**, training opportunities, study
15 and scholarship grants solely on account of their sexes [.] **AND**

16 **(C) GIVING PREFERENCE TO A MALE EMPLOYEE OVER**
17 **A FEMALE EMPLOYEE IN THE HIRING PROCESS, WHETHER**
18 **THROUGH NOTICES, ANNOUNCEMENTS, OR**
19 **ADVERTISEMENTS FOR EMPLOYMENT AND**
20 **APPRENTICESHIP OR IN THE ACTUAL RECRUITMENT,**
21 **HIRING OR EMPLOYMENT OF WORKERS WHERE THE**
22 **PARTICULAR JOB CAN BE EQUALLY HANDLED BY A WOMAN,**
23 **AND**

24 **(D) FAVORING A MALE EMPLOYEE OVER A FEMALE**
25 **EMPLOYEE WITH RESPECT TO DISMISSAL OF PERSONNEL**
26

1 **OR THE APPLICATION OF THE FIRST IN – FIRST OUT OR**
2 **OTHER RETRENCHMENT POLICY OF THE EMPLOYER”.**

3 Criminal liability for the willful commission of any unlawful
4 act as provided in this article or any violation of the rules and
5 regulations issued pursuant to Section 2 hereof shall be penalized as
6 provided in Articles 288 and 289 of this Code: *Provided*, That the
7 institution of any criminal action under this provision shall not bar
8 the aggrieved employee from filing an entirely separate and distinct
9 action for money claims, which may include claims for damages and
10 other affirmative relief. The actions hereby authorized shall proceed
11 independently of each other.”

12 **SEC. 2.** Article 137 of the Labor Code is hereby amended to read as
13 follows:

14 "ART. 137. *PROHIBITED ACTS* - (a) It shall be unlawful for any
15 employer:

16 (1) To deny any woman employee the benefits provided for in
17 this Chapter or to discharge any woman employed by him for the
18 purpose of preventing her from enjoying any of the benefits
19 provided under this Code:

20 (2) To discharge such woman on account of her pregnancy, or
21 while on leave or in confinement due to her pregnancy;

22 (3) To discharge or refuse the admission of such woman upon
23 returning to her work for fear that she may again be pregnant [.] ;
24 **OR**

25 **(4) TO DENY ANY WOMAN THE BENEFITS OF**
26 **EMPLOYMENT OR OTHER STATUTORY BENEFITS UNDER**
27 **OUR LAWS BY REASON OF HER GENDER."**

28 **SEC. 3. Penalties.** - Any employer who commits or attempts in any manner
29 to commit any of the acts herein prohibited shall, in addition to other penalties as
30 may be provided by law, upon conviction hereof, be punished by a fine of not
31 less than Fifty Thousand Pesos (P50,000.00), but not more than Two Hundred
32 Thousand Pesos (P200,000.00), and suffer imprisonment of not less than two (2)
33 years but not more than four (4) years: *Provided*, That the conviction or acquittal
34 obtained by the employer shall not be a bar to the filing by the female employee
35 of a civil suit for the payment of salaries or benefits due her.

36 Any employee or person who willfully aids or abets in the commission of
37 the acts prohibited herein or who causes the commission of any such acts by
38 another shall be liable in the same manner as the employer.

39 If the offender is not a Filipino citizen, he shall be deported immediately
40 upon service of the sentence imposed herein. If he is a government official or
41 employee, he shall be dismissed from the service and shall serve the maximum
42 penalty prescribed for the offense.

43 In the case of associations, partnerships or corporations, the penalty shall
44 be imposed on the partner, president, general manager, branch manager or
45 responsible officer responsible for the violation.

1 **SEC. 4. *Implementing Rules and Regulations.*** - Within thirty (30) days
2 from the effectivity of this Act, the Secretary of Labor and Employment, in
3 consultation with the Tripartite Industrial Peace Council, shall issue and publish
4 the necessary rules and regulations to implement the provisions of this Act.

5 **SEC. 5. *Separability Clause.*** - If any provision of this Act is declared
6 unconstitutional, the same shall not affect the validity and effectivity of the other
7 provisions hereof.

8 **SEC. 6. *Repealing Clause.*** - All laws, executive orders, presidential
9 decrees, presidential proclamations, rules and regulations or parts thereof
10 inconsistent with the provisions of this Act are hereby repealed or modified
11 accordingly.

12 **SEC. 7. *Effectivity Clause.*** - This Act shall take effect fifteen (15)
13 days after its complete publication in the *Official Gazette* or in a
14 newspaper of general circulation.

Approved,