

THIRTEENTH CONGRESS OF THE REPUBLIC }  
OF THE PHILIPPINES }  
*First Regular Session* }

04 JUN 30 P 4 58

RECEIVED BY: *Osmeña*

SENATE

S. No. 380

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Introduced by Senator S. R. Osmeña III

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### EXPLANATORY NOTE

Labor is one of the vital factors of any economic enterprise. For this economic activity to be productive and successful, manpower must be skilled and well-motivated. To achieve this, new approaches and arrangements that will yield adequately skilled manpower for the country's requirement must be generated.

Apprenticeship is one such approach/ arrangement. Although not a new labor concept, it having gained official recognition with the enactment of the Minimum Wage Law (Republic Act No. 602) on April 6, 1951, the contribution of apprentices may further be explored by redefining the concept as well as the program's objective.

Under present laws, an apprentice is any worker, at least 14 years of age who possesses vocational aptitude and capacity for appropriate tests, covered by a written apprenticeship occupation arrangement, i.e. any trade, form of employment which requires 3 months of practical training on the job supplemented by a related theoretical instruction (in no case more than 6 months). Only employers in the highly technical industry may employ apprentices.

Participating companies in the apprenticeship programs provide apprentices with training on the standards of trade in individual enterprises, thereby reducing the burden of the government for skills training. However, the inadequacies of the present system have to be corrected to address the exploitative practice of many companies that take in apprentices to save on labor costs but are hardly concerned with training at all. A framework must be created to delineate the role of government and private enterprises for an effective apprenticeship program implementation.

In view of the imperative to promote and sustain the high degree of skills and efficiency of our workforce, the passage of this bill is earnestly sought.

*S. Osmeña III*

SERGIO OSMEÑA III  
Senator

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AN ACT  
AMENDING TITLE II OF BOOK II OF THE LABOR CODE OF THE  
PHILIPPINES

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

1 SECTION 1. *Title.* – This Act shall be known as the “**Apprenticeship Act**  
2 **of 2004.**”

3 SEC. 2. Article 57 of the Labor Code of the Philippines is hereby  
4 amended to read as follows:

5 “ART. 57. Statement of Objectives. – This title aims:

6 (1) To help meet the demand of the economy for trained manpower;

7 (2) [To establish a national apprenticeship program through the  
8 participation of employers, workers, and government and non-  
9 government agencies;] TO PROVIDE THE ESTABLISHMENT OF A  
10 NATIONAL APPRENTICESHIP SYSTEM THAT INCLUDES ON AND  
11 OFF-THE-JOB TRAINING COMPONENTS AND WITH TRIPARTITE  
12 INVOLVEMENT; and

13 (3) [To establish apprenticeship standards for the protection of  
14 apprentices.] TO PROVIDE FOR THE ESTABLISHMENT AND  
15 CONTROL OF TRAINING APPRENTICES ON OCCUPATIONS AND  
16 FOR MATTERS CONNECTED THEREWITH.”

1           SEC. 3. Article 58 of the Labor Code of the Philippines is hereby  
2 amended to read as follows:

3           “ART. 58. Definition of Terms. – As used in this Title:

4           (a) “Apprenticeship means [practical training on the job supplemented by  
5           related theoretical instruction.] ENTERPRISE-BASED PRACTICAL  
6           TRAINING WITH COMPULSORY RELATED THEORETICAL  
7           INSTRUCTIONS IN OR OUTSIDE THE ENTERPRISE INVOLVING A  
8           CONTRACT BETWEEN AN APPRENTICE AND A FIRM OWNER ON  
9           AN APPROVED APPRENTICEABLE OCCUPATION.

10          (b) An “apprentice” is a [worker who is covered by a written  
11          apprenticeship agreement with an individual employer or any of the  
12          entities recognized under this Chapter] PERSON UNDERGOING  
13          TRAINING FOR AN APPROVED APPRENTICEABLE OCCUPATION  
14          DURING AN ESTABLISHED PERIOD ASSURED BY AN  
15          APPRENTICESHIP AGREEMENT.

16          (c) An “[apprenticeship] APPRENTICEABLE occupation” [means any  
17          trade, form of employment or occupation which requires more than  
18          three (3) months of practical training on the job supplemented by  
19          related theoretical instruction] IS AN OCCUPATION OFFICIALLY  
20          ENDORSED BY A TRIPARTITE BODY, WITH EQUAL  
21          REPRESENTATION FROM FIRM OWNERS, WORKERS AND  
22          TRAINING INSTITUTIONS, AND APPROVED FOR  
23          APPRENTICESHIP BY THE TECHNICAL EDUCATION AND SKILLS  
24          DEVELOPMENT AUTHORITY, HEREINAFTER REFERRED TO AS  
25          TESDA, WHICH REQUIRES A MINIMUM DURATION OF FOUR (4)  
26          MONTHS: PROVIDED, HOWEVER, THAT THE TESDA BOARD  
27          MAY PRESCRIBE A LONGER TRAINING PERIOD DEPENDING ON  
28          ITS APPROVED OCCUPATIONAL SKILLS STANDARDS.

1 (d) "Apprenticeship agreement" is [an employment contract wherein the  
2 employer binds himself to train the apprentice and an apprentice in  
3 turn accepts the terms of training] A CONTRACT WHEREIN A FIRM  
4 OWNER BINDS HIMSELF/HERSELF TO TRAIN THE APPRENTICE  
5 WHO IN TURN ACCEPTS THE TERMS OF TRAINING FOR A  
6 RECOGNIZED APPRENTICEABLE OCCUPATION EMPHASIZING  
7 THE RIGHTS, DUTIES AND REPOSNDIBILITIES OF EACH PARTY.

8 (e) "OCCUPATIONAL SKILLS STANDARDS" ARE WRITTEN  
9 SPECIFICATIONS SETTING OUT THE REQUIREMENTS OF  
10 KNOWLEDGE AND SKILLS WITH RESPECT TO A PARTICULAR  
11 TRADE.

12 (f) "OCCUPATIONAL SKILLS CERTIFICATION" IS A FORMAL  
13 RECOGNITION OF A WORKER'S SKILLS QUALIFICATION FOR A  
14 PARTICULAR TRADE.

15 (g) APPRENTICESHIP FEE" IS A TAX IMPOSED ON FIRM OWNERS  
16 AND/OR WORKERS WITH THE VIEW IN MIND OF FINANCING  
17 APPRENTICESHIP TRAINING ACTIVITIES.

18 SEC. 4. Article 59 of the Labor Code of the Philippines is hereby  
19 amended to read as follows:

20 "ART. 59. Qualifications of an apprentice. – To qualify as an  
21 apprentice, a person shall:

- 22 (a) Be at least [fourteen (14)] FIFTEEN (15) years of age;
- 23 (b) Possess vocational aptitude and capacity for apprenticeship as  
24 established through appropriate tests; and
- 25 (c) Possess the ability to comprehend and follow oral and written  
26 instructions.

1 "Trade, [and] industry and LABOR ORGANIZATIONS [associations] may  
2 recommend to the [Department of Labor and Employment] TESDA  
3 appropriate educational requirements for different occupations."

4 SEC. 5. Article 60 of the Labor Code of the Philippines is hereby  
5 amended to read as follows:

6 "ART. 60. [Employment] TRAINING of apprentices. – Only  
7 [employers in the highly technical industries may employ apprentices and  
8 only in apprenticeable occupation approved by the Secretary of Labor and  
9 Employment] CERTIFIED OWNERS MAY ENTER INTO  
10 APPRENTICESHIP AGREEMENTS OR OTHERWISE TRAIN  
11 APPRENTICES IN APPROVED APPRENTICEABLE OCCUPATIONS."

12 SEC. 6. Article 61 of the Labor Code of the Philippines is hereby  
13 amended to read as follows:

14 "ART. 61. Contents of apprenticeship agreements. –  
15 Apprenticeship agreements [, wage rates of apprentices, shall conform to  
16 the rules issued by the Secretary of Labor and Employment. The period  
17 of apprenticeship shall no exceed six months.]

18 ["Apprenticeship agreements providing for wage rates below the  
19 legal minimum wage, which in no case shall start below 75 percent of the  
20 applicable minimum wage, may be entered ino only in accordance with  
21 apprenticeship programs duly approved by the Secretary of Labor and  
22 Employment. The Department shall develop standard model programs of  
23 apprenticeship,] SHALL CONFORM WITH THE RULES ISSUED BY THE  
24 TESDA AND SHALL INCLUDE:

25 (A) THE NATURE, SYLLABUS, TIMETABLE AND PURPOSE OF  
26 TRAINING;

27 (B) THE PERIOD OF TRAINING DEPENDING ON THE APPROVED  
28 OCCUPATIONAL SKILLS STANDARDS;

- 1 (C) TRAINING ALLOWANCES PRESCRIBED BY INDUSTRY  
2 SUBSECTORS THROUGH TRIPARTITE CONSULTATIONS WHICH IN  
3 NO CASE SHALL START BELOW SEVENTY-FIVE PERCENT (75%) OF  
4 THE APPLICABLE MINIMUM WAGE;  
5 (D) A SCHEDULE OF TRAINING ALLOWANCE PAYMENT;  
6 (E) TRAINING HOURS;  
7 (F) THE PROCESS FOR THE TERMINATION OF APPRENTICESHIP;  
8 AND  
9 (G) THE GENERAL RIGHTS AND OBLIGATIONS OF BOTH  
10 PARTIES.”

11 SEC. 7. Article 62 of the Labor Code of the Philippines is hereby  
12 amended to read as follows:

13 “ART. 62. Signing of apprenticeship agreement. – Every apprenticeship  
14 agreement shall be signed by the FIRM OWNER of his/her agent, or by an  
15 authorized representative of any of the recognized organizations, associations or  
16 groups and the apprentice.

17 “An apprenticeship agreement with a minor shall be signed in his/her  
18 behalf by his/her parent or guardian or, if the latter is not available, by an  
19 authorized representative of the [Department of Labor and Employment] TESDA,  
20 and the same shall be binding during its lifetime, SUBJECT TO THE RIGHT OF  
21 THE APPRENTICE TO TERMINATE THE SAME AFTER A MONTH’S NOTICE.

22 “Every apprenticeship agreement entered into under this Title shall be  
23 ratified by the [appropriate] BIPARTITE PLANT apprenticeship committee  
24 INVOLVING THE FIRM OWNER AND REPRESENTATIVES OF THE FIRM  
25 WORKERS, [if any], and [a copy] COPIES thereof shall be furnished the FIRM  
26 OWNER [employer] and the apprentice.

27 SEC. 8. Article 63 of the Labor Code of the Philippines is hereby  
28 amended to read as follows:

1           "ART.     63.     [Venue of apprenticeship program.]  
2     APPRENTICESHIP SCHEMES. – [Any firm, employer,] CERTIFIED FIRM  
3     OWNERS, group or association, industry organization or civic group  
4     wishing to organize an apprenticeship program OR WOULD BE AN  
5     APPRENTICE may choose from any of the following apprenticeship  
6     scheme WHICH MAY USE THE 'DUAL TRAINING SYSTEM  
7     APPROACH': [as the training venue for apprentices.]  
8     (a) Apprenticeship [conducted entirely by and within the sponsoring firm,  
9     establishment or entity;] INVOLVING A COMPANY AND AN IDENTIFIED  
10    TRAINING INSTITUTION;  
11    (b) Apprenticeship [entirely within the Department of Labor and  
12    Employment training center or other public training institution; or]  
13    INVOLVING A GROUP OF COMPANIES AND A TRAINING  
14    INSTITUTION;  
15    (c) [Initial training in trade fundamentals in a training center or other  
16    institution with subsequent actual work participation with the sponsoring  
17    firm or entity during the final stage of training.] APPRENTICESHIP  
18    INVOLVING AN INDUSTRY TRAINING CENTER AND A COMPANY OR  
19    A GROUP OF COMPANIES; OR  
20    (d) OTHER SCHEMES TO BE ESTABLISHED BY THE TESDA IN  
21    CONSULTATION WITH FIRM OWNERS, LABOR AND TRAINING  
22    INSTITUTIONS AND SUBJECT TO THE APPROVAL OF THE TESDA  
23    BOARD."

24     SEC. 9. Article 64 of the Labor Code of the Philippines is hereby  
25    amended to read as follows:

26           "ART. 64. APPRENTICESHIP ADMINISTRATION/Sponsoring of  
27    apprenticeship program. – OVERALL POLICY FOR APPRENTICESHIP  
28    SHALL BE THE FUNCTION OF THE TESDA BOARD.

1 RESPONSIBILITY FOR APPRENTICESHIP ADMINISTRATION,  
2 MONITORING AND VALUATION OF ON AND OFF-THE-JOB TRAINING  
3 SHALL BE THE CONCERN OF THE TESDA SECRETARIAT  
4 PARTICULARLY THE OFFICE OF APPRENTICESHIP (OA).

5 "IDENTIFICATION AND PRIORITIZATION OF APPRENTICEABLE  
6 OCCUPATIONS AND THE DEVELOPMENT OF STANDARDS AND  
7 CURRICULA SHALL BE THE RESPONSIBILITY OF TRIPARTITE  
8 INDUSTRY TRAINING BOARDS, AND INDUSTRY ASSOCIATIONS IN  
9 CONSULTATION WITH LABOR GROUPS. BIPARTITE PLANT  
10 APPRENTICESHIP COMMITTEES SHALL BE ESTABLISHED IN  
11 PARTICIPATING FIRMS TO ENSURE THAT PROGRAM  
12 IMPLEMENTATION IS IN ACCORDANCE WITH POLICIES.

13 "Any of the apprenticeship schemes recognized herein may be  
14 undertaken or sponsored by a single [employer or] firm OWNER or by a  
15 group or association thereof, or by a civic organization. Actual training of  
16 apprentices may be undertaken:

- 17 (a) In the premises of the sponsoring [employer] FIRM OWNER in the  
18 case of individual apprenticeship programs;
- 19 (b) In the premises of one or several designated firms in the case of  
20 programs sponsored by a group or association of [employers] FIRM  
21 OWNERS or by a civic organization; or
- 22 (c) In a [Department of Labor] TESDA training center or other [public][  
23 training institutions."

24 SEC. 10. Article 65 of the Labor Code of the Philippines is hereby  
25 amended to read as follows:

26 "ART. 65. Investigation of violation of apprenticeship agreement. –  
27 [Upon complaint of any interested person or upon its own initiative,] THE  
28 BIPARTITE PLANT APPRENTICESHIP COMMITTEE, UPON

1 COMPLAINT OF ANY INTERESTED PARTY OR MOTU PROPRIO,  
2 SHALL HAVE INITIAL RESPONSIBILITY FOR SETTling  
3 DIFFERENCES ARISING OUT OF APPRENTICESHIP AGREEMENTS.  
4 IN CASE IT IS NOT ABLE TO SETTLE SUCH DIFFERENCES, [the  
5 appropriate agency of the Department of Labor] THE TESDA  
6 SECRETARIAT or its authorized representative shall investigate [any  
7 violation of an apprenticeship agreement] AND RENDER A DECISION  
8 pursuant to [such] PERTINENT rules and regulations, [as may be  
9 prescribed by the Secretary of Labor.]”

10 SEC. 11. Article 66 of the Labor Code of the Philippines is hereby  
11 amended to read as follows:

12 “ART. 66. Appeal to the TESDA Board [Secretary of Labor and  
13 Employment]. – The decision of the [authorized agency of the Department  
14 of Labor and Employment] TESDA SECRETARIAT may be appealed by  
15 any aggrieved person to the TESDA BOARD [Secretary of Labor and  
16 Employment] within five (5) days from receipt of the decision. The  
17 decision of the TESDA BOARD [Secretary of Labor and Employment]  
18 shall be final and executory.”

19 SEC. 12. Article 68 of the Labor Code of the Philippines is hereby  
20 amended to read as follows:

21 “ART. 68. Aptitude testing of applicants. – Consonant with the  
22 minimum qualifications of apprentice-applicants required under this  
23 Chapter, [employers of entities with duly recognized apprenticeship  
24 programs] THE BIPARTITE PLANT APPRENTICESHIP COMMITTEES  
25 shall have primary responsibility for providing appropriate aptitude tests in  
26 the selection of apprentices. [If they do not have adequate facilities for  
27 the purpose, the Department of Labor and Employment may perform the  
28 service free of charge.]”

1 SEC. 13. Article 70 of the Labor Code of the Philippines is hereby  
2 amended to read as follows:

3 "ART. 70. Voluntary organization of apprenticeship program:

4 Exemptions. –

5 (a) The organization of apprenticeship programs shall be primarily a  
6 voluntary undertaking of FIRM OWNERS.

7 (b) When national security or particular requirements of economic  
8 development so demand, the President of the Philippines may  
9 require compulsory training of apprentices in certain trades,  
10 occupations, jobs or employment levels where shortage of training  
11 manpower is deemed critical as determined by the [Secretary of  
12 Labor and Employment] TESDA. Appropriate rules in this  
13 connection shall be promulgated by the [Secretary of Labor and  
14 Employment] TESDA UPON THE RECOMMENDATION OF ITS  
15 SECRETARIAT as the need arises.

16 (c) Whereas services of foreign technicians are utilized by private  
17 companies in apprenticeable trades, said companies are required to  
18 set up appropriate apprenticeship programs."

19 SEC. 14. Article 71 of the Labor Code of the Philippines is hereby  
20 amended to read as follows:

21 "ART. 71. APPRENTICESHIP TRAINING FUND: Deductibility of  
22 training costs and EXEMPTIONS. – THERE SHALL BE AN  
23 APPRENTICESHIP TRAINING FUND WHICH SHALL BE DERIVED  
24 FROM THE APPRENTICESHIP FEE PAID BY EVERY FIRM OWNER IN  
25 INDUSTRIES EMPLOYING WORKERS IN APPRENTICEABLE TRADES.  
26 WORKERS WHO ARE GRADUATES OF APPRENTICESHIP  
27 PROGRAMS SHALL LIKEWISE PAY A ONE-TIME APPRENTICESHIP

1 FEE UPON EMPLOYMENT AS CONTRIBUTION TO THE  
2 APPRENTICESHIP TRAINING FUND.

3 THE APPRENTICESHIP FEE RATES AND GUIDELINES TO BE  
4 APPLIED SHALL BE APPROVED BY THE TESDA BOARD AFTER A  
5 PUBLIC HEARING WITH THE MANAGEMENT AND LABOR SECTORS.  
6 THE FEE SHALL BE COLLECTED AND PAID THROUGH THE SOCIAL  
7 SECURITY SYSTEM AND TRANSFERRED TO THE APPRENTICESHIP  
8 TRAINING FUND TO BE ADMINISTERED BY THE TESDA. THE  
9 APPRENTICESHIP FEE RATE MAY BE INCREASED BY THE TESDA  
10 SUBJECT TO THE REQUIREMENTS OF PUBLIC HEARING.

11 THE APPRENTICESHIP TRAINING FUND SHALL BE DEEMED  
12 DISTINCT AND SEPARATE FROM THE TESDA DEVELOPMENT FUND  
13 UNDER SECTION 31 OF REPUBLIC ACT 7796 OR THE TESDA LAW,  
14 AND AS SUCH, SHALL NOT BE SUBJECT TO ITS IMPLEMENTING  
15 RULES AND REGULATIONS. SUCH APPRENTICESHIP FUND MAY BE  
16 USED TO DEFRAY EXPENSES OF THE TRAINEES IN THE  
17 INSTITUTION OR TRAINING CENTER AS WELL AS OTHER  
18 EXPENSES TO BE APPROVED BY THE TESDA BOARD TO IMPROVE  
19 IMPLEMENTATION OF THE PROGRAM.

20 An additional deduction from taxable income equivalent to one-half  
21 (1/2) of the value of labor training expenses incurred for developing the  
22 productivity and efficiency of apprentices shall be granted to the person or  
23 enterprise organizing an apprenticeship program AND SHALL BE  
24 EXEMPT FROM THE PAYMENT OF THE APPRENTICESHIP FEE:  
25 Provided, That such program is duly recognized by the [Department of  
26 Labor] TESDA: Provided, further, That such deduction shall not exceed  
27 ten percent (10%) of direct labor wage; and, Provided, finally, That the  
28 person or enterprise who wishes to avail himself or itself of this incentive

1 should pay his apprentices the minimum wage. MICRO-COTTAGE AND  
2 SMALL ENTERPRISES OR THOSE WITH LESS THAN 100  
3 EMPLOYERS SHALL ALSO BE EXEMPT FROM THE PAYMENT OF  
4 THE APPRENTICEABLE FEE.”

5 SEC. 15. Article 72 of the Labor Code of the Philippines is hereby  
6 amended to read as follows:

7 “ART. 72. [Apprentices without compensation] EXEMPTION  
8 FROM PROBATIONARY EMPLOYMENT; SYSTEM OF EQUIVALENCY.  
9 – [The Secretary of Labor may authorize the hiring of apprentices without  
10 compensation whose training on the job is required by the school or  
11 training program curriculum or as a requisite for graduation or board  
12 examination] CERTIFIED APPRENTICESHIP GRADUATES SHALL BE  
13 EXEMPTED FROM PROBATIONARY EMPLOYMENT. THEY SHALL BE  
14 EMPLOYED AS REGULAR WORKERS IF CHOSEN TO BE RETAINED  
15 BY THE ENTERPRISE.

16 “APPRENTICESHIP GRADUATES SHALL LIKEWISE BE  
17 AWARDED EQUIVALENT UNTI CREDITS IN THE FORMAL SYSTEM  
18 OF EDUCATION THAT CAN BE USED IN PURSUINMG TERTIARY  
19 DEGREE COURSES, SUBJECT TO THE INTEGRATED POLICIES AND  
20 GUIDELINES ON EQUIVALENCY AND ADULT EDUCATION  
21 ACCELERATION PROGRAM OF THE TESDA, COMMISSION ON  
22 HIGHER EDUCATION (CHED) AND DEPARTMENT OF  
23 EDUCATION,(DepEd).”

24 SEC. 16. Article 75 of the Labor Code of the Philippines is hereby  
25 amended to read as follows:

26 “ART. 75. Learnership agreement. – Any FIRM OWNER  
27 [employer] desiring to employ learners shall enter into a learnership  
28 agreement with them, which agreement shall include:

- 1 (a) The names and addresses of the learners;
- 2 (b) The duration of the learnership period, which shall not exceed three  
3 months;
- 4 (c) The TRAINING ALLOWANCES [wages or salary rates] of the learners  
5 which shall begin at not less than [75 percent of] the applicable minimum  
6 wage FOR A SPECIFIC OCCUPATION AND SUBJECT TO TRIPARTITE  
7 CONSULTATION; and
- 8 (d) A commitment to employ the learners, if they so desire, as regular  
9 employees upon completion of the learnership. All learners who have  
10 been allowed or suffered to work during the first two (2) months shall be  
11 deemed regular employees if training is terminated by the employer  
12 before the end of the stipulated period through no fault of the learner.

13 "The learnership agreement shall be subject to inspection by the  
14 [Secretary of Labor and Employment] TESDA or [his] its duly authorized  
15 representatives."

16 SEC. 17. The TESDA shall provide various enabling mechanisms as well  
17 as financial and technical assistance to small and medium enterprises to  
18 primarily encourage them to participate in the apprenticeship program.

19 SEC. 18. All laws, rules and regulations, or part or parts thereof,  
20 inconsistent with any provisions of this Act are hereby repealed, modified or  
21 amended accordingly.

22 SEC. 19. This Act shall take effect fifteen (15) days after its complete  
23 publication in the Official Gazette or in at least two (2) national newspapers of  
24 general circulation, whichever comes earlier.

25 Approved,