

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

SENATE
OFFICE OF THE SECRETARY

'04 JUN 30 P8:45

SENATE

RECEIVED BY: AM

S. No. 621

INTRODUCED BY HON. MANUEL B. VILLAR, JR.

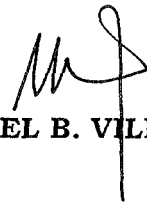
EXPLANATORY NOTE

The State recognizes that the occupational safety and health of workers in the working place has a significant role in national economic development, considering that personal injuries, death and illnesses arising out of work situations result in reduced production, wage loss, medical and rehabilitation expenses, and disability compensation payments. It is, therefore, declared a policy of the State, with the active participation of all sectors of society, to promote the physical, mental and social well-being of workers and to preserve the country's human resources.

In line with such State policy, this bill seeks to address the labor concerns by codifying into a single legislation the entire framework of rules and standards governing the occupational safety and health of workers.

This proposal shall require employers in all branches of economic activity to provide their employees with safe and healthful working place and working conditions among other things.

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



MANUEL B. VILLAR, JR.

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AN ACT
INSTITUTING AN OCCUPATIONAL SAFETY AND HEALTH CODE, THEREBY
REVISING AND CONSOLIDATING OCCUPATIONAL SAFETY AND HEALTH LAWS
AND STANDARDS FOR THE PROTECTION, MAINTENANCE AND ENHANCEMENT
OF THE PHYSICAL AND MENTAL HEALTH OF WORKERS, AND FOR OTHER
PURPOSES

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

ARTICLE I

SECTION 1. *Title.* - This Act shall be known as "The Philippine Occupational Safety and Health Code of 2004".

SECTION 2. *Declaration Of Policy.* - The State recognizes that the occupational safety and health of workers in the working place has a significant role in national economic development, considering that personal injuries, death and illnesses arising out of work situations result in reduced production, wage loss, medical and rehabilitation expenses, and disability compensation payments. It is, therefore, declared a policy of the State, with the active participation of all sectors of society, to promote the physical, mental and social well-being of workers and to preserve the country's human resources:

- a. By requiring employers in all branches of economic activity to provide their employees with safe and healthful working place and working conditions;
- b. By providing for mandatory registration of all employers under the Code;
- c. By providing for an effective implementation and enforcement of occupational safety and health standards which shall include a prohibition against giving advance notice of any inspection and imposing sanctions for any individual violating this prohibition;
- d. By providing for minimum levels of injury frequency and severity in the working place;
- e. By updating existing occupational safety and health standards and providing for an effective system of compiling and analyzing data which shall help achieve the objectives of this Code;

- f. By providing for medical criteria which will assure as far as practicable that no employee shall suffer diminished health, functional capacity or life expectancy as a result of his work experience and unsafe and unhealthful working condition in the workplace;
- g. By providing for research in the field of occupational safety and health, including the development of innovative methods, techniques and approaches for dealing with occupational safety and health problems, exploring ways to discover latent diseases, and developing new and updating existing occupational safety and health programs for providing safe and healthful working conditions;
- h. By providing for appropriate reporting procedures with respect to occupational safety and health;
- i. By providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health;
- j. By encouraging joint labor-management efforts and participation from other sectors of society to reduce work injuries and diseases arising out of employment.

SECTION 3. *Definition of Terms.* - As used in this Act:

- a. "Occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.
- b. "Health" pertains to both the absence of disease or infirmity and the physical and mental elements affecting conditions which are directly related to safety and hygiene at work.
- c. "Code" means the Philippine Occupational Safety and Health Code of 2004.
- d. "Standard" means the Occupational Safety and Health Standards promulgated by the Department of Labor and Employment pursuant to Article 162 of the Labor Code of the Philippines as amended;
- e. "Employer" means any person, natural or juridical, employing the services of the employee and includes any person acting directly or indirectly in the interest of an employer, in relation to an employee, and shall include government-owned or controlled corporations and institutions, as well as nonprofit private institutions or organizations.
- f. "Employee" means any person hired, permitted or suffered to work by an employer and includes casual, emergency, temporary, substitute,

contractual, seasonal learner, apprentice, vocational student, handicapped worker or permanent worker.

- g. "Work accident" means an unplanned or unexpected occurrence that may or may not result in personal injury, property damage, work stoppage or interference or any combination thereof which arises out of and in the course of employment.
- h. "Work injury" means any injury or occupational illness suffered by a person which arises out of or in the course of his/her employment.
- i. "Workplace" means the office, premises or work site, where the workers are habitually employed and shall include the office or place where the workers, who have no fixed or definite work site, regularly report for assignment in the course of their employment.
- j. "Secretary" means the Secretary of the Department of Labor and Employment.
- k. "Department" means the Department of Labor and Employment.
- l. "Enforcement Officer " means the labor regulation officer or any duly authorized representative of the Secretary to enforce the Standards.
- m. "Occupational illness" shall mean any illness caused by environment factors, the exposure to which is characterized or peculiar to a particular process, trade or occupation and to which an employee or worker is not ordinarily subjected to our exposed outside of or away from such employment.
- n. "Injury frequency" means the number of disabling injuries per 1,000,000 employee-hours of exposure where 1,000,000 employee-hours of exposure is equivalent to 500 persons each exposed to 2000 hours of work per annum.
- o. "Severity rate" means the number of lost work days per 1,000,000 hours of exposure where 1,000,000 employee-hours of exposure is equivalent to 500 persons each exposed to 2,000 hours of work per annum.
- p. "Imminent danger" means a condition or practice that could reasonably be expected to cause death or serious physical harm immediately or before abatement procedures can be accomplished.
- q. "Actual exposure hours" pertains to the actual straight time hours worked and actual overtime hours worked.
- r. "Estimated exposure hours" is obtained by multiplying the total employee days worked for the period by the average number of hours worked per day.
- s. "Branches of economic activity" pertains to all branches in which workers are employed including government-owned or controlled agencies.
- t. "Occupational safety and health program" means a program which aims to achieve the following objectives:

1. Protect employees against safety and health hazards in their working environment to prevent occupational as well as non-occupational diseases;
 2. Facilitate the placement of workers according to their physical, mental and emotional capacities in work which they can perform with an acceptable degree of efficiency and without endangering their own health and safety and that of their co-workers;
 3. Assure adequate medical care and rehabilitation of the injured, occupationally ill or disabled workers;
 4. Provide for first aid, emergency services and treatment of workers;
 5. Encourage and assist in measures for personal health maintenance, physical fitness and proper nutrition practices;
 6. Provide guidance, information and services for family planning programs;
 7. Provide for measures for the protection of the general environment.
- u. "Safety hazards" are those which might cause or are causing burns, electrical shocks, cuts, bruises, sprains, broken bones and loss of limb, eyesight or hearing which may result in immediate and violent harm.
 - v. "Occupational health hazard" means those resulting in a slow impairment of health and may be classified in four categories, namely: biological, chemical, physical and stress.

SECTION 4. *Applicability of the Code* - This Code shall apply with respect to employment performed in all workplaces and in all places of employment and shall cover employers in all branches of economic activity.

The Occupational Safety and Health Standards promulgated by the Department of Labor and Employment pursuant to Article 162 of the Labor Code of the Philippines are hereby deemed adopted for purposes of this Code and shall be deemed to be occupational safety and health standards issued under this Code. Within six (6) months from the approval of this Code, the Department of Labor and Employment shall revise the Standards to conform to the provisions of this Code. The Standards shall not apply to the transport vehicles of establishments engaged in land, sea and air transportation but shall apply with respect ,to their offices, garages, dry docks, port hangars, maintenance and repair shops. The Standards shall also not apply to mining claim or lease, except with respect to warehouses, depots, garages, maintenance and repair ships, motor pools and offices. Mines safety in establishments or workplaces falling under "Mining Industry" as classified by the National Economic Development Authority (NEDA) shall be governed by pertinent laws and regulations being implemented by the Department of Environment and Natural Resources (DENR).

The provisions of the following codes and laws shall apply with respect to safety determinations of the workplace and work environment, work machinery, equipment and materials, work conditions, practices, means, methods, operations or processes: the Fire Code of the Philippines, the Philippine Electrical Code, the Philippine Society of Mechanical Engineers Code, the Building Code of the Philippines, the Electrical Engineering Law, the A.S.M.E. Boiler and Pressure Vessel Code, the A.S.M.E. Code for Pressure Piping, the A.S.M.E. Code for Unfired Pressure Vessels, the A.S.M.E. Elevator Code and the A. P. I. Code for Petroleum Gases and Liquids.

Nothing in this Code shall be construed to supersede or in any other manner affect the rights, duties, or liabilities of employers and employees under the employees compensation law or any other law with respect to injuries, disease or death of employees arising out of, or in the course of employment.

SECTION 5. *Administration and Enforcement.*- The Department of Labor and Employment (DOLE) shall be solely responsible for the administration and enforcement of this Code in all workplaces and in all places of employment. The Department shall be the lead agency for coordinating and monitoring the activities of all government agencies involved in the implementation of all laws to promote occupational safety and health. However, the Department may authorize and delegate to local government units (LGUs) the enforcement of occupational safety and health standards within their respective jurisdictions where they have adequate facilities and personnel for the purpose as determined by and subject to conditions and requirements prescribed by the Department. The Department may also deputize and accredit nongovernmental organization for the purpose of administering and enforcing occupational safety and health laws, standards and regulations, subject to such conditions and requirements as the Department may prescribe. Except as otherwise provided in this code, the Department shall also be responsible for the enforcement of other laws with respect to safety determination of the workplace and work environment, working conditions and work procedures.

The Department of Health (DOH) shall be responsible for providing medical criteria and for research in the field of occupational safety and health, including the development of innovative methods, techniques and approaches for dealing with occupational safety and health problems and exploring ways to discover latent disease. The DOH shall be responsible for formulating policies and programs in sanitation and for the issuance of sanitary permits for establishments.

The Department of Environment and Natural Resources (DENR) shall be responsible for the administration of all laws, standards and regulation governing the functions of agencies under its jurisdiction in connection with work concerning or relating to environmental protection and the natural resources of the country,

including but not limited to, the manufacture, importation, processing, distribution, use and disposal of hazardous and toxic substances and mixtures used in the development, utilization and conservation of natural resources.

The Department of Agriculture (DA) shall be responsible for the administration of all laws, standards and regulations governing the functions of agencies under its jurisdiction in connection with the work concerning or relating to environmental protection and the development, utilization and conservation of natural resources, including but not limited to, the manufacture, importation, processing, distribution, use and disposal of pesticides and other hazardous and toxic substances and mixtures.

The Department of Transportation and Communication (DOTC) shall be responsible for the administration of all laws, standards and regulations relating to the functions of agencies under its jurisdiction in connection with the safety and health of workers on board land, air and water conveyances.

The Department of Labor and Employment (DOLE) shall periodically update existing occupational safety and health standards and provide for an effective system of compiling and analyzing data and for appropriate reporting procedures with respect to occupational safety and health.

The DOLE shall coordinate with the DOH and other concerned agencies in developing new and updating existing programs for providing safe and healthful working place and conditions for workers, and in providing for training programs to increase the number and competence of personnel engaged in the field of occupational safety and health. The DOLE shall also encourage joint labor-management efforts and participation from other sectors of society to reduce injuries and diseases arising out of employment.

SECTION 6. *Duties.*

Each employer shall:

- a. Furnish his employees a place of employment free from hazardous conditions that are causing or are likely to cause death, illness or physical harm to his employees;
- b. Comply with occupational safety and health standards promulgated under this Code;
- c. Give complete job safety instructions and training to all his employees including familiarization with occupational safety and health hazards to which the employees are exposed and steps to be taken in case of emergency;

- d. Organize an Occupational Safety and Health Committee (OSH) in the workplace to be composed of representatives from the employees and the employers to develop and monitor compliance with rules and standards on occupational safety and health;
- e. Provide adequate occupational health services and organize and maintain an occupational safety and health program for his employees to protect and enhance their occupational safety and health; and appoint/designate well trained safety-health officers to implement such program;
- f. Furnish employees, at his own expense, protective equipment for any part of the body whenever necessary by reason of the hazardous nature of the process, environment, working conditions or materials handled;
- g. Provide complete and thorough medical examinations to his employees, free of charge, before entering employment for the first time, yearly, and periodically as may be required on account of the conditions or risks involved in the work, when injured or ill, or when transferred or separated from employment;
- h,. Allow the Secretary or his duly authorized representative access to the work premises and records for the purpose of determining compliance with provisions of this Code.

Every employee shall:

- a. Comply with occupational safety and health standards and all rules, regulations, and orders issued under the Code which are applicable to his own actions and conduct;
- b. Cooperate with the employer in carrying out the provisions of this Code and of the occupational safety and health standards issued under this Code;
- c. Make proper use of all safeguards and safety devices furnished in accordance with the occupational safety and health standards issued under this Code for his protection and that of others.

Any person, including any builder or contractor, who visits and/or conducts business in any way with any establishment or workplace shall comply with the provisions of this Code, the Standards issued under the Code and other rules and regulations that are or may hereafter be issued pursuant thereto, and all regulations of the employer issued thereunder.

SECTION 7. Inclusion Of Occupational Safety And Health (OSH) Provisions In Collective Bargaining Agreements. - To ensure that the responsibilities of both employers and employees towards a safe and healthy working environment, provisions

on the adoption of occupational safety and health standards shall be included in collective bargaining agreements (CBAs).

SECTION 8. *Registration* - Every employer shall register his business with the Department of Labor and Employment or its duly authorized representative or agency. A certificate of registration shall be issued:

- a. Upon payment of a registration fee and safety inspection fees to be set by the DOLE which fees shall be covered by official receipts and shall accrue and be deposited with the National Treasury to the credit of the Occupational Safety and Health Fund established under this Code; and
- b. Upon certification under oath by the employer that he has complied with the duties of employers as set forth in Section 6 of this Code.

The fund accumulated from the registration and inspection fees as well as from administrative fines imposed under this Code shall be used for measures, programs, projects and activities for the attainment of the objectives of this Code relative to the protection and enhancement of the occupational safety and health of employees.

Registration shall be made by the DOLE after inspection of the working place, working conditions, practices, means, methods, operations and processes therein, review and approval of required papers and payment of the proper registration and inspection fees. Old establishments shall renew registration every year within the first twenty (20) days of January upon payment of a renewal fee and upon submission of required certification by the employer that the establishment has complied with the provisions this Code and with standards issued under this Code and has no pending case with the DOLE involving a violation of occupational safety and health standards which caused or may cause probable death or serious physical injury to the workers.

The Municipal Engineer, in case there is one or where there is none, the Municipal Planning and Development Coordinator of every municipality is hereby deputized to inspect for purposes of registration establishments located in the municipality. Inspection and registration shall be done under the supervision and in coordination with the regional office of the Department of Labor. Inspection and registration fees shall be paid to the municipal treasurer to be remitted to the National Treasury to the credit of the occupational safety and health fund.

Every establishment or workplace shall be inspected at least once a year to determine compliance With the provisions of this Code. However, special inspection visits may be made to investigate accidents, occupational illnesses or dangerous occurrences, to conduct surveys of working conditions for the purpose of evaluating and assessing the presence of contaminants and physical conditions in work places

and work environment, or to conduct investigation, inspection or follow-up inspections upon request of an employer, group of workers or a labor union of the establishment.

The establishment regardless of the size of economic activity in one single location shall be one registrable unit. Re-registration as if for a new establishment shall be required in cases of change in business name, change in location, change in ownership or re-opening after previous closing.

SECTION 9. *Inspection, Investigation And Enforcement.* - The Secretary or his authorized representative shall have authority:

- a. To enter at reasonable time any factory, plant, establishment, construction site, workplaces, environment or other area where work is performed by the workers of an employer;
- b. To inspect and investigate during regular working hours and at other reasonable times and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipments and materials therein; and
- c. To question privately any employer, owner, operator, agent or employee.

The Secretary shall have the authority to require the attendance and testimony of witnesses and the production of evidence under oath.

The employer and the employees or their respective representatives shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any workplace. Prior to or during the inspection of a workplace, any employee or representative of employees employed in such workplace, may notify in writing the Secretary or representative of the Secretary responsible for conducting the inspection of any violation of this Code which they have reason to believe exists in such workplace. The Secretary shall review the findings of his representative regarding the inspection of the workplace whether his representative issues or refuses to issue a citation with respect to such alleged violation and shall furnish the employee or representative of employees a written statement of the reasons for the Secretary's final disposition of the case.

Any employee or representative of employees who believes that a violation of a safety or health standard exists that threatens physical harm may request an inspection by the Secretary or his authorized representative. The request shall set forth with reasonable particularity the grounds for the request and shall be signed by the employee or representative of employees, and a copy shall be provided the employer or his agent not later than the time of inspection. Upon the request of the

person making the application for inspection, his name and the names of individuals referred to therein shall not appear in such copy or in any record thereof that may be published or released. If the Secretary determines that there are no reasonable grounds to believe that a violation or danger exists, he shall formally notify the employee or representative of employees of such determination.

If upon inspection or investigation, the Secretary or his authorized representative believes that an employer has violated a provision of this Code or of any regulation issued pursuant thereto, he shall with reasonable promptness issue in writing a citation to the employer describing with particularity the nature of the violation, and the particular provision of the Code or the regulation or the standards alleged to have been violated. The citation shall fix a reasonable time for the abatement of the violation and shall be prominently posted or near the place of violation. The citation shall also state the penalty to be imposed and shall advise the employer that he has five (5) working days within which to contest the citation. If the employer fails to contest the citation within said period, the citation shall be deemed a final order.

If the Secretary has reason to believe, from his own information or based upon a report by the employee or representative of employees, that an employer has failed to correct a violation for which a previous citation has been issued within the period allowed for its correction, the Secretary shall notify the employer of such failure and of the penalty to be imposed and that the employer has ten (10) working days within which to contest the Secretary's notification and proposed penalty. If within ten (10) days from receipt of the Secretary's notification, the employer fails to contest the notification and proposed penalty, the notification and penalty shall be deemed a final order of the Secretary. The penalty ordered under the notification shall cover the time from the end of the period for abatement prescribed in the previous citation until the time when the penalty ordered under the notification is satisfied.

If an employer notifies the Secretary that he intends to contest the citation issued under paragraph 5 of this section or the notification issued under paragraph 6 hereof, or if, within five (5) working days from receipt of a citation issued under paragraph 5, any employee or representative of employees files a notice with the Secretary alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Secretary shall afford an opportunity for a hearing between the parties which shall not exceed thirty (30) days at the end of which the Secretary shall issue an order, based on findings of fact, affirming, modifying or vacating the citation or proposed penalty, or directing other appropriate relief. The order shall become final three (3) days after its issuance.

Upon information furnished by employees or representative of employees of an imminent danger in any place or employment, and upon inspection and verification, the Secretary shall order such steps to be taken immediately by the employer as may be necessary to avoid, correct or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct or remove such imminent danger or to maintain a continuous process operation, or where a cessation of operation is necessary, to permit such to be accomplished in a safe and orderly manner. If the employer refuses or fails to comply with the order within the period ordered, the Secretary shall issue and order for stoppage of operations in the working place and shall impose the appropriate penalty effective from the beginning of the period of abatement allowed.

If the Secretary arbitrarily or capriciously fails to order relief, any employee who may be injured by reason of such failure, or the representative of such employees, may appeal to the Office of the President to compel action from the Secretary.

The Secretary shall have the power to issue writs of execution to the appropriate authority for the enforcement of his orders.

Upon a showing by an employer of good faith effort to comply with the abatement requirements of a citation and of factors beyond his reasonable control which prevented his complying with the abatement requirement within the period allowed, and after an opportunity for a hearing as provided in paragraph 7 hereof, the Secretary shall issue an order affirming or modifying the abatement requirements.

No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or cause to be instituted any proceeding under or related to this Code or have testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or other of any right afforded under this Code.

Any employee who believes that he has been discharged or otherwise discriminated against by any person as provided in the preceding paragraph may, within thirty (30) days after such violation, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause an investigation to be made and shall afford an opportunity for a hearing between the parties. The hearing shall be concluded within thirty (30) days and the Secretary shall thereafter issue an order providing appropriate relief including rehiring or reinstatement of the employee to his former position with backwages.

No person shall give advance notice of any inspection to be conducted under this Code without authority from the Secretary.

SECTION 10. *Record Keeping And Reporting.* Each employer shall make, keep, preserve and make available to the Secretary and the Secretary of Health such records regarding his activities relating to this Code which the Secretary may by regulation prescribe as necessary or appropriate for the enforcement of this Code or which the Secretary of Health may deem necessary for developing information regarding the causes and prevention of work accidents, work injuries and illnesses. Such records shall include periodic reports on work-related deaths, injuries and illnesses as well as accurate records of employee exposures to potentially toxic materials or harmful physical agents which the employer shall periodically monitor or measure and which shall be open at all times for inspection to authorized personnel. Any information obtained by the Secretary or the Secretary of Health shall be obtained with a minimum burden upon employers.

Employers shall keep their employees informed of their protections and obligations under this Act by posting notices or by other appropriate means. Employers shall provide employees or their representatives the opportunity to observe the monitoring or measuring of employee exposures to potentially toxic materials or harmful physical agents, shall give employees or their representatives access to the records thereof, shall promptly notify any employee who has been or is being exposed to such toxic materials or harmful physical agents in concentration or levels which exceed those prescribed under applicable occupational safety and health standards promulgated under this Code, and shall inform any employee who is being thus exposed of the corrective measures being taken.

Records and reports required under this section shall be distinct and independent of those required by the Employees Compensation Commission (ECC) or those under any other law.

Exposure to work injuries shall be measured by the total number of hours of employment of all employees in each establishment or reporting unit. Employee hours of exposure for calculating work injury rates are intended to be actual hours worked. When actual hours are not available, estimated hours may be used.

The Secretary in consultation with the Secretary of Health, shall set within three (3) months from the effectivity date of this Code, reasonable and achievable minimum levels of injury frequency and severity in all branches of economic activity.

SECTION 11. *Research And Related Activities, Employee Education And Training.* - The Department of Health (DOH) shall exercise and discharge the following powers and functions:

- a. Conduct research, experiments, and demonstrations relating to occupational safety and health, including studies of psychological factors involved, and relating to innovative methods, techniques, and approaches for dealing with occupational safety and health problems;
- b. Consult with the Secretary of Labor and Employment on such research, demonstrations and experiments as are necessary to develop and produce criteria to enable the Secretary of Labor and Employment to meet his responsibility in the formulation of safety and health standards under this Code and shall publish such criteria at least annually;
- c. On the basis of such research, demonstration and experiment and any other information available to it, develop criteria dealing with toxic materials and harmful physical agents and substances which will establish exposure levels that are safe for various kinds and periods of employment, including but not limited to the exposure levels at which no employee will suffer impaired health or functional capacities or diminished life expectancy as a result of his work experience. It shall also conduct special research, experiments and demonstrations as are necessary to explore problems relating to women workers, new problems including those created by new technology and those relating to motivational and behavioral factors relating to the field of occupational safety and health;
- d. In order to develop information regarding potentially toxic substances or harmful physical agents, recommend to the Secretary of Labor regulations requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents which the Secretary of Labor reasonably believes may endanger the safety or health of employees;
- e. Establish such programs of medical examinations and tests as may be necessary for determining the incidence of occupational illnesses and the susceptibility of employees to such illnesses. Nothing in this Code shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the safety or health of others;
- f. Determine, upon written request by any employer or authorized representative of employees, specifying with reasonable particularity the grounds on which the request is made, whether any substance normally found in the place of employment has potentially toxic effects in such

- concentrations as used or found, and shall submit his determination both to employers and affected employees as soon as possible;
- g. Publish at least annually a list of all known toxic substances by generic family or other useful grouping, and the concentrations at which such toxicity is known to occur. It shall also conduct and publish industry-wide studies of the effect of chronic or low-level exposure to industrial materials, processes and stresses on the potential for illness, disease or loss of functional capacity in aging adults and in women workers;
 - h. In consultation with the Secretary and other appropriate government agencies, conduct education programs to provide an adequate supply of qualified personnel to carry out the purposes of this Code, and information programs on occupational safety and health of employees;
 - i. Conduct inspections and examine employers and employees in order to carry out its functions and responsibilities under this section.

The Secretary of Labor shall, on the other hand, have authority to:

- a. Enter into contracts, agreements, or other arrangement, with appropriate public agencies or private organizations for the purpose of conducting studies relating to his responsibilities under the Code;
- b. Consult and cooperate with the Secretary of Health in order to avoid any duplication of efforts under this section;
- c. In consultation with the Secretary of Health and other government agencies, develop and maintain an effective program of collection, compilation and analysis of occupational safety and health statistics including statistics on all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work, other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.

Information obtained by the Secretary and Secretary of Health under this section shall be disseminated at least annually by the Secretary to employers and employees and organizations thereof.
- d. In consultation with the Secretary of Health, provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions in employment covered by this Code and shall consult with and advise employers and employees as to effective means of preventing occupational injuries and illnesses. The Secretary is also authorized: (i) to accredit organizations or groups of persons to engage in the education training of personnel and,

(ii) to conduct short-term training of personnel engaged in work related to his responsibilities under this Code.

SECTION 12. *Standards-Promulgation, Modification And Revocation.* - The Secretary may by rule promulgate, modify or revoke any occupation safety or health standards in the following manner:

- a. Whenever the Secretary, upon the basis of information submitted to him in writing by any interested person, a representative of any organization of employers or employees, safety practitioners/consultants/organizations accredited with the Bureau of Working Conditions, the Director of the Occupational Safety and Health Center, the Secretary of the Department of Health or on the basis of information developed by the Secretary or otherwise available to him, determine that a rule should be promulgated in order to serve the objectives of this Code, the Secretary may request the recommendation of an advisory council composed of the Secretary of the Department of Health, the Department of Environment and Natural Resources, the Department of Agriculture, the Department of Transportation and Communication or their representatives and the Director of the Occupational and Safety Center which council shall submit its recommendations to the Secretary within three (3) months. The Secretary may provide such advisory council with proposals of his own. The proposed rule promulgating, modifying, or revoking an occupational and safety or health standard shall be published for two (2) weeks in a newspaper of general circulation within thirty (30) days after its submission of the council's recommendation.
- b. The Secretary shall afford interested persons a period of thirty (30) days after publication, to submit written data or comments or objections to the proposed rule, stating the grounds therefore and requesting a public hearing on such objections. Within thirty (30) days after expiration of the period for submitting written data or comments or within thirty (30) days after completion of a hearing held on the objections, which hearing shall be for a period not exceeding sixty (60) days, the Secretary shall issue a rule promulgating, modifying or revoking an occupational safety or health standard or make a determination that a rule should not be issued. Such rule may contain a provision delaying its effective date for a period not exceeding sixty (60) days as the Secretary determines may be necessary to insure that affected employers and employees will be informed of the existence of the standard and of its terms and that employers affected are given an opportunity to familiarize themselves and their employees and to implement the requirements of the standard.

The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents, shall set the standards which most adequately assure, to the extent feasible, on the basis of best available evidence, that no employee will, suffer material impairment in health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development standards shall be based upon research, demonstrations, experiments gained under the health and safety laws, latest available scientific data in the field, feasibility of the standards and such other information as may be appropriate.

The Secretary may, upon application by an employer, grant an order allowing a variance from a standard or a provision thereof if the employer establishes that:

- a. He is unable to comply with the standard by its effective date because of unavailability of professional or technical personnel or of materials and equipment needed to come into compliance with the standard or because necessary construction or alteration of facilities cannot be completed by the effective date;
- b. He is taking all available steps to safeguard his employees against the hazards covered by the standard;
- c. He has an effective program for coming into compliance with the standard as quickly as practicable;

An application for a temporary order under the preceding paragraph shall contain:

- a. A specification of the standard or portion thereof from which the employer seeks to variance;
- b. A manifestation by the employer, supported by representations from qualified persons having firsthand knowledge of the facts represented, that he is unable to comply with the reasons thereof;
- c. A statement of the steps he has taken and will take, with specific dates, to protect employees against the hazard covered by the standards;
- d. A statement of when he expects to be able to comply with the standard and what steps he has taken and will take, with specific dates, to comply with the standard; and
- e. A certification that he has informed his employees of the application by giving a copy thereof to their authorized representative, and by posting a copy thereof at the place or places where notices to employees are normally posted.

Any temporary order issued by the Secretary shall prescribe the practices, means, methods, operations, and processes which the employer must adopt and use

while the order is in effect and state in detail his program for coming into compliance with the standard. Such temporary order may be granted only after notice to the employees and an opportunity for a hearing which shall be for a period not exceeding sixty (60) days, provided that the Secretary may issue one (1) interim order to be effective until the decision is made on the basis of the hearing. No temporary order may be in effect for longer than the period needed by the employer to achieve compliance with the standard or three (3) months, whichever is shorter. The Secretary shall issue a temporary order based on the hearing within one month after the expiration of the hearing.

The Secretary is also authorized to grant variance from any standard or portion thereof whichever he determines, or the Secretary of Health certifies, that such a variance is necessary to permit an employer to participate in an experiment approved by him or the Secretary of Health designed to demonstrate or validate new and improved techniques to safeguard the safety or health of employees.

The Secretary shall provide for an emergency temporary standard to take immediate effect upon publication in a newspaper of general circulation if he determines that:

- a. Employees are exposed to a grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards; and
- b. That such emergency standard is necessary to protect the employees from such danger. Such standard shall be effective until superseded by a standard promulgated in accordance with the procedures described in this section. Upon publication of such temporary standard, the Secretary shall commence a proceeding in accordance with this section and the temporary standard as published shall also serve as a proposed rule/standard for consideration of the advisory council. The Secretary shall promulgate a standard under this paragraph not later than six (6) months after the publication of the emergency standard.

Any standard promulgated under this section shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such standard shall also prescribe suitable protective equipment, and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees. Such standard, where appropriate, shall also prescribe the type and

frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure. Where such medical examinations are in the nature of research, as determined at the expense of the Secretary of Health, make appropriate modifications in the foregoing requirements regarding the use of labels or other forms of warning, monitoring or measuring and medical or technological developments acquired subsequent to the promulgation of the relevant standard.

An affected employer may apply to the Secretary for a rule or variance from a standard promulgated under this section. Affected employees shall be given notice of such application and an opportunity to participate in a hearing. The Secretary shall issue such rule or order if he determines on the record, after opportunity for an inspection and a hearing, that the proponent of the variance has demonstrated by a preponderance of evidence that the conditions, practices, means, methods, operations or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the employer must maintain and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Secretary on his own motion in the manner prescribed for its issuance under this section at any time after six months from its issuance.

Whenever the Secretary promulgates any standard, makes any rule, order or decision, grants any exemption or extension of time, or compromises, mitigates or settles any penalty assessed under this Code, he shall include a statement of the reasons for such action which shall be published in a newspaper of general circulation.

Any person who may be adversely affected by a standard issued under this section may at any time prior to the sixtieth day after such standard is promulgated file a petition with the Secretary challenging the validity of such standard and requesting for a hearing which shall proceed in the manner provided under subsection 1 paragraph (b). The filing of such petition shall not, unless otherwise ordered by the Secretary operate as a stay of the standard.

SECTION 13. *Trade Secrets.* - All information reported to or otherwise obtained by the enforcement officer in connection with any inspection or proceedings under this Code, which contains or might reveal a trade secret shall be considered confidential

except that such information may be disclosed to other officers or employees concerned with carrying out this Code or may be revealed in any proceeding where it is required or necessary.

SECTION 14. *Annual Report.* - The Secretary of Labor and Employment and the Secretary of Health shall each prepare and submit annually to the President for transmittal to the Congress a report upon the subject matter of this Code, the progress toward the achievement of the purpose of this Code, the needs and requirements in the field of occupational safety and health, and any other relevant information with such recommendations for additional legislation as may be deemed necessary to protect the safety and health of workers and for the better administration and enforcement of this Code.

SECTION 15. *Penalties.* - In addition to the penalties provided for by existing laws, administrative fines for violations of this Code shall be assessed as follows:

- a. Any employer who willfully violates the requirements of Section 6 of this Code or regulations prescribed pursuant to this Code, shall be assessed as an administrative fine of not less than Ten Thousand Pesos (P10,000) nor more than Twenty Thousand Pesos (P20,000) for each violation.
- b. Any employer who willfully or repeatedly violates any standard, rule or order promulgated pursuant to Section 11 of this Code or regulations prescribed pursuant thereto shall be assessed an administrative fine of not less than Ten Thousand Pesos (P10,000) nor more than Thirty Thousand Pesos (P30,000) a day, depending upon the gravity of the violation, starting from the date the violation is uncovered until the same has been corrected by the offender.
- c. Any person who gives advance notice of any inspection to be conducted under this Code, shall be assessed a fine of not less than Five Thousand Pesos (P5,000) nor more than Twenty Thousand Pesos (P20,000).
- d. Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Code shall be assessed a fine of not less than Ten Thousand Pesos (P10,000) nor more than Thirty Thousand Pesos (P30,000).
- e. Any employer who violates any of the posting requirements as prescribed under the provisions of this Code shall be assessed a fine of not less than Five Thousand Pesos (P5,000) nor more than Fifteen Thousand Pesos (P15,000) for each violation.

SECTION 16. *Implementing Rules And Regulations.* - The Secretary of the Department of Labor and Employment, and the Secretary of Health shall each

promulgate such rules and regulations as may be deemed necessary to carry out their responsibilities under this Code.

SECTION 17. *Special Fund.* - The administrative fines assessed and collected under this Code shall accrue to a special fund to be known as the "Occupational Safety and Health Fund" which shall be used for measures, programs, projects and activities for the attainment of the objectives of this Code for the protection and enhancement of the occupational safety and health of workers. The Fund shall be managed by a board composed of the Secretary of Labor and employment as chairman, and the Secretaries of the Department of Health (DOH), Department of Agriculture (DA), Department of Environment and Natural Resources (DENR) and the Department of Transportation and Communication (DOTC) as well as the Director of the Occupational Safety and Health Center, as members.

SECTION 18. *Separability Clause.* - If any provision or part of this Code, or the application thereof to any person or circumstance is held invalid, the remainder of this Code and the application of such provision or part to other persons or circumstances shall not be affected thereby. In case any standard adopted or promulgated under this Code conflicts, duplicates or overlaps with any of those prepared and implemented by other government agencies, such conflict, duplication or overlapping shall be resolved by the advisory council provided for under Section 11.

SECTION 19. *Repealing Clause.* - Articles 162, 163, 164 and 165 of the Labor Code of the Philippines are hereby repealed and superseded by this Code. Article 166 of the Labor Code is hereby renumbered Article 162 and the succeeding articles from Article 167 to 302 are likewise renumbered successively. All occupational safety and health laws, standards, rules and regulations inconsistent with this Code are hereby repealed.

SECTION 20. *Effectivity Clause.* - This Code shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,