

THIRTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES) S. S
First Regular Session)

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SENATE

S. B. No. 893

Introduced by Senator Jinggoy Ejercito Estrada

EXPLANATORY NOTE

R.A. 8042 otherwise known as "An Act to Institute the Policies of the Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of Migrant Workers, their Families and Overseas Filipinos in Distress and for other Purposes" intended to manage the overseas labor program consistent with the overall national employment policies and at the same time establish sufficient safety nets to safeguards the welfare of our OCWs. To enable us to fully achieve the above objectives, there is a need to amend some provisions of the R.A. 8042.

Specially, we wish to highlight the following points:

1. The unskilled workers are not allowed to deploy overseas, which, in effect would prevent us from helping the sector of our society which needs help. It would likewise deny them the opportunity to receive free training abroad while at the same time earning, which training and transfer of technology would otherwise cost hundreds of millions to the government.
2. While we recognized the NGOs as partner of government in this program, we failed to recognize the private business sector which is mainly responsible for creating gainful employment for our new heroes, without them there will be, no heroes. To categorize them together with the illegal recruiters is adding insult to injury which is most unfair.

With the above points in mind, we propose for the approval of this amendatory bill.


JINGGOY EJERCITO ESTRADA
Senator

THIRTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
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01 JUL 30 PM 146

SENATE
S.B. No. 893

RECEIVED BY: [Signature]

Introduced by Senator Jinggoy Ejercito Estrada

**AN ACT
TO AMEND REPUBLIC ACT 8042 ENTITLED, "AN ACT TO INSTITUTE THE
POLICIES OF THE OVERSEAS EMPLOYMENT AND ESTABLISH A HIGHER
STANDARD OF PROTECTION AND PROMOTION OF THE WELFARE OF
MIGRANT WORKERS, THEIR FAMILIES AND OVERSEAS FILIPINOS IN
DISTRESS AND FOR OTHER PURPOSES"**

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

SECTION 1. Section 2 (g) and (h) is hereby amended to read as follows:

(g) The state recognizes that the ultimate protection to all migrant is the possession of skills. Pursuant to this and as soon as practicable, the government shall deploy and/or allow deployment only of [skilled] EMPOWERED AND JOB ORIENTED Filipino workers."

(h) Non-government organization, duly recognized as legitimate AND THE PRIVATE BUSINESS SECTOR INVOLVED are partners of the state in the protection of Filipino migrant workers and in the promotion of their welfare. The state shall cooperate with them in a spirit of trust and mutual respect.

SECTION 2 Section 6 on illegal Recruitment is hereby amended to read as follows:

SECTION 6. **Definition** - The purpose of this Act illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers and included referring. contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13 (f) of Presidential Decree No.422, as amended, otherwise known as the Labor Code of the Philippines; Provided, That any such non-license or no holder of authority who, in any manner, offers or promises for a fee, employment abroad to two or more persons should be deemed so engaged. [It shall likewise include] The following acts [whether] WHEN , committed by [any person,

whether, a non-licensee or non-holder of authority] a license or holder of authority SHALL CONSTITUTE GRAVE VIOLATIONS OF THE RULES AND REGULATIONS OF DEPARTMENT OF LABOR AND EMPLOYMENT AND/OR PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION SUBJECT TO ITS SANCTIONS, UNDER OFFENSES AND CORRESPONDING PENAL TIES,

- a) To charge or accept directly or indirectly any amount greater than that specified *in* the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay any amount greater than that actually received by him as a loan advance;
- b. To furnish or publish any false notice or information of document in relation to *recruitment or employment*;
- c. To give any false notice, testimony, information or document or commit any act misrepresentation for the purpose of securing a license or authority under this Act;
- d. To endure or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;
- e. To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency;
- f. To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;
- g. To obstruct or attempt to obstruct inspection by the Secretary of Labor and Employment or by his duly' authorized representative;
- h. To fail to submit reports on the status of employment, placement vacancies remittance of foreign exchange earnings, separation from jobs, departures, and such other matters information as maybe required by the Secretary of Labor and Employment.
- i. To substitute or alter employment contracts approved and verified by the Department of Labor and Employment from i the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor and Employment;
- j. For an officer or agent of a recruitment or placement agency to become officer or member of the Board of any, corporation engaged in travel agency to be engaged directly or indirectly in the management of a travel agency;
- k. To withhold or deny travel documents from applicant workers before departure/or monetary or financial considerations other than those authorized under this Act and its implementing rules and regulations;

l. Failure to actually deploy without valid reason as determined by the department of Labor and Employment;

m. Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where deployment does not actually take place.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) persons conspiring of or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

The persons criminally liable for the above offenses are the principals, accomplices, and accessories. In case of juridical persons, the officers having control, management or direction of their business shall be liable.

SECTION 3. The last paragraph of Section 7 of the law on Penalties shall be amended to read as follows:

"Provided, however, that the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age, [or committed by a non-licensee or non-holder of authority.]"

SECTION 4. The second paragraph of Section 10 of the law on money claims is hereby amended to read as follows:

"The liability of the principal/employer and the LICENSED recruitment/placement agency for any and all claims under this Section shall be joint and several. This provision shall be incorporated in the contract (or overseas employment and shall be a condition precedent for its approval he [Performance] SURETY AND CASH bond to be filed by the recruitment/placement agency, as provided by law; shall be answerable for all money claims or damages that may be awarded to the workers. If the recruitment/placement agency is a juridical being, the corporate officer and directors and partners as the case maybe, shall themselves be jointly and solidarity be liable with the corporation or partnership for the aforesaid claims and damages SUBJECT TO THE PROVISIONS OF THE CORPORATION CODE OF THE PHILIPPINES.

SECTION 5. **Effectivity.** This Act shall take effect after fifteen (15) days from its complete publication in the Official Gazette or in at least two (2) national newspapers of general circulation, whichever comes earlier.

APPROVED,