


SENATE

'19 JUL 29 P12:59

S.B. No. 806

RECEIVED BY: 

Introduced by **SENATOR JOEL VILLANUEVA**

AN ACT
STRENGTHENING WORKERS RIGHT TO SECURITY OF TENURE,
AMENDING FOR THE PURPOSE ARTICLES 106, 107, 108, AND 109
OF BOOK III, AND ARTICLES 294 [279], 295 [280], 296 [281], AND
297 [282] OF BOOK VI OF PRESIDENTIAL DECREE NO. 442,
OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES,
AS AMENDED

EXPLANATORY NOTE

“STOP ENDO” or “STOP CONTRACTUALIZATION” is the resounding call of workers nationwide. Indeed, being caught in the cycle of intermittent ENDO or CONTRACTUAL jobs with no prospect of permanency is very oppressive and derogates the Constitutionally guaranteed rights of workers to security of tenure, humane conditions of work, organize and collectively bargain, engage in peaceful concerted activities including strike in accordance with law, receive a living wage, and participate in decision-making processes affecting their rights and benefits (Section 3, Art. XIII of the 1987 Constitution).

On September 21, 2018, the President certified Senate Bill No. 1826 as an urgent measure in fulfillment of his campaign promise to end Endo. Among others, this bill clarified when labor-only contracting exists:

- a) when the job contractor merely supplies workers to a contractee;
- b) when the workers supplied by the contractor are performing jobs which are directly related to the principal business of the contractee;
- c) when the job contractor does not control the workers deployed to the contractee.

The proposal to include the performance of "directly related tasks" as an indicator of the existence of labor-only contracting is meant to address a situation where all functions or tasks are contracted out to a job contractor, which is clearly a circumvention of the Constitutional guarantee on the right to security of tenure.

This definition was favorably endorsed by the Department of Labor and Employment (DOLE), the primary agency in-charge of implementing the Labor Code, and who, we assume, knows the loopholes in the law that must be addressed by corrective legislation. According to DOLE, the amendment will simplify the interpretation, implementation and enforcement of the prohibition on labor-only contracting and curb practices that circumvent the prohibition. Most of the LOC cases pending on appeal is grounded on the argument that the contractors are not LOC because it has substantial capitalization citing Supreme Court cases.

Unfortunately, while the enrolled bill contains the same definition in the bill certified as urgent by the President, the President, upon the advise of his ill-informed advisers, chose to veto the bill on July 26, 2019, on the basis of this alleged "broad" definition. Thus, we lament the veto of the Security of Tenure Bill on account of the wrong assumptions used in justifying its veto.

Despite this setback, however, we believe that the fight goes on. We will continue to fight for the right to security tenure of our workers, and finally provide relief to countless workers who continue to fight for security in their jobs.

Thus, we are refiling the Security of Tenure Bill which was certified as urgent by the President. Additionally, it allows industry tripartite councils to determine the jobs that are directly related to the principal business of a contractee/principal. This is in recognition of the fact that what may be directly related to the business of a contractee today, may not be directly related tomorrow due to rapidly changing technologies.

This amendment will give the labor sector the opportunity to voice their concerns in the contracting out of certain jobs or services, and at the same time, give the employers the opportunity to present the realities of the operations of their businesses and give them appropriate flexibility to adjust to changes dictated by their businesses, especially in light of rapidly changing technologies.

For example, now, we can see restaurants having electronic machines where you can place your order and make your payment. At NLEX and SCTEX, slowly we see an aggressive push for RFIDs or easy strips and less and less toll collectors during regular days. In light of similar developments in other industries, what should be considered "directly related" to the principal business of a contractee today will no longer be "directly related" in a year or two.

This will also provide stability. The listing of tasks or functions that may or may not be contracted out removes the wide latitude of discretion of DOLE inspectors and contractees on what is directly related or not, including that of the labor sector. Currently, the contractee makes a self-determination of what jobs/tasks are directly related to its business. Also, the DOLE inspectors, rely on their own judgment or understanding during inspection, on what jobs/tasks being contracted out are directly

related while the DOLE directors and the Secretary of Labor and Employment also have their own separate determination on whether the jobs/tasks contracted out are directly related to the principal business of the contractee. The justices of the Court of Appeals and the Supreme Court separately determine the relatedness of the task or functions to the principal business of the contractee.

Having an industry-determined listing will also remove the litigiousness of the process and dissatisfaction from both sides of the employers and the affected workers. What will be checked during inspection is the license and the subject of determination would just be the following:

- a) whether the contracted tasks or functions is included in the industry's positive or negative listings; or
- b) whether the job contractor is merely supplying workers; or
- c) whether the job contractor exercises of direct control over the workers deployed to the contractee.

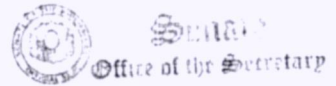
Compliance with substantial capital requirement or possession of tools or equipment reasonably necessary to the contracted tasks or functions will already be checked at the time of application for a license, being an administrative requirement for licensing. The license being an authority given to engage in job contracting, unlike registration, is a DOLE guarantee that the licensee has complied with the requirements set out in the proposed measure. Hence, any non-compliance determined with finality will make the issuing DOLE officer administratively liable for the issuance of the license along with the licensee for the fraudulent authority.

In addition, this bill also requires job contractors to obtain a license from DOLE, upon showing proof that it has substantial capital, has an independent business, an employer with regular employees, complies with labor laws and payment of social security benefits, such as SSS, PhilHealth and Pag-ibig premium payments, among others.

This bill also simplifies the classification of workers to regular and probationary employees. Project and seasonal employees are regular employees for the duration of the project or season, as the case may be. All other forms of employment are strictly prohibited.

The immediate passage of this bill is earnestly sought.



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AN ACT

STRENGTHENING WORKERS RIGHT TO SECURITY OF TENURE, AMENDING FOR THE PURPOSE ARTICLES 106, 107, 108, AND 109 OF BOOK III, AND ARTICLES 294 [279], 295 [280], 296 [281], AND 297 [282] OF BOOK VI OF PRESIDENTIAL DECREE NO. 442, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AS AMENDED

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

1 **SECTION 1. Title.** This Act shall be known as the "Security of Tenure and
2 End of Endo Act"

3
4 **SEC. 2.** Article 106, Title II, Book III of the Labor Code, as amended, is
5 hereby amended to read as follows:

6
7 **"ARTICLE 106. [Contractor or Subcontractor] PROHIBITION ON**
8 **LABOR-ONLY CONTRACTING.** – [Whenever an employer enters into a
9 contract with another person for the performance of the former's work, the
10 employees of the contractor and of the latter's subcontractor, if any, shall be
11 paid in accordance with the provisions of this Code.

12
13 "In the event that the contractor or subcontractor fails to pay the wages
14 of his employees in accordance with this Code, the employer shall be jointly
15 and severally liable with his contractor or subcontractor to such employees to
16 the extent of the work performed under the contract, in the same manner and
17 extent that he is liable to employees directly employed by him.

18
19 "The Secretary of Labor and Employment, may by appropriate
20 regulations, restrict or prohibit the contracting-out of labor to protect the rights
21 of workers established under this Code. In so prohibiting or restricting, he
22 may make appropriate distinctions between labor-only contracting and job
23 contracting as well as differentiations within these types of contracting and

1 determine who among the parties involved shall be considered the employer
2 for the purposes of this Code, to prevent any violation or circumvention of this
3 Code.]

4
5 "LABOR-ONLY CONTRACTING IS PROHIBITED. There is "labor-
6 only" contracting where the [person supplying workers to an employer does
7 not have] JOB CONTRACTOR, WHETHER LICENSED OR NOT, MERELY
8 RECRUITS AND SUPPLIES OR PLACES WORKERS TO A CONTRACTEE
9 REGARDLESS OF WHETHER OR NOT HE/SHE HAS substantial capital or
10 investment in the form of tools, equipment, machineries, work premises,
11 among others, [and] OR the workers recruited and SUPPLIED OR placed by
12 such person are performing activities which are directly related to the principal
13 business of such CONTRACTEE OR ARE UNDER THE CONTROL AND
14 SUPERVISION OF THE CONTRACTEE. In such cases, the [person or
15 intermediary] JOB CONTRACTOR shall be considered merely an agent [of]
16 AND the [employer who] CONTRACTEE shall be responsible to the workers
17 in the same manner and extent as if the latter were directly employed by
18 him/HER.

19
20 FOR THE PURPOSES OF THIS ARTICLE, THE SPECIFIC JOB,
21 WORK OR SERVICE THAT ARE DEEMED DIRECTLY RELATED TO THE
22 PRINCIPAL BUSINESS OF A CONTRACTEE SHALL BE DETERMINED BY
23 THE APPROPRIATE INDUSTRY TRIPARTITE COUNCIL WHICH SHALL BE
24 ISSUED THROUGH REGULATIONS BY THE SECRETARY OF LABOR AND
25 EMPLOYMENT. IN THE ABSENCE OF A DETERMINATION BY THE
26 APPROPRIATE INDUSTRY COUNCIL, THE SECRETARY OF LABOR AND
27 EMPLOYMENT SHALL DETERMINE THE STANDARD CRITERIA AFTER
28 CONSULTATION WITH THE NATIONAL TRIPARTITE INDUSTRIAL PEACE
29 COUNCIL.

30
31 "IN ALL CASES WHERE LABOR-ONLY CONTRACTING IS
32 PRESENT, THE WORKERS SHALL OUTRIGHT BE DEEMED REGULAR
33 EMPLOYEES OF THE CONTRACTEE IN ACCORDANCE WITH LAW,
34 RETROACTIVE TO THE DATE THEY WERE FIRST DEPLOYED TO SAID
35 CONTRACTEE, WITHOUT PREJUDICE TO ANY CRIMINAL, CIVIL, OR
36 ADMINISTRATIVE CASE AGAINST THE LABOR-ONLY CONTRACTOR
37 AND THE CONTRACTEE.

38
39 "COMPLIANCE ORDERS AFFIRMED BY THE SECRETARY OF
40 LABOR AND EMPLOYMENT SHALL BE IMMEDIATELY EXECUTORY
41 UNLESS RESTRAINED BY AN APPROPRIATE COURT.

42
43 "IN CASE THE COMPLIANCE ORDER INVOLVES A DIRECTIVE TO
44 REGULARIZE WORKERS, THE EMPLOYMENT OF THE LATTER SHALL
45 NOT BE TERMINATED PENDING APPEAL OF SUCH ORDER EXCEPT
46 FOR JUST OR AUTHORIZED CAUSE. ANY TERMINATION OF WORKERS
47 PENDING APPEAL SHALL RENDER THE COMPLIANCE ORDER
48 INVOLVING THE REGULARIZATION OF WORKERS EXECUTORY.

1 "ADDITIONALLY, THE SECRETARY OF LABOR AND EMPLOYMENT
2 SHALL IMPOSE A FINE OF UP TO FIVE MILLION PESOS
3 (PHP5,000,000.00) AGAINST ANY LABOR-ONLY CONTRACTOR. THE
4 SECRETARY OF LABOR AND EMPLOYMENT SHALL ALSO HAVE THE
5 POWER TO PREVENTIVELY OR PERMANENTLY CLOSE THE
6 OPERATIONS OF ANY LABOR-ONLY CONTRACTOR."
7

8 **SEC. 3.** Article 107, Title II, Book III of the Labor Code, as amended, is
9 hereby repealed, and in lieu thereof, a new Article 107 is inserted to read as
10 follows:
11

12 **"ARTICLE 107. LICENSING OF JOB CONTRACTORS.** - IT SHALL
13 BE MANDATORY FOR ALL PERSONS OR ENTITIES ACTING AS JOB
14 CONTRACTOR TO OBTAIN A LICENSE FROM THE DOLE THROUGH ITS
15 REGIONAL OFFICES. FOR PURPOSES OF ARTICLES 106-109, "JOB
16 CONTRACTOR" REFERS TO A SOLE PROPRIETORSHIP,
17 CORPORATION, ASSOCIATION, COOPERATIVE OR OTHER
18 ORGANIZATION THAT PERFORMS A SPECIFIC WORK, JOB OR
19 SERVICE TO A CONTRACTEE. "CONTRACTEE" REFERS TO THE
20 PERSON OR ENTITY, WHICH SHALL INCLUDE THE GOVERNMENT,
21 THAT CONTRACTED OUT A SPECIFIC WORK, JOB OR SERVICE.
22

23 "THE LICENSE SHALL BE ISSUED TO QUALIFIED JOB
24 CONTRACTORS UPON COMPLIANCE WITH THE FOLLOWING
25 REQUIREMENTS:
26

- 27 (A) HAVE AN INDEPENDENT BUSINESS, SEPARATE AND
28 DISTINCT FROM THE CONTRACTEE;
29
- 30 (B) HAVE A PAID-UP CAPITAL OR NET WORTH OF AT LEAST FIVE
31 MILLION PESOS (PHP5,000,000.00), WHICH MAY BE
32 INCREASED AS DEEMED APPROPRIATE THROUGH
33 TRIPARTITE CONSULTATION;
34
- 35 (C) BE AN EXPERT OR SPECIALIST IN THE JOB, WORK OR
36 SERVICE BEING CONTRACTED THAT SHALL NOT BE
37 DIRECTLY RELATED TO THE PRINCIPAL BUSINESS OF THE
38 CONTRACTEE. FOR THIS PURPOSE, EXPERTISE OR
39 SPECIALIZATION SHALL BE ESTABLISHED BY SHOWING,
40 AMONG OTHERS, A CORE OF COMPETENT PROFESSIONALS
41 OR SKILLED WORKERS ESPECIALLY TRAINED TO CARRY
42 OUT THE JOB, WORK OR SERVICE OR TRACK RECORD IN
43 SUCH FIELD OF SPECIALIZATION;
44
- 45 (D) BE AN EMPLOYER WITH REGULAR EMPLOYEES AND HAVE
46 EQUIPMENT, MACHINERIES OR TOOLS NECESSARY TO
47 PERFORM OR COMPLETE THE JOB, WORK OR SERVICE
48 CONTRACTED OUT;
49
50

- 1 (E) EXERCISE CONTROL OVER THE PERFORMANCE AND
2 COMPLETION OF THE JOB, WORK OR SERVICE
3 CONTRACTED OUT;
4
- 5 (F) CERTIFICATION OF COMPLIANCE WITH LABOR AND SOCIAL
6 WELFARE LAWS INCLUDING PROOF OF PAYMENT OF
7 SOCIAL SECURITY, PHILIPPINE HEALTH INSURANCE
8 CORPORATION, AND HOME DEVELOPMENT MUTUAL FUND
9 (PAG-IBIG) CONTRIBUTIONS; AND
10
- 11 (G) PAYMENT OF LICENSE FEE, WHICH SHALL NOT BE LOWER
12 THAN ONE HUNDRED THOUSAND PESOS (PHP100,000.00).

13 "THE LICENSE SHALL BE VALID FOR A PERIOD OF THREE (3)
14 YEARS AND MAY BE RENEWED UPON COMPLIANCE WITH THE
15 REQUIREMENTS PRESCRIBED BY THE DOLE. IN ALL CASES, THE JOB
16 CONTRACTOR SHALL DEMONSTRATE THAT IT HAS FINANCIAL
17 CAPACITY TO CARRY ON ITS BUSINESS BASED ON FACTORS SUCH
18 AS, BUT NOT LIMITED, TO THE NUMBER OF ITS EMPLOYEES AND THE
19 NATURE OF ITS BUSINESS.
20

21 "ANY LEGITIMATE LABOR ORGANIZATION SHALL HAVE ACCESS
22 TO COPIES OF LICENSES ISSUED TO JOB CONTRACTORS AND ANY
23 AND ALL SUBMISSIONS MADE IN CONNECTION WITH SUCH LICENSE.
24

25 "FOR THIS PURPOSE, THE SECRETARY OF LABOR AND
26 EMPLOYMENT, IN CONSULTATION WITH THE NATIONAL TRIPARTITE
27 INDUSTRIAL PEACE COUNCIL (NTIPC), SHALL ISSUE THE
28 APPROPRIATE REGULATIONS FOR THE LICENSING, RENEWAL,
29 SUSPENSION, AND REVOCATION OF LICENSES OF JOB
30 CONTRACTORS, INCLUDING THE ACCOUNTABILITIES OF THE
31 LICENSING OFFICER IN CASE THE LICENSE IS ISSUED IN VIOLATION
32 OF, OR IN SIMULATION OF ANY OF THE REQUIREMENT FOR
33 LICENSING UNDER PARAGRAPHS (A) TO (G) ABOVE, OR UPON
34 FINDING OF LABOR-ONLY CONTRACTING COMMITTED BY A DULY-
35 LICENSED JOB CONTRACTOR.
36

37 "IN NO CASE SHALL PRIVATE RECRUITMENT AND PLACEMENT
38 AGENCIES (PRPA) OR PRIVATE EMPLOYMENT AGENCIES (PEA)
39 UNDER ARTICLE 25 OF THE LABOR CODE, AS AMENDED, BE ALLOWED
40 TO ENGAGE IN JOB CONTRACTING AND/OR THE PROHIBITED LABOR-
41 ONLY CONTRACTING."
42

43 **SEC. 4.** A new Article 107-A, Title II, Book III of the Labor Code, as amended,
44 is hereby provided to read as follows:
45

46 "ARTICLE 107-A. RIGHTS OF EMPLOYEES OF JOB
47 CONTRACTORS. THE TERMS AND CONDITIONS OF EMPLOYMENT OF
48 THE EMPLOYEES OF JOB CONTRACTORS SHALL NOT BE LOWER
49 THAN THE MINIMUM STANDARDS SET BY LAW AND REGULATIONS."

1 **SEC. 5.** Article 108, Title II, Book III of the Labor Code, as amended, is
2 hereby amended to read as follows:
3

4 **“ARTICLE 108. Posting of Bond.** – [An employer or indirect
5 employer] THE CONTRACTEE may require the contractor to furnish a bond
6 equal to the cost of labor under contract, on condition that the bond will
7 answer for the wages due the employees should the contractor fail to the pay
8 the same.”
9

10 **SEC. 6.** A new Article 108-A, Title II, Book III of the Labor Code, as amended,
11 is hereby provided to read as follows:
12

13 **“ARTICLE 108-A. TRANSITION SUPPORT PROGRAM (TSP) – A**
14 **TRANSITION SUPPORT PROGRAM FOR JOB CONTRACTING SHALL BE**
15 **ESTABLISHED BY THE DOLE WHICH:**
16

- 17 (A) SHALL PROVIDE A THREE-MONTH FINANCIAL SUPPORT FOR
18 EMPLOYEES IN BETWEEN JOB PERIODS AND IS
19 CONDITIONED ON UNDERGOING SKILLS TRAINING OR
20 UPGRADING UNDER TESDA OR TESDA ACCREDITED
21 TRAINING INSTITUTION DURING THE PERIOD OF
22 UNEMPLOYMENT, PROVIDED THAT THE FREQUENCY OF
23 AVAILMENT SHALL NOT BE MORE THAN ONCE A YEAR;
24
- 25 (B) THE AMOUNT OF FINANCIAL SUPPORT SHALL NOT BE
26 LOWER THAN THE APPROPRIATE MINIMUM WAGE AND
27 SHALL BE RELEASED AT THE END OF EVERY MONTH; AND
28
- 29 (C) SHALL BE MANAGED BY THE APPROPRIATE BUREAU OF THE
30 DEPARTMENT OF LABOR AND EMPLOYMENT, WHICH SHALL
31 REPORT TO THE NATIONAL TRIPARTITE INDUSTRIAL PEACE
32 COUNCIL.
33

34 **“THE FUNDS FOR THE IMPLEMENTATION OF THE PROGRAM**
35 **SHALL BE SOURCED FROM THE FOLLOWING:**
36

- 37 (A) ONE HUNDRED PERCENT (100%) OF THE REGISTRATION/
38 RENEWAL FEES PAID BY CONTRACTORS;
39
- 40 (B) ALL FINES COLLECTED UNDER ARTICLE 106 OF THIS CODE;
41 AND
42
- 43 (C) FUNDS FROM THE ADJUSTMENT MEASURE PROGRAM OF
44 THE DEPARTMENT OF LABOR AND EMPLOYMENT.”
45
46
47
48
49

1 **SEC. 7.** Article 109, Title II, Book III of the Labor Code, as amended, is
2 hereby amended to read as follows:

3
4 **“ARTICLE 109. Solidary Liability.** – The provisions of existing laws to
5 the contrary notwithstanding, every [employer or indirect employer]
6 CONTRACTEE shall be held [responsible] SOLIDARILY LIABLE with [his]
7 THE JOB contractor [or subcontractor] for any violation of any provision of
8 this Code. For purposes of determining the extent of their civil liability under
9 this Chapter, they shall be considered as direct employers.”

10
11 **SEC. 8.** Article 294 [279], Title I, Book VI of the Labor Code, as amended, is
12 hereby further amended to read as follows:

13
14 **“ARTICLE 294 [279]. Security of Tenure.** – [In case or regular
15 employment, the employer shall not terminate] [t]The services of an
16 employee, IRRESPECTIVE OF EMPLOYMENT STATUS OR POSITION,
17 SHALL NOT BE TERMINATED except for a just cause or when authorized by
18 this Title. An employee who is unjustly dismissed from work shall be entitled
19 to reinstatement without loss of seniority rights and other privileges and to
20 his/HER full backwages, inclusive of allowances, and to his/HER other
21 benefits or their monetary equivalent computed from the time his/HER
22 compensation was withheld from him/HER up to the time of his/HER actual
23 reinstatement.

24
25 **“THE EMPLOYER SHALL HAVE THE BURDEN OF PROVING THAT**
26 **THE TERMINATION IS WITH CAUSE AND DUE PROCESS.”**

27
28 **SEC. 9.** Article 295 [280] Title I, Book VI of the Labor Code, as amended, is
29 hereby repealed, and in lieu thereof, a new Article 295 is provided to read as
30 follows:

31
32 **“ARTICLE 295. STATUS OF EMPLOYMENT.** - ALL EMPLOYEES,
33 EXCEPT THOSE UNDER PROBATIONARY EMPLOYMENT, ARE DEEMED
34 REGULAR, INCLUDING PROJECT AND SEASONAL EMPLOYEES.

35
36 **“PROJECT AND SEASONAL EMPLOYEES ARE REGULAR FOR THE**
37 **DURATION OF THE PROJECT OR SEASON, AS THE CASE MAY BE. FOR**
38 **THIS PURPOSE, PROJECT EMPLOYMENT IS EMPLOYMENT IN AN**
39 **EXISTING PROJECT OR UNDERTAKING THE COMPLETION OR**
40 **TERMINATION OF WHICH HAS BEEN DETERMINED AND MADE KNOWN**
41 **TO THE EMPLOYEE AT THE TIME OF THE ENGAGEMENT WHILE**
42 **SEASONAL IS AN EMPLOYMENT BASED ON THE EXISTENCE OF A**
43 **SEASON IN AGRICULTURAL WORK OR ESTABLISHED PERIODS OF**
44 **INCREASED WORK DEMANDS AND/OR INHERENT INDUSTRY**
45 **FLUCTUATIONS. IN PROJECT AND SEASONAL EMPLOYMENT,**
46 **WORKERS ARE CALLED TO WORK FROM TIME TO TIME AND**
47 **TEMPORARILY LAID-OFF DURING THE COMPLETION OF THE PROJECT**
48 **OR OFF-SEASON BUT ARE IN THE WORK POOL ON LEAVE WITH OR**
49 **WITHOUT PAY STATUS IN BETWEEN PROJECTS OR SEASONS.**

1 "ALL OTHER FORMS OF EMPLOYMENT ARE PROHIBITED AND
2 WORKERS UNDER SUCH ARRANGEMENTS ARE DEEMED REGULAR
3 EMPLOYEES RECKONED FROM THE FIRST DAY OF EMPLOYMENT.
4

5 "FOR THE AVOIDANCE OF DOUBT, AN EMPLOYER-EMPLOYEE
6 RELATIONSHIP EXISTS WHEN THE WORKER IS ENGAGED TO RENDER
7 WORK OR SERVICE UNDER THE CONTROL OF THE EMPLOYER, NOT
8 ONLY AS TO THE END TO BE ACHIEVED, BUT ALSO THE MANNER,
9 MEANS AND METHOD IN REACHING THE END."
10

11 **SEC. 10.** Article 296 [281], Title I, Book VI of the Labor Code, as amended, is
12 hereby amended to read as follows:
13

14 **"ARTICLE 296 [281]. Probationary Employment.** – Probationary
15 employment shall not exceed six (6) months from the [date the employee
16 started working, unless it is covered by an apprenticeship agreement
17 stipulating by a longer period.] FIRST DAY OF SERVICE REGARDLESS OF
18 THE NATURE OF WORK TO BE PERFORMED. THE JOB DESCRIPTION
19 AND QUALIFICATION STANDARDS TO QUALIFY FOR REGULAR
20 EMPLOYMENT SHALL BE MADE KNOWN BY THE EMPLOYER TO THE
21 EMPLOYEE AT THE TIME OF HIS/HER ENGAGEMENT.
22

23 "The services of [an] A PROBATIONARY employee [who has been
24 engaged on a probationary basis] may be terminated for [a] just OR
25 AUTHORIZED causeS UNDER ARTICLES 297 [282] AND 298 [283] OF THE
26 LABOR CODE, AS AMENDED, or when he/SHE fails to qualify as a regular
27 employee [in accordance with reasonable standards made known by the
28 employer at the time of his engagement. An employee who is allowed to work
29 after a probationary period shall be considered a regular employee]."
30

31 **SEC. 11.** Article 297 [282], Title I, Book VI of the Labor Code, as amended, is
32 hereby amended to read as follows:
33

34 **"ARTICLE 297 [282]. JUST CAUSES OF Termination [by employer].**
35 - An employer may terminate an employment for any of the following causes:
36

- 37 (a) Serious misconduct or willful disobedience by the employee of the
38 lawful orders of his/HER employer or representative in connection
39 with his/HER work;
40
41 (b) Gross and habitual neglect by the employee of his/HER duties;
42 (c) Fraud or willful breach by the employee of the trust reposed in
43 him/HER by his/HER employer or duly authorized representative;
44
45 (d) Commission of a crime or offense by the employee against the
46 person of his/HER employer or any immediate member of his/HER
47 family or his/HER duly authorized representatives; and
48
49 (e) [Other causes] ACT OR OMISSION analogous to the foregoing,
50 EXPRESSLY SPECIFIED AS GROUND FOR DISMISSAL IN THE

1 COMPANY RULES AND REGULATIONS FORMULATED IN
2 OBSERVANCE OF WORKERS RIGHT TO PARTICIPATE IN
3 POLICY AND DECISION-MAKING PROCESSES AFFECTING
4 THEIR RIGHTS AND BENEFITS, OR AS PROVIDED IN THE
5 DULY REGISTERED COLLECTIVE BARGAINING AGREEMENT.”
6

7 **SEC. 12.** A new Article 298-A, Title I, Book VI of the Labor Code, as
8 amended, is hereby provided to read as follows:
9

10 “**ARTICLE 298-A. PROOF OF AUTHORIZED CAUSE AND**
11 **PAYMENT OF SEPARATION PAY.** – WITHIN THE PRESCRIBED ONE (1)
12 MONTH PERIOD REQUIRED UNDER ARTICLE 298, THE EMPLOYER
13 SHALL SUBMIT TO THE DOLE FOR VALIDATION PROOF AND
14 UNDERTAKING ON THE EXISTENCE OF THE AUTHORIZED CAUSE IN
15 ACCORDANCE WITH THE RULES AND REGULATIONS AS MAY BE SET
16 BY THE SECRETARY OF LABOR AND EMPLOYMENT.
17

18 **SEC. 13. Implementing Rules and Regulations.** - The Secretary of
19 Labor and Employment shall promulgate the necessary implementing
20 rules and regulations within one hundred and twenty (120) days from
21 the effectivity of this Act.
22

23 **SEC. 14. Separability Clause.** - If any provision of this law or the
24 application thereof to any person or circumstance, is held invalid, the
25 remainder of this law, or the application of such provision or part to other
26 persons or circumstances, shall not be affected thereby.
27

28 **SEC. 15. Repealing Clause.** - All laws, decrees, rules, and regulations or
29 parts thereof, which are contrary to or inconsistent with this Act are hereby
30 repealed or modified accordingly.
31

32 **SEC. 16. Effectivity Clause.** - This Act shall take effect fifteen (15) days
33 after its publication in the Official Gazette or in at least two (2) newspapers of
34 general circulation.
35

36 **Approved,**