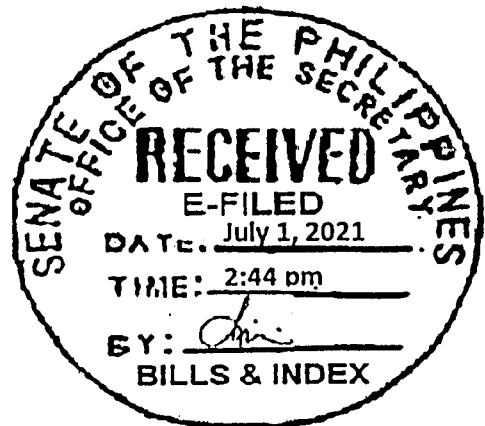


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



SENATE

S. No. 2307

Introduced by SENATOR LEILA M. DE LIMA

AN ACT
MANDATING PAID LEAVES IN THE PRIVATE SECTOR DURING A
STATE OF CALAMITY ON ACCOUNT OF AN INFECTIOUS DISEASE

EXPLANATORY NOTE

If there is anything the government should have learned by now regarding the adverse impacts of the COVID-19 pandemic to our economy, it is the correlation between increasing unemployment and decreasing economic output. The data strongly supports this observation. In April 2020, during the time when the strictest lockdowns were enforced, unemployment soared to 17.7%, equivalent to around 7.3 million jobless individuals according to the Philippine Statistics Authority (PSA).¹ Consequentially, the country's Gross Domestic Product (GDP) would plummet to a record-low -16.9% during the 2nd quarter of 2020.² Overall, the annual unemployment rate in 2020 rose to 10.3%, equivalent to 4.5 million unemployed Filipinos, while GDP fell by 9.5%.³

Workers already occupy a precarious and vulnerable position in Philippine society but their situation was further exacerbated by the spread of the COVID-19 pandemic. This vulnerable sector has long been consigned to the sidelines, forced to endure their struggles and to fend for themselves while the administration continued to allow the deluge of Chinese workers much to their detriment. Marginalized as they

¹ Rivas, R. (5 June 2020). *PH unemployment at all-time high with 7.3 million jobless in April 2020*. Retrieved 28 June 2021, from <https://www.rappler.com/business/unemployment-rate-philippines-april-2020>

² Rivas, R. (15 March 2021). *IN CHARTS: Philippine economy, a year in lockdown*. Retrieved 28 June 2021, from <https://www.rappler.com/business/charts-philippine-economy-year-in-covid-19-lockdown-2021>

³ *Ibid.*

already are, their struggle to survive was made even worse by the continued nonchalance of the administration, if not downright neglect.

Since much of our economy is still very much service-oriented, workers have shouldered much of the adverse economic and health impacts of the pandemic owing to the restrictions on mobility imposed by the national government to stem the spread of the virus. Businesses who were forced to scale down their operations due to the economic recession have no choice but to lay off their workers in order to stay afloat. On the other hand, those who were still fortunate enough to have kept their jobs have no choice but to physically report to work and brave the risk of potentially contracting the virus due to the “no-work, no-pay” policy that employers often enforce. These outcomes do not even cover the reportedly millions of workers that were placed on “floating status” with no pay by companies who have temporarily closed up shop with no certainty of ever returning.⁴

The government has rightly taken proactive steps to ensure the protection of capital investments through the approval of the Legislative-Executive Development Advisory Council (LEDAC) Executive Committee’s common legislative agenda for the 18th Congress which contains several investment-centered measures.⁵ However, measures aimed at providing social safety nets for workers – the backbone and lifeblood of our economy – remain sorely lacking.

As the International Labour Organization (ILO) stated, in this pandemic that has pushed many to joblessness and many more to scenarios of risks, “making sure that work can be performed safely is a shared priority.”⁶ For those who continue to show up to serve even in the middle of one of the worst pandemics in history, “[i]mplementing adequate health and safety measures in these sectors, as well as promoting supportive working environments, is key to helping workers cope in these challenging times.”⁷ According to the ILO, “[s]trengthening occupational safety and health, adjusting work arrangements, preventing discrimination and exclusion, and

⁴ Barcelo, V. (10 December 2020). *COVID puts 2 million workers ‘floating’*. Retrieved 28 June 2021, from <https://manilastandard.net/mobile/article/341688>

⁵ Laforga, B. M. (3 March 2021). *LEDAC identifies 25 priority bills for passage by yearend*. Retrieved 28 June 2021, from <https://www.bworldonline.com/ledac-identifies-25-priority-bills-for-passage-by-year-end/>

⁶ International Labour Organization. *ILO Policy Brief on COVID-19. Pillar 3: Protecting workers in the workplace*. Retrieved 28 June 2021, from: https://www.ilo.org/global/topics/coronavirus/impacts-and-responses/WCMS_739049/lang--en/index.htm

⁷ *Ibid.*

providing access to health care and paid leave (and also to food and social services for the most vulnerable) are all indispensable strands of a coordinated health and social policy response to the crisis.”⁸

Controlling COVID-19 outbreaks in workplaces “plays a crucial role in containing the spread of the virus, thereby protecting all workers and communities, and also having a positive impact on business continuity and employment.”⁹ However, the lack of positive protection for workers who are terrified of the possibility of death by the virus, but are more frightened of losing their precious salary for the days they cannot report to work, puts not only them at risk of falling to the virus but as well as their co-workers. In the absence of safeguards, these workers could find themselves in a situation where they may need to make a choice between health and income, which comes at a risk to both their health, the health of others and their economic well-being.

This measure seeks to help fill that gap by providing for paid epidemic leave credits to any private sector employee, regardless of employment status, who tests positive for the COVID-19 virus, or any emerging infectious disease in the future. It also protects workers who have been placed under “floating status” by providing them with a maximum of sixty (60) days of paid leave credits at 80% of their full pay.

Workers who are fortunate enough to remain employed are essentially forced to stay in jobs that are low paying despite health hazards due to the virus and the consequences of contractualization. Thus, it is only right and just that these workers be provided with paid leave credits whenever there is a declared epidemic. This ensures not only occupational safety and health in workplaces but also protects the welfare of workers and their families.

This proposed measure is a social justice tool that upholds workers’ most basic human rights. If we can offer protections to industries, nothing should stand in the way of shielding employees from oppressive situations that epidemics of this magnitude have confined them in.

Immediate approval of this proposed measure is most earnestly sought.

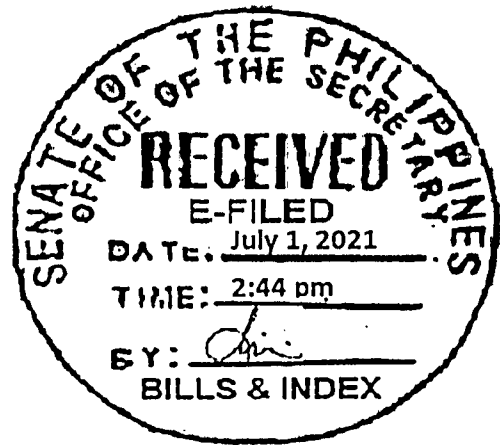
⁸ *Id.*

⁹ *Id.*

This is the counterpart bill for House Bill No. 7909 filed by Reps. Carlos Zarate, Ferdinand Gaité, Eufemia Cullamat, France Castro and Sara Jane Elago.


LEILA M. DE LIMA

EIGHTEENTH CONGRESS OF THE)
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SENATE

S. No. 2307

Introduced by SENATOR LEILA M. DE LIMA

AN ACT
MANDATING PAID LEAVES IN THE PRIVATE SECTOR DURING A
STATE OF CALAMITY ON ACCOUNT OF AN INFECTIOUS DISEASE

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

1 Section 1. *Short Title.* – This Act shall be known as the “Paid Epidemic Leave
2 Act.”

3 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to
4 protect and promote the right to health of the people, including workers who
5 constitute the lifeblood of the economy. The State affirms that a safe and healthy
6 workforce is an integral aspect of nation building, and that public health emergencies
7 pose threats to public health and occupational safety and health.

8 Sec. 3. *Definition of Terms.* –

- 9 a) *Confirmed Case* – any individual, irrespective of presence or absence of
10 clinical signs and symptoms, who was laboratory confirmed for COVID-19
11 or any emerging infectious disease in a test conducted at the national
12 reference laboratory, a subnational reference laboratory, and/or DOH-
13 certified laboratory testing facility;
- 14 b) *COVID-19* – refers to the coronavirus disease 2019;
- 15 c) *Emerging infectious disease* – refers to newly identified and previously
16 unknown infection which cause public health emergencies either locally or
17 nationally;

- 1 d) *Employer* – any person, natural or juridical, domestic or foreign, who
2 carries on in the Philippines any trade, business, industry, undertaking, or
3 activity of any kind and engages and controls the services of another
4 person. For purposes of this Act, employer includes national government
5 agencies and government-owned and controlled corporations;
- 6 e) *Full pay* – refers to an employee’s daily basic pay including fixed monetary
7 allowances without conditions;
- 8 f) *Private Sector Employee* – refers to any person who performs services for
9 an employer in the private sector which either mental or physical efforts
10 are used and who receives compensation for such services: *Provided*, That
11 a self-employed worker shall be both the employee and employer at the
12 same time;

13 Sec. 4. *Coverage.* – This Act shall apply to all establishments, projects, sites,
14 including Philippine Economic Zone (PEZA) Establishments, and all other places
15 where work is being undertaken in all branches of economic activity.

16 Sec. 5. *Grant of Paid Epidemic Leave Benefits.* – Employers are mandated to
17 grant paid epidemic leave benefits to their employees, regardless of employment
18 status, when there is a declared national or local calamity arising from an emerging
19 infectious disease, in order to contribute in the overall program to ensure
20 occupational safety and health (OSH) in workplaces, and to promote the protection
21 of labor amid the spillover effects of the infectious disease on the economy.

22 The grant of paid epidemic leave shall be made available upon the declaration
23 of a State of Calamity by the President of the Philippines or by the Local Sanggunian
24 pursuant to Section 16 of Republic Act No. 10121 otherwise known as the “Philippine
25 Disaster Risk Reduction and Management Act of 2010”.

26 The paid epidemic leave shall be at least five (5) working days of paid leave at
27 the rate of the employee’s daily full pay for employees who are classified under
28 Section 6(a) of this Act, and a maximum of sixty (60) days of paid leave at the rate of
29 eighty percent (80%) of the employee’s daily full pay for employees who are classified
30 under Section 6(b) of this Act. *Provided*, that one hundred percent (100%) of the
31 leave benefits shall be paid to the employee within the applicable period. The
32 minimum number of paid epidemic leave may be adjusted by the Department of
33 Labor and Employment (DOLE) and the Civil Service Commission (CSC) subject to

1 the recommendation of the Department of Health (DOH) on minimum health
2 protocols to prevent transmission.

3 *Sec. 6. Eligibility for Paid Epidemic Leave.* – For an employee to qualify for
4 paid epidemic leave, he or she must satisfy any of the following conditions:

5 a) The employee has experienced symptoms of, or has a probable or
6 confirmed case of COVID-19, or any emerging infectious disease that has
7 reached the status of at least an epidemic; or

8 b) The employee has been rendered involuntarily out of work or placed under
9 floating status by his or her employer due to the effects of the epidemic on
10 the company but who remains employed.

11 An employee who applies for the paid epidemic leave must submit the
12 necessary medical records and other proof of eligibility to the employer for
13 immediate action. Processing of applications for epidemic leave shall not exceed
14 three (3) days.

15 The application shall be deemed approved if not acted upon by the employer
16 within five (5) working days upon receipt thereof.

17 *Sec. 7. Security of Tenure.* – Those who avail of the benefits of this Act shall be
18 assured of security of tenure. As such, the exercise of this option by them shall not be
19 used as basis for demotion in employment or termination.

20 *Sec. 8. Non-discrimination.* – No employee shall be discriminated in the
21 availment of the paid epidemic leave benefit on the basis of sex, gender, political and
22 religious beliefs, and employment status.

23 *Sec. 9. Non-diminution of Benefits.* – Nothing in this Act shall be construed as
24 to diminish or prejudice existing sick leaves and other benefits currently enjoyed by
25 an employee, whether or not these are granted under collective bargaining
26 agreements (CBA) or present laws.

27 *Sec. 10. Construction in favor of labor.* – All doubts in the implementation
28 and interpretation of the provisions of this Act, including its implementing rules and
29 regulations, shall be resolved in favor of labor.

30 *Sec. 11. Appropriations.* – The national government shall reimburse the
31 employer for the payment of the employees' paid epidemic leave, using available

1 funds from the DOLE, Department of Budget and Management, and the Social
2 Security System (SSS), and from savings available during the State of Calamity for
3 the first year of the implementation of this Act.

4 Thereafter, the amount necessary to carry out the provisions of this Act shall
5 be appropriated in the General Appropriations Act.

6 Sec. 12. *Penalties.* – Any employer’s willful refusal to grant the paid epidemic
7 leave shall be punished by a fine of not less than Twenty thousand pesos
8 (P20,000.00) but not more than Two hundred thousand pesos (P200,000.00). If the
9 act or omission penalized by this Act shall be committed by an association,
10 partnership, corporation, or any other institution, its managing head, directors, or
11 partners shall be liable to the penalties provided in this Act for the offense.

12 Sec. 13. *Implementing Rules and Regulations.* – The DOLE shall issue the
13 necessary rules and regulations for the effective implementation of this Act within
14 sixty (60) days from the effectivity of the same.

15 Sec. 14. *Separability Clause.* – If any provision of this Act is declared
16 unconstitutional or invalid, other parts or provisions hereof not affected shall
17 continue to be in full force and effect.

18 Sec. 15. *Repealing Clause.* – All laws, executive orders, presidential decrees,
19 presidential proclamations, letters of instruction, rules and regulations or parts
20 thereof which are inconsistent with the provisions of this Act are hereby repealed or
21 modified accordingly.

22 Sec. 16. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
23 following its publication in the Official Gazette or in a newspaper of general
24 circulation in the Philippines.

Approved,