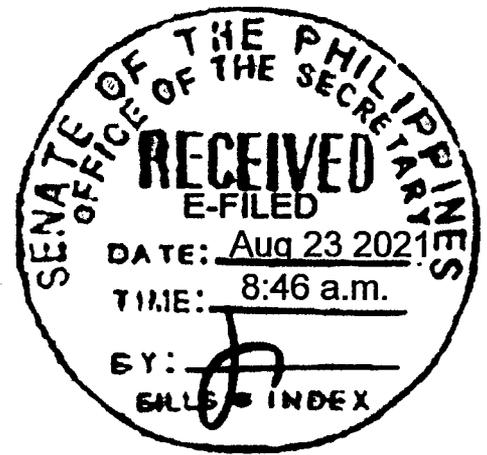


EIGHTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
Third Regular Session )



SENATE

S.B. No. 2349

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Introduced by **SENATOR IMEE R. MARCOS**

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**AN ACT PROMOTING WORKERS' HEALTH AND WELLNESS BY PROVIDING INCENTIVES TO EMPLOYERS FOR THE IMPLEMENTATION OF WORKFORCE WELLNESS AND WORKPLACE IMPROVEMENT PROGRAMS**

**EXPLANATORY NOTE**

The Coronavirus Disease 2019 (COVID-19) pandemic has affected more than 1 million Filipinos and killed over 19,000. As the world shifted during the last year, businesses, most especially micro, small, and medium enterprises, are scrambling to mitigate losses and return to normalcy or at least a "new normal". Understandably, once the Philippines begins to normalize, businesses will be prioritizing the recovery of their losses.

The Philippines has seen business enterprises adopting measures on keeping their workers physically healthy to become productive at work, including supporting social distancing with the technology needed to work from home, to new hygiene standards for the workers and workplaces, to introducing COVID-19 responsive leave benefits. However, once the country attains a sense of normalcy, it is reasonable to assume that businesses will again be shifting to on-site work arrangements.

Under this new normal, employers should not ignore an issue of paramount importance for sustained success throughout this crisis and beyond: the mental and physical health of their workers. Employers must recognize that they are dependent on the agility, adaptive capacity and emotional well-being of their people, which require them to stay healthy not just physically, but also emotionally.

Workers spend at least eight (8) hours a day, or one-third of their day on the job and, as a result, employers are in a unique position to promote the health and safety of their employees. Thus, the use by employers of effective worksite policies and programs can reduce health risks and improve job satisfaction and the quality of life for their employees.

In view of the limitations of what the government can offer to help businesses recover from financial crisis and at the same time, nurture their workers who are at

the forefront of economic recovery and who have likewise suffered the dire effects of the pandemic, it is fitting that the Philippine government enact measures to complement existing initiatives and incentivize employers who adopt programs and implement programs for the benefit of their workforce.

The primary objective of the bill is to encourage and incentivize employers to educate, inform, and empower their employees in making healthier lifestyle choices. This is an important step, not only to lowering healthcare costs and keeping our population and our workers healthy, but to promote job satisfaction across all industries.

The Bill would grant incentives to employers that implement any or all of the two (2) categories of programs, namely:

1. "Employee Wellness Programs", composed of at least four (4) of the following five (5) components:
  - a. Health awareness component which provides employees the opportunity for periodic health screenings for health problems and referrals to appropriate follow-up measures;
  - b. Health education component which involves the dissemination of health information which addresses the specific needs and health risks of employees;
  - c. Employee engagement component where the employees are engaged and are part of the implementation and assessment of the programs;
  - d. Behavioral change component which involves the adoption of policies, counseling, seminars and programs relating to, among others: (i) obesity; (ii) stress management; (iii) physical fitness; and (iv) nutrition;
  - e. Supportive worksite component which involves, among others, the adoption of policies relating to alternative work schemes/flexible work arrangements, tobacco, e-cigarettes or vape use on the worksite, nutrition of food available on worksite, minimizing stress and promoting mental health in the worksite, and encouraging physical activity before, during, or after work hours.
2. Workplace Improvement Programs
  - a. Retrofitting of office spaces occupied by or wherein at least ten (10) rank-and-file employees are stationed or hold office, which shall include finance energy efficiency, renewable energy, and energy retrofitting projects;
  - b. Installation or improvement of sufficient ventilation systems in office spaces or work areas; or

- c. Installation of office or building management systems and smart technology to reduce energy use or such equipment, systems, or installations integrating the use of renewable sources of energy.

For the implementation of the Employment Wellness Program, this Act shall provide a tax credit of up to PhP 1,000 per employee for employers with less than 200 employees, and up to PhP 500 per employee in excess of 200 employees. The tax credit would be available to an eligible employer for a period of three (3) years from when the program was first certified by the Department of Health (DOH).

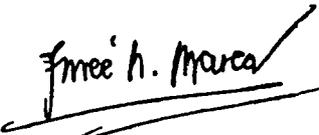
As for the adoption of Workplace Improvement Programs, an additional 30% of the cost deductible as depreciation expense, with the option to use the accelerated depreciation method for income tax purposes shall be provided.

Further, the Act provides for a sunset provision on when availment of the incentives will expire. Any employer will have six (6) years to avail the incentives under this Bill, thereby encouraging businesses to adopt the qualified measures as soon as possible, and at the same time allowing businesses enough time to allot funds, plan and develop such measures.

The passage of this bill will support the initiatives promoted under Republic Act No. 11036, otherwise known as the "*Mental Health Act*" which mandates that employers "*shall develop appropriate policies and programs on mental health in the workplace designed to raise awareness on mental health issues, correct stigma and discrimination associated with mental health condition, identify and provide support for individuals at risk, and facilitate access of individuals with mental health conditions to treatment and psychosocial support*" and the "*Smoke-Free*" policy of the government. Further, this bill will complement the minimum public health standards of the government in workplaces under DOH Order No. 2020-0015.

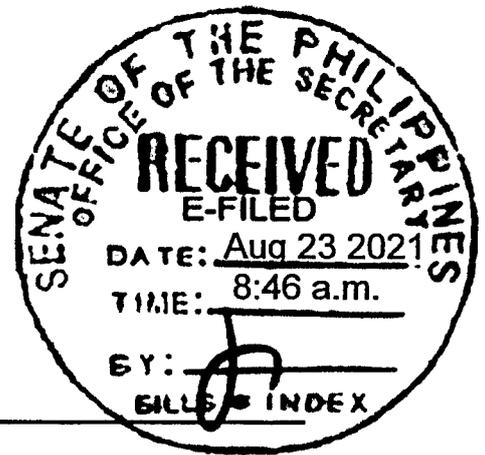
If business enterprises can avail of incentives to bring down their tax liabilities, they will be encouraged to prioritize and focus on the wellness of their workers. The country can be assured of a healthier and happier workforce, as well as ensure better job satisfaction that will boost productivity and support our efforts on the road to economic recovery .

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



**IMEE R. MARCOS**

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



SENATE

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Introduced by **SENATOR IMEE R. MARCOS**

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**AN ACT PROMOTING WORKERS' HEALTH AND WELLNESS BY PROVIDING INCENTIVES TO EMPLOYERS FOR THE IMPLEMENTATION OF WORKFORCE WELLNESS AND WORKPLACE IMPROVEMENT PROGRAMS**

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

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**ARTICLE I**  
**General Provisions**

**SECTION 1. Short Title.** – This Act shall be known as the "*Workplace and Workers Wellness Act.*"

**SECTION 2. Declaration of Policy.** – The Coronavirus Disease 2019 (COVID-19) pandemic has greatly affected nations worldwide, including the Philippines, and the measures adopted by the government to contain the outbreak have unavoidably caused serious economic setbacks and tremendous financial pressure on business enterprises, particularly micro, small, and medium enterprises.

The State recognizes the unique role of employers to promote the health and safety of their employees and that the use by employers of effective worksite policies and programs can reduce mental and health risks and improve the quality of life for their employees. Thus, in order to encourage employers to adopt policies, measures, and programs aimed to benefit their workforce through the granting of tax incentives, it is necessary to lay down appropriate policies in order to address the wellness of workers who have likewise suffered the adverse effects of the COVID-19 pandemic. It is hereby declared the policy of the State to:

- (a) affirm labor as a primary social economic force in promoting sustainable development;
- (b) afford full protection to labor, local and overseas, organized and unorganized, and promote full and productive employment and equality of employment opportunities for all; and

1 (c) promote the rights of the people to a balanced and healthful ecology in accord  
2 with the rhythm and harmony of nature.

3 **SEC. 3. Coverage.** – This Act shall apply to all business enterprises and  
4 employers, including government owned and controlled corporations performing  
5 proprietary functions.

6 **ARTICLE II**  
7 **Employee Wellness Program**

8 **SEC. 4. Employee Wellness Program Tax Credit.** –

9 (1) The Employee Wellness Program credit for any taxable year during the  
10 credit period with respect to any employer is an amount equal to fifty  
11 percent (50%) of the costs paid or incurred by the employer in  
12 connections with a qualified wellness program during the taxable year.  
13 For purposes of the preceding sentence, in the case of any qualified  
14 Employee Wellness Program offered as part of an employer-provided  
15 group health plan, including health insurance offered in connection with  
16 such plan, only costs directly attributable to the qualified wellness  
17 program and not to the group health plan or health insurance coverage  
18 may be taken into account.

19 (2) Limitation. – The amount of tax credit allowed under paragraph (1) for  
20 any taxable year shall not exceed the sum of: (i) the product of One  
21 Thousand Pesos (PhP 1,000.00) and the number of employees of the  
22 employer not in excess of Two Hundred (200) employees, and (ii) the  
23 product of Five Hundred Pesos (PhP 500.00) and the number of  
24 employees in excess of Two Hundred (200) employees.

25 **SEC. 5. Qualified Employee Wellness Program.** – The term “Qualified Employee  
26 Wellness Program” means a program:

27 (1) Consists of at least four (4) of the employee wellness program  
28 components set forth under Section 6 hereof; and

29 (2) Certified by the Department of Health (DOH), as a qualified employee  
30 wellness program under this Section.

31 **SEC. 6. Employee Wellness Program Components.** – The wellness program  
32 components are the following:

33 (1) *Health Awareness Component.* – A health awareness component which  
34 provides for the opportunity for periodic health screenings for health  
35 problems and referrals to appropriate follow-up measures.

36 (2) *Health Education Component.* – The dissemination of health  
37 information through seminars, on-line programs, counselling and other

1 materials, which addresses the specific needs and health risks of  
2 employees.

3 (3) *Employee Engagement Component.* - An employee engagement  
4 component which provides for:

5 (i) The establishment of a committee to actively engage employees  
6 in the employee wellness programs through program  
7 assessment and program planning, delivery, evaluation, and  
8 improvement efforts; and

9 (ii) The tracking of employee participation in the programs.

10 (4) *Behavioral Change Component.* - A behavioral change component  
11 which provides for altering employee lifestyles to encourage health  
12 living through counseling, seminars and on-line programs, or self-help  
13 materials which provide technical assistance and problem-solving skills.  
14 This component may include programs relating to:

15 (i) obesity;

16 (ii) stress management;

17 (iii) physical fitness;

18 (iv) nutrition;

19 (v) substance abuse;

20 (vi) depression;

21 (vii) anxiety; and

22 (viii) mental health management and promotion.

23 (5) *Supportive Worksite Component.* - A supporting worksite component  
24 which includes policies and services at the worksite which promote a  
25 healthy and balanced lifestyle, such as policies relating to:

26 (i) The adoption of alternative work schemes/flexible work  
27 arrangements, especially for employees or personnel who reside  
28 with senior citizens, individuals with underlying conditions,  
29 minors below the age of seven (7) years of age and pregnant  
30 women;

31 (ii) Tobacco, electronic cigarette or vape use at the worksite;

32 (iii) The nutrition of food available at the worksite through  
33 cafeterias, restaurants and vending options; and

34 (iv) Minimizing stress and promoting mental health in the worksite,  
35 and encouraging physical activity before, during or after work  
36 hours;

37 *Provided, however,* that such policies shall be compliant with the  
38 minimum public health standards that may be issued by the DOH.

1                    *Provided further*, that despite availment of tax credit by an employer,  
2                    the employee wellness program may include in the "*Sustainability*  
3                    *Report*," as may be required by the Securities and Exchange Commission  
4                    (SEC) to report significant economic, environmental and/or social  
5                    contributions, in accordance with the globally accepted standards.

6                    **SEC. 7. DOH Certification.** – The DOH, shall, as part of the certification process,  
7                    encourage employees to make the programs culturally competent and to meet the  
8                    health literacy needs of the employees covered by the programs.

9                    The DOH shall not certify a program as a qualified employee wellness program  
10                   unless the program has the following requisites:

- 11                    (1) consistent with evidence-based research and best practices, as identified  
12                    by persons with expertise in employer health promotion and wellness  
13                    programs;  
14                    (2) includes multiple, evidence-based strategies which are based on the  
15                    existing and emerging research and careful scientific reviews; and  
16                    (3) includes strategies which focus on employee populations with a  
17                    disproportionate burden of health problems.

18                    The DOH shall establish procedures for annual review of the implementation of  
19                    the programs. Such procedures shall require revisions of programs, if necessary, to  
20                    ensure compliance with the requirements and require updating of the programs to the  
21                    extent the DOH determines necessary to reflect new scientific findings or minimum  
22                    public health standards.

23                    **SEC. 8. Participation Requirement.** – No tax credit shall be allowed unless the  
24                    DOH certifies that each employee wellness program component of the qualified  
25                    wellness program applies to all qualified employees of the employer. The DOH shall  
26                    prescribe rules under which an employer shall not be treated as failing to meet the  
27                    requirements merely because the employer provides specialized programs for  
28                    employees with specific health needs or unusual employment requirements or  
29                    provides a pilot program to test new wellness strategies.

30                    For purposes of this Act, "*qualified employees*" shall mean:

- 31                    (1) For employers offering health insurance coverage, an employee who is  
32                    eligible for such coverage; or  
33                    (2) For employers not offering health insurance coverage, an employee who  
34                    works an average of not less than twenty-five (25) hours per week during  
35                    the taxable year.

1           **SEC. 9. Tax Credit Period.** –

2           (1) *In General.* – Tax Credit period means the period of three (3)  
3 consecutive taxable years beginning with the taxable year in which the qualified  
4 employee wellness program is first certified by the DOH.

5           (2) *Special Rules for Existing Programs.* – An employer (or predecessor)  
6 which already operates a wellness program for its employees prior to the date of the  
7 effectivity of this Act shall be eligible for certification by DOH and may avail of the  
8 incentives for five (5) consecutive taxable years beginning with the taxable year in  
9 which the qualified employee wellness program is certified by the DOH. The DOH shall  
10 prescribe rules under which the incentives under this paragraph shall not apply if the  
11 employer is required to make substantial modifications in its existing wellness program  
12 in order to qualify such program for certification as a qualified employee wellness  
13 program.

14   **ARTICLE III**  
15   **Workplace Improvement Programs**

16           **SEC. 10. Workplace Improvement Program Incentive.** – For the purpose of  
17 encouraging employers to undertake any qualified workplace improvement program,  
18 as provided in Section 11 of this Act, employers shall enjoy an additional deduction  
19 equivalent to thirty percent (30%) of the cost deductible as depreciation expense,  
20 with the option to use the accelerated depreciation method for income tax purposes.

21           **SEC. 11. Qualified Workplace Improvement Program.** – A “*Qualified Workplace*  
22 *Improvement Program*” means any of the following:

- 23           (1) Retrofitting of office spaces occupied by or wherein at least ten (10) rank-  
24 and-file employees are stationed or hold office, which shall include finance  
25 energy efficiency, renewable energy, and energy retrofitting projects, as  
26 certified by the local government unit having jurisdiction of the site;
- 27           (2) Installation or improvement of ventilation systems in office spaces or work  
28 areas, as certified by the local government unit having jurisdiction of the  
29 site; or
- 30           (3) Installation of office or building management systems and smart technology  
31 to reduce energy use or such equipment, systems or installations integrating  
32 the use of renewable sources of energy, as certified by the Department of  
33 Energy (DOE).

34           *Provided,* that such construction works or installations are in accordance with  
35 Republic Act No. 6541, otherwise known as the “*National Building Code*”.

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**ARTIVLE IV**  
**Final Provisions**

**SEC. 12. *Period to Avail of Incentives.*** – The incentives granted under this Act can be availed of within six (6) years from the effectivity of this Act, without prejudice to periods granted to fully claim such incentives.

**SEC. 13. *Special Rules.*** – No tax credit or incentive under this Act shall be allowed with respect to any program of any taxpayer who receives a grant provided by the government in connection with such program. The DOH and DOE shall prescribe rules for the waiver of this section with respect to any grant which does not constitute a significant portion of the funding for the qualified program.

**SEC. 14. *Implementing Rules and Regulations.*** – Within one hundred eighty (180) days from the effectivity of this Act, the Department of Finance (DOF) and the DOH, in coordination with the DOE, shall formulate the necessary rules and regulations to effectively implement the provisions of this Act.

**SEC. 15. *Information Campaigns.*** – The DOH, Department of Finance (DOF), and Department of Trade and Industry (DTI) shall institute information campaigns and outreach programs to inform businesses about the availability of the incentives under this Act, as well as, to educate businesses on how to develop programs according to recognized and promising practices and on how to measure the success of implemented programs.

**SEC. 16. *Appropriations.*** – The funds needed for the initial implementation of this Act shall be charged against the appropriations of the DOF, DOH, and the DOE. Thereafter, such amount as may be necessary for its full implementation shall be included in the annual General Appropriations Act as a distinct and separate item.

**SEC. 17. *Separability Clause.*** – If any provision or part hereof, is held invalid or unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain valid and subsisting.

**SEC. 18. *Repealing Clause.*** – Any law, presidential decree or issuance, executive order, letter of instruction, rule or regulation contrary to, or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

**SEC. 19. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* and in a newspaper of general circulation.

*Approved,*