

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)



Senate
Office of the Secretary

73 JUL 15 P5 52

SENATE

Senate Bill No. 746

RECORDED BY:

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

This bill seeks to amend two (2) provisions of the Labor Code: a) hours of work providing an alternative arrangement in the hours of work of an employee by allowing the adoption of a compressed workweek or other flexible time arrangement for businesses where such is necessary, with corresponding safeguards to ensure the protection of workers; and, b) fixed or term employment - incorporate jurisprudence in the relevant labor provisions on regular employment in view of the decisions of the Supreme Court on fixed or term employment.

The Philippines is fast becoming the country-of-choice for outsourced call center services, prompting the government to name it as one of our sunshine industries. These call centers provide support services to international clients whose business hours happen to be during the evenings in the Philippines. With the advances in information and communication technology and the competitive advantage of Filipinos over other Asian countries in this field, the government has identified six (6) niches for promotion in the over-all development framework for information and communication technology and the ICT-enabled services sector: contact center, business processing outsourcing (BPO), software development, animation/computer graphics, medical or legal transcription, and engineering design. Major global call centers have been established in the Philippines. Starting from 1,000 seats and 1,600 employees and US\$24 million in the year 2000, the call Center industry has grown to 60,000 seats, employing 96,000 people, and with projected revenue of US\$ 1billion in the year 2005. At the present rate, the call center industry is hiring 3,000 customer service representatives and 300 supervisors monthly. The BPOs are likewise projected to expand their presence in the country.

Exceptions to this prohibition are those who hold positions of a managerial or technical nature, and women engaged in health and welfare services. This Convention was incorporated in our Labor Code through Articles 130-131.

Over the years, however, most nations who previously ratified this Convention have moved to repeal their laws on night work prohibition for women, rejecting said Convention. This Convention harbors the greatest number of denunciations, with many nations now viewing the Convention as discriminatory to women and an impediment to economic and social progress. The Convention was finally revised in June 26, 1990 by the General Conference of the International Labor Organization (ILO) when it adopted the Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948.

Due to the necessity of night work in certain industries, this bill seeks to alleviate the rigors of night work, and in view of its negative effects on the health, social and family life of workers, this bill aims to protect the welfare of both men and women whose hours of work are between 10 o'clock in the evening to 6 o'clock in the morning.

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



JINGGOY EJERCITO ESTRADA
Senator

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RECEIVED BY: *ji*

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AN ACT.

AMENDING CERTAIN PROVISIONS OF PRESIDENTIAL DECREE NO. 442,
OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AND
FOR OTHER PURPOSES

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

SECTION 1. Art. 83 of PD No. 442, as amended, is hereby amended to
read as follows:

"Art. 83. NORMAL HOURS OF WORK-

"The normal hours of work of any employee shall not exceed
eight (8) hours a day, EXCEPT WHEN IN THE SOUND EXERCISE
OF ITS DISCRETION, WITH DUE REGARD TO THE RIGHTS OF
LABOR AND TO ADDRESS ITS BUSINESS REQUIREMENTS,
THE EMPLOYER MAY ADOPT ALTERNATIVE
ARRANGEMENTS; PROVIDED, THAT IN NO CASE SHALL THE
NORMAL HOURS OF WORK IN A WEEK EXCEED FORTY-
EIGHT (48) HOURS; AND PROVIDED FURTHER, THAT SUCH
EMPLOYER MUST FIRST SEEK APPROVAL TO ADOPT SUCH
ALTERNATIVE ARRANGEMENT FROM THE DEPARTMENT OF
LABOR AND EMPLOYMENT (DOLE) TO ENSURE THAT THE
EXERCISE OF SUCH DISCRETION IS WARRANTED."

SEC. 2. Art. 87 of PD No. 442, as amended, is hereby amended to read
as follows:

"Art. 87. Overtime work-

"Work may be performed beyond [eight hours a day] THE NORMAL
HOURS OF WORK provided that the employee is paid for the
overtime work on additional compensation equivalent to his regular
wage plus at least twenty-five percent (25%) thereof. Work
performed beyond [eight hours a day] THE NORMAL HOURS OF
WORK on a holiday or rest day shall be paid an additional
compensation equivalent to the rate of the [first eight hours]
NORMAL HOURS OF WORK OF AN EMPLOYEE on a holiday or
rest day plus at least thirty percent (30%) thereof."

SEC. 3. Article 280 of PD No. 442, as amended, is hereby amended to read as follows:

"Art. 280. Regular and Casual Employment -

"The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except: 1) where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee, or 2) where the work or service to be performed is seasonal in nature and the employment is for the duration of the season, OR 3) WHERE THE EMPLOYMENT IS FOR A FIXED OR DEFINITE PERIOD ON WHICH BOTH THE EMPLOYER AND THE EMPLOYEE AGREE UPON KNOWINGLY AND VOLUNTARILY IN VIEW OF THE TEMPORARY NATURE OF THE TASK OR JOB."

SEC. 4. *Separability Clause* - If any part or provision of this Act shall be held unconstitutional or invalid, other provisions hereof that are not affected thereby shall continue to be in full force and effect.

SEC. 5. *Repealing Clause* - All laws, presidential decrees, executive orders, rules and regulations, or parts thereof which are not consistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 6. *Effectivity Clause* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,