

SIXTEENTH CONGRESS OF THE REPUBLIC)
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Senate
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SENATE

Senate Bill No. 2304

RECEIVED BY: 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
ENSURING THE OCCUPATIONAL HEALTH, SAFETY AND WELFARE OF
BUSINESS PROCESS OUTSOURCING (BPO) WORKERS AND OTHERS
SIMILARLY EMPLOYED

EXPLANATORY NOTE

The 1987 Constitution mandates the State to “afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.” Likewise, labor shall be entitled to security of tenure, humane conditions of work, and a living wage.

The Business Process Outsourcing (BPO) industry in the country has grown dramatically in the past several years, employing almost a million workers. In 2012, ITO-BPO in the Philippines generated more than \$13 billion in revenues, an increase of \$2 billion from the \$11 billion in 2011. The Business Processing Association of the Philippines (BPAP) projects that revenues of the said industry will hit \$13 billion in 2013 and have 926,000 full-time employees. The call center sector comprises 80% of the total BPO industry in the country. [Wikipedia]

In light of the contribution of BPOs to the economy and the increasing number of BPO workers, this measure seeks to promote the occupational health and safety in the BPO industry by: (1) protecting the health and welfare of BPO workers through the formulation of OHS standards for BPO work; (2) creating OHS workplace representatives to monitor the work environment in BPO firms; (3) instituting guidelines for compliance to international OHS standards; (4) making employers criminally liable for acts endangering the welfare of BPO workers; and (5) providing mechanism for compensation for work-related injuries and illness.

This measure is a counterpart of a bill filed by Congressmen Carlos Isagani Zarate and Neri Colmenares in the House of Representatives. The immediate passage of this bill is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator

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

1 **SECTION 1. Short Title.** – This Act shall be known as the “**BPO Workers’**
2 **Health and Safety Act of 2014**”.

3
4
5 **SEC. 2. Declaration of Policy.** – It is hereby declared the policy of the State to
6 secure the health, safety and welfare of the BPO or call center workers and
7 others similarly employed. The State must ensure safe and healthy work
8 environment for call center employees that protects them from injury and illness
9 and that is adapted to their physiological and psychological needs. The State
10 shall formulate and mandate progressively higher standards of occupational
11 health and safety to account for changes in technology and work practices. All
12 call centers operating in the country must adhere to the following principles of
13 health and safety protection for the mutual benefit of the employees and
14 employers:

- 15
16 a) The importance of health and safety requires that employees, other
17 persons at work and members of the public be given the highest level of
18 protection against risks to their health and safety that is reasonably
19 practicable in the circumstances;
20
21 b) Persons who control or manage matters that give rise or may give rise to
22 risks to health or safety are responsible for eliminating or reducing those
23 risks so far as is reasonably practicable;
24
25 c) Employers have a duty to secure the health, safety and welfare of
26 employees and third persons working at or near their workplace. This
27 general duty requires employers to actively prevent risks arising out of
28 their business activities and extends to protecting both employees and
29 independent contractors;
30

- 1 d) Employers and self-employed persons should be proactive and take all
2 reasonably practicable measures, to ensure health and safety at
3 workplaces and in the conduct of undertakings;
4
- 5 e) Employers and employees should exchange information and ideas about
6 risks to health and safety and measures that can be taken to eliminate or
7 reduce those risks;
8
- 9 f) Employees are entitled, and should be encouraged to be represented in
10 relation to health and safety issues.
11

12
13 **SEC. 3. Definition of Terms.** – For purposes of this Act, the following terms shall
14 be understood as follows:
15

- 16 a) Business Process Outsourcing (BPO) – is defined as the delegation of
17 service-type business processes to a third-party service provider. It is
18 generally divided into the following sectors: contact centers, back office
19 services, data transcription, animation, software development, engineering
20 development and game development. Most BPO companies engage in
21 shift work to complete their 24-hour work cycle;
22
- 23 b) Call Center – also known as Contact Center, refers to a central customer
24 service operation where agents – customer care specialists or customer
25 service representatives – handle business-related telephone calls and
26 other IT-related non-voice activities in behalf of a client;
27
- 28 c) Employer – includes any person or enterprise acting directly or indirectly in
29 the interest of an employer, in relation to an employee, and shall include
30 government-owned or controlled corporations and institutions, as well as
31 non-profit private institutions or organizations. Indirect employers or
32 contractors shall be considered “employers” in this Act;
33
- 34 d) Employee – shall mean any person hired, permitted or suffered to work by
35 an employer;
36
- 37 e) Health – shall connote a sound state of the body and mind of the worker
38 which enables him to perform his job normally, in a state of well-being;
39
- 40 f) Safe or Safety – shall refer to the physical or environmental conditions of
41 work or employment which substantially comply with the provisions of the
42 Standards;
43
- 44 g) Work Accident – shall mean an unplanned or unexpected occurrence that
45 may or may not result in personal injury, property damage, work stoppage
46 or interference or any combination thereof, which arises out of and in the
47 course of employment;
48
- 49 h) Work Injury – shall mean any injury or occupational illness suffered by a
50 person, which arises out of or in the course of his employment;
51
- 52 i) Occupational Illness – shall mean any illness caused by environmental
53 factors, the exposure to which is characterized or peculiar to a particular
54 process, trade or occupation and to which an employee or worker is not
55 ordinarily subjected to or exposed outside of any away from such
56 employment;
57

- 1 j) Workplace – means the office, premises or work site, where the workers
2 are habitually employed and shall include the office or place where the
3 workers who have no fixed or definite work site, regularly report for
4 assignment in the course of their employment;
5
- 6 k) Approved – shall mean acceptable to the Secretary in writing after proper
7 examination showing compliance with prescribed Standards;
8
- 9 l) Code – shall mean the Labor Code P.D. 442 as amended;
10
- 11 m) Agencies – shall mean government agencies mandated to monitor,
12 administer, promote and ensure health and safety regulations and
13 standards. These agencies are the Department of Labor and Employment,
14 Bureau of Working Conditions, Employees Compensation Commission
15 and Occupational Safety and Health Center;
16
- 17 n) Department – shall mean the Department of Labor and Employment;
18
- 19 o) Secretary – shall mean the Secretary of Labor and Employment;
20
- 21 p) Bureau – shall mean the Bureau of Working Conditions;
22
- 23 q) Director – shall the Director of the Bureau of Working Conditions;
24
- 25 r) Standards – shall mean the Occupational Safety and Health Standards
26 and regulations;
27
- 28 s) Enforcement Officer – shall mean the industrial safety engineer, the labor
29 regulation officer, or any duly authorized representatives of the Secretary
30 to enforce this Standards;
31
- 32 t) Authorized Representative – shall mean and include chartered cities,
33 municipalities, employees or officials of other government agencies
34 empowered by the Secretary of Labor and Employment to enforce the
35 provisions of the Standards;
36
- 37 u) Workplace Occupational Health and Safety Representative – as defined in
38 Section 7 of this Act;
39
- 40 v) Registered Interested Party – shall mean any duly registered non-stock
41 non profit organization advocating occupational health and safety (OHS);
42
- 43 w) Shift Work – shall mean the employment practice designed to make use of
44 the 24 hours of the clock. Employees are given schedules which
45 correspond to a 24-hour work cycle. The term shift work includes both
46 long-term night shifts and work schedules in which employees change or
47 rotate shifts;
48
49

50 **SEC. 4. Occupational Health and Safety Standards and Regulations for BPO**
51 **Workers.** – Pursuant to its mandate, the Department of Labor and Employment is
52 tasked to establish Occupational Health and Safety Standards (Standards) for
53 BPO work.
54

55 The Standards shall adhere to the prevailing standards of health and
56 safety for BPO work and other similar employment. It is imperative that the
57 minimum provisions in the Standards meet the International Labor Organization's

1 recommendations. Further provisions which the agencies and other concerned
2 parties deem appropriate for the protection of the workers in the local setting
3 should be included. The Standards should be reviewed annually by the agencies,
4 workplace OHS representatives and registered interested parties.

5
6
7 **SEC. 5. *The Nature of BPO Night-Shift Work.*** – Establishments engaged in shift
8 work to complete their 24-hour work cycle expose their employees to health and
9 security risks, thus night-shift work is considered hazardous in this Act. The
10 erratic schedule, repetitive work and artificial daytime environment which the
11 employees are subjected to cause undue physical and psychological stress on
12 BPO workers.

13
14
15 **SEC. 6. *Compliance of the Standards.*** – The Standards shall be strictly enforced
16 in all establishments operating in the country. Compliance to the provisions of the
17 Standards shall be mandatory.

18
19
20 **SEC. 7. *Guidelines for the Implementation of Standards.*** – The agencies and the
21 workplace OHS representatives shall regularly monitor the implementation of the
22 Standards.

- 23
24 a) The Department through its enforcement officers shall administer and
25 enforce the provisions of the Standards;
- 26
27 b) Every employer shall give to the Secretary or his duly authorized
28 representative access to its premises and records for the purpose of
29 determining compliance with the provisions of the Standards.
- 30
31 c) Every establishment or place of employment shall be inspected at least
32 once a year to determine compliance with the provisions of the Standards.
33 Special inspection visits, however, may be authorized by the Regional
34 Labor Office or as authorized under Rule 1980 of the Labor Code, to
35 investigate accidents, occupational illness or dangerous occurrences,
36 especially those resulting in permanent total disability or death, to conduct
37 surveys of working conditions requested by the Bureau for the purpose of
38 evaluating and assessing environmental contaminants and physical
39 conditions or to conduct investigations, inspections or follow-up
40 inspections upon request of an employer, worker or a labor union of the
41 establishment;
- 42
43 d) The enforcement officer shall determine reasonable periods of compliance
44 with recommendations depending on the gravity of the hazards needing
45 corrections or the period needed to come into compliance with the order;
- 46
47 e) In case the establishment fails to comply with Standards to the imminent
48 danger of the workers, the enforcement officer can immediately suspend
49 operations in order to prevent injuries pending compliance by the
50 establishment;
- 51
52 f) The workplace occupational health and safety committee shall have
53 monitoring rights and can also recommend and declare suspension of
54 operations in the event that the safety and welfare of workers are deemed
55 compromised as stated in Section 7B of this Act.
- 56
57

1 **SEC. 8. Workplace Occupational Health and Safety Officer.** – An OHS
2 representation is to be elected for the purposes of consultation and monitoring of
3 the Standards if at least one of the persons employed by the employer requests
4 the election of the representative. The employees may elect more than one OHS
5 representative upon approval by the Department.

6
7 A. Election of workplace OHS representative

- 8
9 1) A workplace OHS representative is to be elected by the workers
10 2) A person is
11
12 a) Only eligible to be elected as a workplace representative if he or
13 she is an employee, and
14 b) Not eligible to be elected as a health and safety representative if he
15 or she is disqualified under Section 56 from acting as a health and
16 safety representative;
17
18 3) All employees are entitled to vote in an election
19
20 4) The employees and the employers may determine how an election is
21 to be conducted but if they do not reach agreement within a
22 reasonable time, any employee may ask the Department to arrange for
23 an enforcement officer to:
24
25 a) Conduct the election; or
26 b) If the inspector considers it appropriate, appoint another person to
27 conduct the election.
28
29 5) An election must be conducted in accordance with the procedures (if
30 any) prescribed by the regulations.
31
32 6) If the number of candidates for election as a health and safety
33 representative equals the number of vacancies, the election need not
34 be conducted and each candidate is to be taken to have been elected
35 as a health and safety representative for the designated work group.

36
37 B. Functions of workplace OHS representative. An OHS committee or an
38 OHS representative has the following functions:

- 39
40 1) To keep under review the measures taken to ensure the health, safety
41 and welfare of persons at the place of work;
42 2) To investigate any matter that may be a risk to health and safety at the
43 place of work;
44 3) To attempt to resolve the matter but if unable to do so, to request an
45 investigation by an inspector for that purpose, and
46 4) Such other functions as prescribed by the regulations.
47

48 The workplace OHS representative may file a petition for a time off with
49 pay to the enforcement officer. The time off may be for attending courses as
50 required by appropriate agencies and for conducting investigations on matters
51 relating to his duties as a workplace OHS representative. The enforcement
52 officer shall determine the amount of time off commensurate to the task being
53 performed.
54

55 C. Powers of the workplace OHS representative. A health and safety
56 representative may do any of the following:
57

- 1) Inspect any part of a workplace
 - a) At any time after giving reasonable notice to the employer concerned or its representative; and
 - b) Immediately in the event of an incident or any situation involving an immediate risk to the health or safety of any person;
- 2) Accompany an inspector during an inspection of a workplace at which a member of the designated work group works;
- 3) Require the establishment of a health and safety committee to assist in the monitoring if situation necessitates;
- 4) Under extra ordinary circumstances, the representative may give notice to the employer and the enforcement officer for the suspension of workplace operation if the welfare and safety of the employees are at risk. The notice must be acted upon by the employer and the enforcement within 24 hours so as to prevent endangering the lives of the workers; and
- 5) Assist or submit in behalf of the injured and ill employee or his beneficiaries in case of death, compensation claims to the Employees Compensation Commission (ECC).

SEC. 9. Workplace Policy on Occupational Health and Safety. – Each establishment shall formulate their own occupational health and safety policy which adheres to the Standards as defined in Section 4 of this Act. Any additional safety measure deemed appropriate to the nature of the localized work environment may be included pending approval by the Bureau. The policy must be reviewed annually by the employers, the workplace OHS representatives and the authorized representative.

All employees shall be informed of the OHS policy. Informational materials such as posters, brochures and similar devices shall be distributed to the employees free of charge.

SEC. 10. Health Program. – The company physician shall, in addition to his duties stated in the Labor Code, develop and implement a comprehensive occupational health program for the program for the benefit of the employees of his employer.

SEC. 11. Health Insurance. – All employees are entitled to free full medical examination upon entry and annually during his tenure of employment. The establishment shall provide full health insurance to the employees, the coverage of which shall be agreed upon by the company and its employees.

SEC. 12. Work-Related Injuries, Sickness and Death Compensation. – All employees and their dependents shall be also be compensated for injuries, medical complications, illness, disability and death arising from and related to their work in accordance to existing laws, labor policies, guidelines or circulars as the case may be. The Employees Compensation Commission shall promptly process any claims for/by injured, disabled, deceased employees or their dependents.

1 **SEC. 13. *Independent Contractors.*** Article 106 of the Labor Code expressly
2 prohibits the "labor only" contracting. Employers engaging independent
3 contractors to perform work on their behalf have a duty to minimize the health
4 and safety risks to the contractors' employees. This is because they are deemed
5 to be employees for the purposes of the Act; and because employers have a duty
6 to protect third parties at or near their workplace. A failure to maintain a safe
7 workplace for contractors' employees may constitute a contravention of the
8 employer's general duty under the Act.

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11 **SEC. 14. *Penal Provision.***

- 12
13 a) Unless otherwise provided in any Chapter or section in the Code, any
14 person or establishment who shall violate, disobey, refuse, or omit or
15 neglect to comply with any of the rules and regulations promulgated under
16 this Act shall have a criminal liability and upon conviction shall be
17 punished by imprisonment for a period not exceeding six (6) years and a
18 fine not less than One Hundred Fifty Thousand Pesos (P150,000.00)
19 depending upon the discretion of the court;
- 20
21 b) Any person who shall interfere with or hinder, or oppose any officer, agent
22 or member of the Department or of the bureaus and offices under it, in the
23 performance of his duty as such under this Code, or shall tear down,
24 mutilate, deface or alter any placard or notice, affixed to the premises in
25 the enforcement of the Code, shall be guilty of a misdemeanor and
26 punishable upon conviction by imprisonment for a exceeding six (6)
27 months and a fine not less than Fifty Thousand Pesos (P50,000.00) and
28 not more than One Hundred Thousand Pesos (P100,000.00) per day for
29 each day of violation depending upon the discretion of the court;
- 30
31 c) In case of injury, illness or death due to violation, disobedience, refusal,
32 omission or neglect to comply with Standards and regulations in this Act,
33 the employers and/or the establishment shall have a criminal liability and
34 shall be punished by imprisonment and penalties applicable under the
35 R.A. 3815 also known as the Revised Penal Code.

36
37
38 **SEC. 15. *Separability Clause.*** – If any provision of this Act shall at any time be
39 found to be unconstitutional or invalid, the remainder thereof not affected by such
40 declaration shall remain in full force and effect.

41
42
43 **SEC. 16. *Repealing Clause.*** – All laws, decrees, rules or regulations inconsistent
44 with the provisions of this Act are hereby repealed or modified accordingly.

45
46
47 **SEC. 17. *Effectivity Clause.*** – This Act shall take effect after fifteen (15) days
48 following its complete publication in two (2) newspapers of general circulation.

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54 *Approved,*