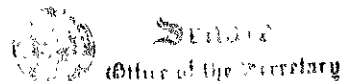
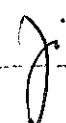


SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)



15 FEB -2 P5:38

SENATE
S.B. No. 2616

RECEIVED BY: 

Introduced by Senator Ramon Bong Revilla, Jr.

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

EXPLANATORY NOTE

Business process outsourcing has been one of the largest employment field in the country at present. Many young professionals are lured to enter this kind of employment because of the monetary benefits and maybe because of the hip lifestyle that it projects in different advertisements.

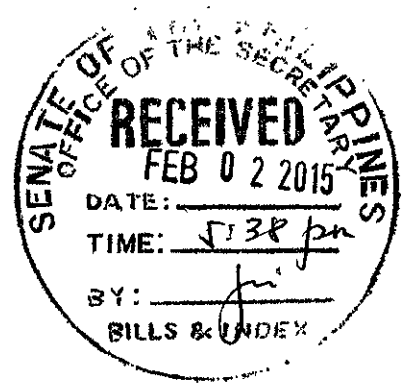
However, there are studies that show that occupational health in this field is high risk. This may be attributed to night-work shifts, long hours under the glare of computer monitors, repetitive encoding. Apart from occupational health risks, this type of job also poses high security risks for its employees basically because of their time of work.

We recognize the economic advantages that the BPO industry gives to our country, but it is high time for us to institute mechanism to protect the health of our workers, moreover, we must reinforce the moral obligations of the industry to ensure that our relatively young workforce do not succumb to illness caused by the unnatural work environment. Compliance to occupational health and safety (OHS) standards is a must for limiting the adverse effects of night-shift and call center work to employees' health.

This proposed measure seeks to promote and ensure occupational health and safety for the workers in the BPO industry. In this light, immediate approval of this measure is earnestly sought.


RAMON BONG REVILLA, JR.

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

1 **SECTION 1. Short Title.** This Act shall be known as the "BPO Workers Health
2 and Safety Act of 2015."
3

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

- 14 a. The importance of health and safety requires that employees, other persons
15 at work and members of the public be given the highest level of protection
16 against risks to their health and safety that is reasonably practicable in the
17 circumstances.
18
19 b. Persons who control or manage matters that give rise or may give rise to risks
20 to health or safety are responsible for eliminating or reducing those risks so
21 far as is reasonably practicable.
22

- 1 c. Employers have a duty to secure the health, safety and welfare of employees
2 and third persons working at or near their workplace. This general duty
3 requires employers to actively prevent risks arising out of their business
4 activities and extends to protecting both employees and independent
5 contractors.
6
- 7 d. Employers and self-employed persons should be proactive, and take all
8 reasonably practicable measures, to ensure health and safety at workplace
9 and in the conduct of undertakings.
10
- 11 e. Employers and employees should exchange information and ideas about
12 risks to health and safety and measures that can be taken to eliminate or
13 reduce those risks.
14
- 15 f. Employees are entitled, and should be encouraged, to be represented in
16 relation to health and safety issues.
17

18 **SEC. 3. Definition of Terms.** For purposes of this act, the following terms shall be
19 understood as

20 Follows:

- 21
- 22 a. "Business Process Outsourcing (BPO)" is defined as the delegation of
23 service-type business processes to a third-party service provider. It is
24 generally divided into the following sectors: contact centers, back office
25 services, data transcription, animation, software development, engineering
26 development and game development. Most BPO companies engage in shift
27 work to complete their 24-hour work cycle.
28
- 29 b. "Call Center", also known as contact center, refers to a central customer
30 service operation where agents – customer care specialists or customer
31 service representatives – handle business-related telephone calls and other
32 IT-related non-voice activities in behalf of a client.
33
- 34 c. "Employer" includes any person or enterprise acting directly or indirectly in the
35 interest of an employer, in relation to an employee, and shall include
36 government-owned or controlled corporations and institutions, as well as non-
37 profit private institutions or organizations. Indirect employers or contractors a
38 shall be considered "employers" in this Act.

- 1
- 2 d. "Employee" shall mean any person hired, permitted or suffered to work by an
- 3 employer
- 4
- 5 e. "Health" shall connote a sound state of the body and mind of the worker,
- 6 which enables him to perform his job normally, in a state of well-being.
- 7
- 8 f. "Safe or Safety" shall refer to the physical or environmental conditions of work
- 9 or employment, which substantially comply with the provisions of the
- 10 Standards.
- 11
- 12 g. "Work Accident" shall mean an unplanned or unexpected occurrence that
- 13 may or may not result in personal injury, property damage, work stoppage or
- 14 interference or any combination thereof, which arises out of and in the course
- 15 of employment.
- 16
- 17 h. "Work Injury" shall mean any injury or occupational illness suffered by a
- 18 person, which arises out of or in the course of his employment.
- 19
- 20 i. "Occupational Illness" shall mean any illness caused by environmental
- 21 factors, the exposure to which is characterized or peculiar to a particular
- 22 process, trade of occupation and to which an employee or worker is not
- 23 ordinarily subjected to or exposed outside of or away from such employment.
- 24
- 25 j. "Workplace" means the office, premises or work site, where the workers are
- 26 habitually employed and shall include the office or place where the workers,
- 27 who have no fixed or definite work site, regularly report for assignment in the
- 28 course of their employment.
- 29
- 30 k. "Approved" shall mean acceptable to the Secretary in writing after proper
- 31 examination showing compliance with prescribed Standards.
- 32
- 33 l. "Code" shall mean the Labor Code P.D. 442 as amended.
- 34

1 m. "Agencies" shall mean government agencies mandated to monitor,
2 administer, promote, and ensure health and safety regulations and standards.
3 These agencies are the Department of Labor and Employment, Bureau of
4 Working Conditions, Employees Compensation Commission and
5 Occupational Safety and Health Center.
6

7 n. "Department" shall mean the Department of Labor and Employment.
8

9 o. "Secretary" shall mean the Secretary of Labor and Employment.
10

11 p. "Bureau" shall mean the Bureau of Working Conditions.
12

13 q. "Director" shall mean the Director of the Bureau of Working Conditions.
14

15 r. "Standards" shall mean the Occupational Safety and Health Standards and
16 regulations.
17

18 s. "Enforcement officer" shall mean the industrial safety engineer, the labor
19 regulation officer, or any duly authorized representatives of the Secretary to
20 enforce this Standards.
21

22 t. "Authorized Representative" shall mean and include chartered cities,
23 municipalities, employees or officials of other government agencies
24 empowered by the Secretary of Labor and Employment to enforce the
25 provisions of the Standards.
26

27 u. "Workplace Occupational Health and Safety Representative" as defined in
28 Section 7 of this Act.
29

30 v. "Registered Interested Party" shall mean any duly registered non-stock non-
31 profit organization advocating occupational health and safety (OHS)
32

1 w. "Shift work" shall mean the employment practice designed to make use of the
2 24 hours of the clock. Employees are given schedules which correspond to a
3 24-hour work cycle. The term shift work includes both long-term night shifts
4 and work schedules in which employees change or rotate shifts. Shift work is
5 an.

6
7 **SEC. 4. Occupational Health and Safety Standards and Regulations for BPO**
8 **Workers.** Pursuant to

9 Its mandate, the Department of Labor and Employment is tasked to establish
10 Occupational Health and Safety Standards (Standards) for BPO work.

11
12 The Standards shall adhere to the prevailing standards of health and safety for
13 BPO work and other similar employment. It is imperative that the minimum provisions in
14 the Standards meet the International Labor Organization's recommendations. Further
15 provisions which the Agencies and the concerned parties deem appropriate for the
16 protection of the workers in the local setting should be included. The Standards should
17 be reviewed annually by the agencies, workplace OHS representatives and registered
18 interested parties.

19
20 **SEC. 5. The Nature of BPO Night-Shift Work.** Establishments engaged in shift
21 work to complete their 24-hour work cycle expose their employees to health and
22 security risks, thus night-shift work is considered hazardous in this Act. The erratic
23 schedule, repetitive work, and artificial daytime environment which the employees are
24 subjected to cause undue physical and psychological stress on BPO workers.

25
26 **SEC. 6. Compliance of the Standards.** The Standards shall be strictly enforced in
27 all establishments operating in the country. Compliance to the provisions of the
28 Standards shall be mandatory.

29
30 **SEC. 7. Guidelines for the Implementation of Standards.** The agencies and the
31 workplace OHS representatives shall regularly monitor the implementation of the
32 Standards.

33
34 a. The Department through its enforcements officers shall administer and
35 enforce the provisions of the Standards.

1 b. Every employer shall give to the Secretary or his duly authorized
2 representative access to its premises and records for the purpose of
3 determining compliance with the provisions of the Standards.

4
5 c. Every establishments or place of employment shall be inspected at least once
6 a year to determine compliance with the provisions of the Standards. Special
7 inspection visits. However, may be authorized by the Regional Labor Office or
8 as authorized under Rule 1980 of the Labor Code, to investigate accidents,
9 occupational illnesses or dangerous occurrences, especially those resulting in
10 permanent total disability or death, to conduct surveys of working conditions
11 requested by the Bureau for the purpose of evaluating and assessing
12 environment contaminants and physical conditions or to conduct
13 investigations, inspections or follow-up inspections upon request of an
14 employer, worker or a labor union of the establishment.

15
16 d. The enforcement officer shall determine reasonable periods of compliance
17 with recommendations depending on the gravity of the hazards needing
18 corrections or the period needed to come into compliance with the order.

19
20 e. In case the establishment fails to comply with the Standards to the imminent
21 danger of the workers, the enforcement officer can immediately suspend
22 operations in order to prevent injuries pending compliance by the
23 establishment.

24
25 f. The workplace occupational health and safety committee shall have
26 monitoring rights and can also recommend and declare suspension of
27 operations in the event that the safety and welfare of workers are deemed
28 compromised as stated in Section 7 B of the Act.

29
30 **SEC. 8. Workplace Occupational Health and Safety Officer.** An OHS
31 representation is to be

32 elected for the purposes of consultation and monitoring of the Standards if at least one
33 of the persons employed by the employer requests the election of the representative.
34 The employees may elect more than one OHS representative upon approval by the
35 Department.

1 A. Election of workplace OHS representative.

2 (1) A workplace OHS representative is to be elected by the workers.

3 (2) A person is –

4 (a) Only eligible to be elected as a workplace representative if he or she is
5 an employee; and

6 (b) Not eligible to be elected as a health and safety representative if he or
7 she is disqualified under section 56 from acting as a health and safety
8 representative.

9
10 (3) All employees are entitled to vote in an election.

11 (4) The employees and the employers may determine how an election is to be
12 conducted but, if they do not reach agreement within a reasonable time,
13 any employee may ask the Department to arrange for an enforcement
14 officer to-

15 (a) Conduct the election; or

16 (b) If the inspector considers it appropriate, appoint another person to
17 conduct the election.

18 (5) An election must be conducted in accordance with the procedures (if any)
19 prescribed by the regulations.

20 (6) If the number of candidates for election as a health and safety
21 representative equals the number of vacancies, the election need not be
22 conducted and each candidate is to be taken to have been elected as a
23 health and safety representative for the designated work group.

24 B. Functions of workplace OHS representative. AN OHS committee or an OHS
25 representative has the following functions:

26 (1) To keep under review the measures taken to ensure the health, safety and
27 welfare of persons at the place of work,

28 (2) To investigate any matter that may be a risk to health and safety at the
29 place of work,

30 (3) To attempt to resolve the matter but, if unable to do so, to request an
31 investigation by an inspector for that purpose, and

32 (4) Such other functions as are prescribed by the regulations.

33
34 The workplace OHS representative may file a petition for a time off pay to the
35 enforcement

36 Officer. The time off may be for attending courses as required by appropriate agencies
37 and for conducting investigations on matters relating to his duties as a workplace OHS

1 representative. The enforcement officer shall determine the amount of time off
2 commensurate to the task being performed.

3
4 C. Powers of the workplace OHS representative. A health and safety
5 representative may do any of the following:

6 (1) Inspect any part of a workplace

7 (a) At any time after giving reasonable notice to the employer concerned
8 or its representative; and

9 (b) Immediately in the event of an incident or any situation involving an
10 immediate risk to the health or safety of any person;

11 (2) Accompany an inspector during an inspection of a workplace at which a
12 member of the designated work group works;

13 (3) Require the establishment of a health and safety committee to assist in
14 the monitoring if situation necessitated;

15 (4) Under extra ordinary circumstances, the representative may give notice to
16 the employer and the enforcement officer for the suspension of workplace
17 operation if the welfare and safety of the employees are at risk. The notice
18 must be acted upon by the employer and the enforcement within 24 hours
19 so as to prevent endangering the lives of the workers; and,

20 (5) Assist or submit in behalf of the injured and ill employee, or his
21 beneficiaries in case of death, compensation claims to the Employees
22 Compensation Commission (ECC).

23
24 **SEC. 9. Workplace Policy on Occupational Health and Safety.** Each
25 establishment shall formulate

26 their own occupational health and safety policy which adheres to the Standards as
27 defined in Section 4 of this Act. Any additional safety measure deemed appropriate to
28 the nature of the localized work environment may also be included pending approval by
29 the Bureau. The policy must be reviewed annually by the employers, the workplace
30 OHS representatives and the authorized representative.

31
32 All employees shall be informed of the OHS policy. Informational materials such as
33 posters, brochures and similar devices shall be distributed to the employees free of
34 charge.

35
36 **SEC. 10. Health Program.** The company physician shall, in addition to his duties
37 stated in the Labor Code, Develop and implement a comprehensive occupational health
38 program for the benefit of the employees of his employer.

1
2 **SEC. 11. *Health Insurance.*** All employees are entitled to free medical
3 examination upon entry and annually during his tenure of employment. The
4 establishment shall provide full health insurance to the employees, the coverage of
5 which shall be agreed upon by the company and its employees.
6

7 **SEC. 12. *Work-Related Injuries, Sickness and Death Compensation.*** All
8 employees and their dependents shall be also be compensated for injuries, medical
9 complications, illness, disability and death arising from and related to their work in
10 accordance to existing laws, labor policies, guidelines or circular as the case may be.
11 The Employees Compensation Commission shall promptly process any claims for/by
12 injured, disabled, deceased employees or their dependents.
13
14

15 **SEC. 13. *Independent Contractors.*** Articles 106 of the Labor expressly prohibits
16 the "labor only" contracting. Employers engaging independent contractors to perform
17 work on their behalf have a duty to minimize the health and safety risks to the
18 contractor's employees. This is because they are deemed to be employees for the
19 purposes of the Act; and because employers have a duty to protect third parties at or
20 near their workplace. A failure to maintain a safe workplace for contractors' employees
21 may constitute a contravention of the employer's general duty under the Act.
22

23 **SEC. 14. *Penal Provision.***

24 (a) Unless otherwise provided in any Chapter or section in the Code, any person
25 or establishment who shall violate, disobey, refuse, omit or neglect to comply
26 with any of the rules and regulations promulgated under this Act shall have a
27 criminal liability and upon conviction shall be punished by imprisonment for a
28 period not exceeding six (6) years and a fine not less than One Hundred Fifty
29 Thousand Pesos (Php 150,000.00) depending upon the discretion of the
30 court.

31 (b) Any person who shall interfere with or hinder, or oppose any officer, agent or
32 member of the Department or of the bureaus and offices under it, in the
33 performance of his duty as such under this Code, or shall tear down, mutilate,
34 deface or alter any placard, or notice, affixed to the punishable upon
35 conviction by imprisonment for a exceeding six (6) months and a fine not less
36 than Fifty Thousand Pesos (Php 150,000.00) and not more the One Hundred
37 Thousand Pesos (Php 100,000.00) per day for each of violation depending
38 upon the discretion of the court.

1 (c) In case of injury, illness or death due to violation, disobedience, refusal,
2 omission or neglect to comply with Standards and regulations in this Act, the
3 employers and/or the establishment shall have a criminal liability and shall be
4 punished by imprisonment and penalties applicable under the Republic Act
5 3815 also known as the Revised Penal Code.

6
7 **SEC. 15. *Separability Clause.*** If, for any reason, any section or provision of this
8 Act is declared Unconstitutional or invalid, such other sections or provisions not affected
9 thereby shall remain in full force and effect.

10
11 **SEC. 16. *Repealing Clause.*** Any law, presidential decree or issuance, executive
12 order, letter of instruction, administrative order, rule or regulation contrary to or
13 inconsistent with the provision of this Act is hereby repealed, modified or amended
14 accordingly.

15
16 **SEC. 17. *Effectivity.*** This Act shall take effect fifteen (15) days after its
17 publication in at least two (2) national newspapers of general circulation.

18

Approved,