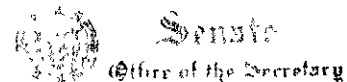



SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)



15 MAY 18 P1:58

SENATE

Senate Bill No. 2770

RECEIVED BY: 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
FOSTERING A CULTURE OF VOLUNTARY COMPLIANCE WITH LABOR
LAWS, AMENDING FOR THE PURPOSE ARTICLE 128 OF PRESIDENTIAL
DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE "LABOR
CODE OF THE PHILIPPINES"

EXPLANATORY NOTE

The Constitution mandates that the State shall afford full protection to labor and ensure that workers shall be entitled to security of tenure, humane conditions and living wage. To pursue this, the Secretary of Labor and Employment under Article 128 of the Labor Code of the Philippines, as amended, exercises visitorial and enforcement power over workplaces and worksites to monitor compliance of establishments with labor standards that are intended to protect workers from hazards in the workplace and promote their welfare by ensuring safe and healthy work environments.

Using the 2010 NSO data, a total of 769,698 establishments should be inspected annually as to compliance with the General Labor Standards. However, data from 2007 to 2011 shows that designated labor inspectors have been unable to inspect a substantial number given their limited number vis-à-vis the number of establishments to be inspected. Limitations are also seen in terms of the capacity of labor inspectors to check compliance with technical safety and occupational safety and health standards.

President Benigno S. Aquino III, in his 2012 Labor Day speech, directed the full implementation of the country's labor laws, the non-tolerance of violations and circumvention, and giving workers what are due them under the laws. To implement this Presidential directive, the DOLE shifts from a regulatory framework to a compliance system with a strong pro-active and developmental dimension in enforcing and disposing labor standards cases. Crucial to the change in approach is the creation of a culture of voluntary compliance among companies so that they effect immediate restitution and correction. This system will also result in fast and fair settlement of benefits due to workers and in minimizing the issuance of compliance orders that opens the door to long, tedious, and costly litigations. To reinforce this system, personnel from the DOLE handling labor law compliance will likewise have to shift from merely regulatory approach in inspection to perform developmental tasks such as educating both employers and workers on labor laws including those on anti-child labor;

conducting conciliation-mediation proceedings at the plant-level to encourage compliance; and promoting DOLE programs and services that are aimed to improving working conditions as well as productivity of enterprises.

In view of the foregoing, it is imperative to institutionalize this major policy shift by amending Article 128 of the Labor Code of the Philippine, from a purely regulatory framework to the promotion of voluntary compliance through the use of developmental approach, as a supplement, in order to: (a) inculcate a culture of compliance with labor laws; (b) ensure fair, expeditious, and non-litigious settlement of dispute; (c) encourage the use of settlement in all labor cases; and (d) strengthen tripartism among the employees, employers and the government.

Hence, passage of this significant measure is earnestly sought.



JINGGOY EJERCITO ESTRADA
Senator

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DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE "LABOR
CODE OF THE PHILIPPINES"**

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

1 SECTION 1. Article 128 of the Labor Code is hereby amended as follows:
2

3 "ART. 128. *Visitorial and enforcement power.* - (a) The
4 Secretary of Labor and Employment or his / HER duly authorized
5 representatives [including labor regulation officers,] shall have
6 access to employer's EMPLOYMENT records and premises at any
7 time of the day or night whenever work is being undertaken therein,
8 and the right to copy therefrom, to question any employee and
9 investigate any fact, condition or matter which may be necessary
10 [to determine violations] IN THE DETERMINATION OF VIOLATION
11 OF LABOR STANDARDS AND OTHER LABOR LAWS AND
12 SOCIAL LEGISLATION or which may aid in the enforcement of this
13 Code and of any labor law, wage order or rules and regulations
14 issued pursuant thereto.
15

16 "(b) Notwithstanding the provisions of Articles 129 and 217
17 of this Code to the contrary, [and in cases where the relationship of
18 employer-employee still exists,] the Secretary of Labor and
19 Employment or his / HER duly authorized representatives shall
20 have the power to issue compliance orders, to give effect to the
21 labor standards provision of this Code INCLUDING THE
22 EXISTENCE OF AN EMPLOYER-EMPLOYEE RELATIONSHIP
23 and other labor legislation based on the findings of [labor
24 employment and enforcement officers or industrial safety
25 engineers] THE LABOR LAWS COMPLIANCE OFFICERS made in
26 the course of inspection. The Secretary or his / HER duly
27 authorized representatives shall issue writs of execution to the
28 appropriate authority for the enforcement of their orders, except in
29 cases where the employer contests the findings of the [labor
30 employment and enforcement officer] LABOR LAWS
31 COMPLIANCE OFFICER and raises issues supported by

1 documentary proofs which were not considered in the course of
2 inspection.
3

4 "A[n] COMPLIANCE order issued by the duly authorized
5 representative of the Secretary of Labor and Employment under
6 this Article may be appealed to the [latter] OFFICE OF THE
7 SECRETARY. In case said order involves a monetary award, an
8 appeal by the employer may be perfected only upon the posting of
9 a cash or surety bond issued by a reputable bonding company duly
10 accredited by the [Secretary of Labor and Employment] SUPREME
11 COURT OF THE PHILIPPINES in the amount equivalent to the
12 monetary award in the COMPLIANCE order appealed from.
13

14 "(c) The Secretary of Labor and Employment OR HIS/HER
15 DULY AUTHORIZED REPRESENTATIVE may [likewise] order
16 THE stoppage of work [or suspension of operations] of any unit or
17 department of an establishment when non-compliance with the law
18 or implementing rules and regulations [poses] MAY CAUSE OR
19 CAUSED grave and imminent danger to the health and safety of
20 workers in the workplace. Within twenty-four hours, a hearing shall
21 be conducted to determine whether an order for the stoppage of
22 work [or suspension of operations] shall be lifted or not. In case the
23 violation is attributable to the fault of the employer, he shall pay the
24 employees concerned their [salaries or] wages AND OTHER
25 LABOR STANDARDS BENEFITS during the period of such
26 stoppage of work [or suspension of operation].
27

28 "(d) It shall be unlawful for any person or entity, INCLUDING
29 GOVERNMENT AGENCIES AND INSTRUMENTALITIES, to
30 obstruct, impede, delay or otherwise render ineffective the orders of
31 the Secretary of Labor and Employment or his / HER duly
32 authorized representatives issued pursuant to the authority granted
33 under this Article, and no inferior court or entity shall issue
34 temporary or permanent injunction or restraining order or otherwise
35 assume jurisdiction over any case involving the enforcement orders
36 issued in accordance with this Article.
37

38 "THE SECRETARY OF LABOR AND EMPLOYMENT OR
39 HIS/HER DULY AUTHORIZED REPRESENTATIVES MAY,
40 AFTER SUMMARY PROCEEDINGS, IMPOSE A FINE OF NOT
41 LESS THAN ONE HUNDRED THOUSAND PESOS (₱100,000.00)
42 BUT NOT MORE THAN FIVE HUNDRED THOUSAND PESOS
43 (₱500,000.00) FOR ANY VIOLATION OF THIS PROVISION,
44 WITHOUT PREJUDICE TO THE FILING OF APPROPRIATE
45 CRIMINAL ACTION.
46

47 "(e) The Secretary of Labor and Employment may, by
48 appropriate regulations, require employers to keep and maintain
49 such employment records as may be necessary in aid of his
50 visitorial and enforcement power under this Code.
51

52 "[Any government employee found guilty of violation of, or
53 abuse of authority, under this Article shall, after appropriate
54 administrative investigation, be subject to summary dismissal from
55 the service.]
56

1 “[The Secretary of Labor and Employment may, by
2 appropriate regulations, require employers to keep and maintain
3 such employment records as may be necessary in aid of his
4 visitorial and enforcement powers under this Code.]
5

6 “(F) THE SECRETARY OF LABOR AND EMPLOYMENT IN
7 THE EXERCISE OF HIS/HER VISITORIAL AND ENFORCEMENT
8 POWER MAY, BY APPROPRIATE REGULATIONS, ESTABLISH A
9 COMPLIANCE SYSTEM TO INCULCATE A CULTURE OF
10 VOLUNTARY COMPLIANCE WITH LABOR LAWS, AND ENSURE
11 FAIR, EXPEDITIOUS, AND NON-LITIGIOUS SETTLEMENT OF
12 DISPUTES.
13

14 “(G) ANY MONETARY AWARD GRANTED TO THE
15 EMPLOYEES UNDER THIS ARTICLE WHICH ARE NOT PAID TO
16 THE SAID EMPLOYEES BECAUSE THEY CANNOT BE
17 LOCATED AFTER DILIGENT AND REASONABLE EFFORT
18 WITHIN A PERIOD OF THREE (3) YEARS FROM THE DATE OF
19 NOTICE THEREOF SHALL BE HELD AS A SPECIAL FUND OF
20 THE DEPARTMENT OF LABOR AND EMPLOYMENT TO BE
21 USED FOR THE PROMOTION OF COMPLIANCE WITH LABOR
22 STANDARDS.”
23
24

25 **SEC 2. *Implementing Rules and Regulations.*** – The Department of Labor and
26 Employment shall issue the necessary rules and regulations for the effective
27 implementation of this Act.
28

29
30 **SEC 3. *Separability Clause.*** – If any provision of this Act is declared
31 unconstitutional, the same shall not affect the validity and effectivity of the other
32 provisions thereof.
33

34
35 **SEC 4. *Repealing Clause.*** – Presidential Decree No. 442, as amended,
36 otherwise known as the “Labor Code of the Philippines”, and all other acts, laws,
37 decrees, executive orders, proclamations, rules and regulations or any part
38 thereof, which are inconsistent with the provisions of this Act, are hereby
39 repealed or modified accordingly.
40

41
42 **SEC. 5. *Effectivity.*** – This Act shall take effect after fifteen (15) days from the
43 date of its publication in the Official Gazette or in at least two (2) newspapers of
44 general circulation.
45
46
47
48
49

50 *Approved,*