

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



Senate
Office of the Secretary

15 MAY 26 P4:10

SENATE

Senate Bill No. 2788

RECEIVED BY: *J*

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
STRENGTHENING COMPLIANCE WITH OCCUPATIONAL SAFETY AND
HEALTH STANDARDS

EXPLANATORY NOTE

Fatal accidents remain to be prevalent across various industries and corresponding accident investigations become unceasing. There have been numerous investigations triggered by death of workers because of non-compliance with the Occupational Safety and Health (OSH) Standards including Department Order No. 13 of the Department of Labor and Employment (DOLE) – Guidelines Governing Occupational Safety and Health in the Construction Industry.

These fatal accidents and disabling injuries in various companies have already become a usual occurrence. There are those that employ more than 17,000 workers who are exposed to workplace hazards because of non-compliance with existing OSH standards. The Department of Labor and Employment, through the Occupational Safety and Health Center, has conducted inspections and accident investigations on these companies and thereafter assist them by giving their personnel Basic Occupational Safety and Health Course and OSH orientations. While some may have learned their lessons, still aplenty continue to encounter accidents in their place of work. Some companies would even deny DOLE and OSH officials entry into the worksite thereby preventing investigation and audit of compliance.

One of the most tragic accidents in recent years is that of Eton Properties construction project in Makati wherein ten (10) of its workers plunged to their death after the scaffolding bearing them collapsed. This accident prompted the creation of the Joint Administrative Order No. 1 Series of 2011, issued by Department of Trade and Industry (DTI), Department of Interior and Local Government (DILG), Department of Public Works and Highways (DPWH), DOLE and Professional Regulation Commission (PRC) to amplify D.O. 13. Recognizing the importance of addressing this gap, DPWH also issued Memorandum Circular No. 02 series of 2011 which requires all contractors to be in possession of a DOLE-approved Construction Safety and Health Program (CSHP) before commencing any construction work. It likewise directs all Building Officials to make a DOLE-approved CSHP a condition to the issuance of any building permit. DOLE will only approve a CSHP submitted by a licensed contractor. Unlicensed contractors can therefore not comply with DOLE DO 13.

Under the present rules and standards promulgated by DOLE on occupational safety and health (OSH) in the working environment, an erring company may be imposed any of the following penalties for having violated the Labor Code of the Philippines and the Occupational Safety and Health Standards:

- a) In cases of imminent danger, the DOLE Regional Director can issue work stoppage order;
- b) There are penal sanctions for erring employers under the Article 288 of the Labor Code of the Philippines:
 - i. Fine of not less than ₱1,000.00 nor more than ₱10,000.00;
 - ii. Imprisonment of not less 3 months nor more than 3 years; or,
 - iii. Both fine and imprisonment at the discretion of the court.

These sanctions have not deterred recurring OSH issues in workplaces. *Accidents and deaths in the construction industry continue to happen one after the other.*

These and a multitude of continuous violations in many establishments merit a more concerted effort and legislation to ensure that companies violating the OSH standards suffer the consequences of their inaction and non-compliance. Time and again, it has been proven that non-compliance with OSH laws and regulations would often lead to serious accidents, injuries and/or illnesses and even fatalities. The engagement of unlicensed contractors, failure of companies to comply with OSH standards and engagement of lower labor cost to the detriment of workers' health and safety has to stop.

This measure puts in explicit terms the need to criminalize non-compliance with occupational safety and health standards as done in countries like Singapore and the USA where significant compliance to the OSH regulations correspond to less accidents and injuries being experienced by workers. This bill also makes any employer directly responsible for an employee's injury or death due to the violation of Standards. The responsibility of the employer is extended to payment of required penalties to the State Insurance Fund.


In order to strengthen the advocacy, prevention and enforcement efforts of the DOLE and other agencies on work accidents, injuries and illnesses, a stronger legislation that would criminalize non-compliance with occupational safety and health standards has become necessary, thus making the enactment of this bill into law imperative.


JINGGOY EJERCITO ESTRADA
Senator

'15 MAY 26 P4:10

SENATE

Senate Bill No. 2788

RECEIVED BY: 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
STRENGTHENING COMPLIANCE WITH OCCUPATIONAL SAFETY AND
HEALTH STANDARDS

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

1 **Section 1. Title.** – This Act shall be known as “**An Act Strengthening**
2 **Compliance with Occupational Safety and Health Standards**”.

3
4
5 **Sec 2. Declaration of Policy.** –The State shall protect every worker against the
6 dangers of injury, sickness or death through safe and healthful working
7 conditions, thereby assuring the conservation of valuable manpower resources
8 and the prevention of loss or damage to lives and properties, consistent with
9 national development goals and with the State’s commitment for the total
10 development of every worker as a complete human being.

11
12
13 **Sec 3. Duties of Employers, Workers and Other Persons.**– (1) Each
14 employer, including project owner covered by the provisions of this Act shall:

- 15 a. furnish his workers a place of employment free from hazardous conditions
16 that are causing or are likely to cause death, illness or physical harm to his
17 workers;
- 18 b. give complete job safety instructions to all his workers, especially to those
19 entering the job for the first time, including those relating to the
20 familiarization with their work environment, hazards to which the workers
21 are exposed to and steps taken in case of emergency;
- 22 c. comply with the requirements of this Act;
- 23 d. use only approved devices and equipment in his workplace; and,
- 24 e. compliance with OSH standards – include training, medical examination,
25 and provision of protective and safety devices, e.g., PPES and machine
26 guards.

27
28 (2) Every worker shall cooperate with the employer in carrying out the provisions
29 of this Act. He shall report to his supervisor any work hazard that may be
30 discovered in his workplace.

31
32 (3) Every worker shall make proper use of all safeguards and safety devices
33 furnished in accordance with the provisions of this Act for his protection and that

1 of others, and shall follow all instructions given by the employer in compliance
2 with the provisions of this Act.

3
4 (4) It shall be the duty of any person, including any builder or contractor or
5 enforcement agent, who visits, builds, renovates, or installs devices, or conducts
6 business in any establishment or workplace, to comply with the provisions of
7 these standards and all regulations of the employer issued thereunder as well as
8 with other subsequent issuances of the Secretary.

9
10
11 **Sec 4. Employer's Liability for Failure to Provide OSH Control Measures.** –

12 In case the employee's injury, illness or death was due to the failure of the
13 employer to comply with any law, or to install, maintain or provide safety and
14 health control measures, or take other precautions for the prevention of injury,
15 illness or death, said employer shall pay to the State Insurance Fund a penalty of
16 twenty-five percent (25%) of the lump sum equivalent of the income benefit
17 payable by the System to the employee after due process.

18
19
20 **Sec 5. Workers Right to Know and Limited Right of Refusal to Work.** – The

21 right to safety and health at work has been stipulated in the 1987 Philippine
22 Constitution. This shall cover information on the hazards in their workplaces,
23 access to training and education on chemical safety and orientation on safety
24 data sheet of a chemical.

25
26 The worker has the right of refusal to work if an imminent danger situation exists
27 in the workplace that may result to illness, injury or death and until the corrective
28 actions to eliminate the danger is taken by the employer.

29
30 Imminent danger refers to a condition or practice in any workplace that can be
31 reasonably expected to cause death or serious physical harm.

32
33
34 **Sec 6. Payment of Workers Income During Work Stoppage Due to**

35 **Imminent Danger.** – If a work stoppage order (WSO) is issued secondary to an
36 Imminent Danger Situation which would imperil the lives of the workers, for
37 purposes of payment of wages and any other liabilities arising from the WSO, the
38 employer is presumed a party at fault.

39
40
41 **Sec 7. Employee's Compensation Claim.** – An employee may file claims for

42 compensation benefit arising out of work-related disability or death. Such claims
43 shall be processed independently of the finding of fault, gross negligence or bad
44 faith of the employer in a proceeding instituted for the purpose.

45
46
47 **Sec 8. Visitorial Power of the Secretary of Labor and Employment.** –

48 Pursuant to Article 128 of the Labor Code, as amended, and other applicable
49 laws, the Secretary of Labor and Employment or his/her authorized
50 representative shall have the authority to enforce mandatory occupational safety
51 and health standards in all establishments. As such, the Secretary or his duly
52 authorized representatives can enter workplaces at any time of the day or night
53 where work is being performed to examine records and investigate fact,
54 conditions or matters necessary to determine if there is conformity with the
55 provisions of this Act.

1 Any person or entity shall not obstruct, impede, delay or otherwise render
2 ineffective the orders of the Secretary of Labor and Employment or his duly
3 authorized representatives issued pursuant to the authority granted under Article
4 128 of the Labor Code of the Philippines, as amended, and no inferior court or
5 entity shall issue temporary or permanent injunction or restraining order or
6 otherwise assume jurisdiction over any case involving the enforcement orders.

7
8 **Sec 9. Unlawful Acts.** –The following are considered as unlawful acts:

- 9 a. Obstruction or refusal of entry to the Secretary of Labor or his/her
10 representative/s in the exercise of visitorial and enforcement power;
11 b. Failure to comply with the compliance orders issued by the
12 Secretary/authorized representatives based on the findings of violations
13 by the labor laws compliance officers;
14 c. Gross negligence of the employers/contractors in complying with the
15 provisions of OSH; or
16 d. Failure to implement OSH control measures resulting to death or
17 permanent disability of workers.

18
19 The criminal acts enumerated herein shall be punishable with a maximum fine of
20 P100, 000.00 per day until the violation has ceased, without prejudice to the filing
21 of criminal or civil case in regular courts as the case maybe.

22
23 A portion of the collected payment shall be used for the operation of occupational
24 safety and health initiatives including but not limited to occupational safety and
25 health training and education and other occupational safety and health programs.

26
27
28 **Sec 10. Implementing Rules and Regulations.** – The DOLE, in coordination
29 with agencies concerned, shall formulate its rules and regulations within ninety
30 (90) days after the effectivity of this Act.

31
32
33 **Sec 11. Separability Clause.** – If any part, section or provision of this Act shall
34 be held invalid or unconstitutional, the other provisions not affected by such
35 declaration shall remain in full force and effect.

36
37
38 **Sec 12. Repealing Clause.** – All laws, acts, decrees, executive orders, rules
39 and regulations or other issuances or parts thereof, which are inconsistent with
40 this Act, are hereby modified and repealed.

41
42
43 **Sec 13. Effectivity.** – This Act shall take effect fifteen (15) days after its
44 publication in the Official Gazette or in at least two (2) newspapers of national
45 circulation.

46
47
48
49
50
51 *Approved,*