


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

OFFICE OF THE CLERK
SENATE

SENATE
S. No. 431

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Introduced by SENATOR RAMON BONG REVILLA, JR.

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

EXPLANATORY NOTE

The Business Process Outsourcing (BPO) industry is described as a "sunshine industry" in the Philippines. It has created millions of jobs for Filipinos across the country and it continues to offer hundreds of thousands of employment opportunities for our people every year. Its contribution to our economy and to the livelihoods of millions of Filipinos cannot be undermined. We are now the BPO capital of the world, the Philippines is the preferred location for companies seeking to fill their contact center needs at very low cost compared to the standard of their own countries. It is high time our legislature takes notice of this young yet vital industry and its special characteristics in order to ensure the welfare of all Filipinos that are part of it.

Notwithstanding the industry's reputation for its consistency in job creation, it also has a reputation for its inconsistency with employee retention. The attrition rate of the BPO industry is incessantly grim, almost perpetually steady at fifty percent (50%) per year as studies would show, at one point it even reached a ridiculous figure of eighty percent (80%). Ironically, despite it being described with sunshine, most of its business is conducted with the lack thereof. Inverted working hours are one of the many reasons for attrition in the BPO sector, this is according to studies, researches, reports, surveys and publications conducted and administered by the

International Labor Organization (ILO), the Contact Center Association of the Philippines (CCAP) and other communication organizations around the world who wanted to fathom how one of the most thriving industries in the world also has the lowest employee retention rate. Some factors that were identified to be consequential to the inordinate figure of attrition in the industry are mainly related to health, safety, transportation, workload abuse, compensation inadequacy, delayed benefits, poor working environments, rigid management and lack of career growth options. Not to mention the prodigious physical, emotional and mental stress due to the nature of the job, fatigue is slowly becoming a norm for its employees. It is the compounding effect of these factors that attribute to the attenuation of its workforce.

The coalescence of these things result in a secretly unhealthy sector. Despite all that, BPO employees continue to work due to the economic reality of today. The inevitability of irreparable damage is upon the Filipinos who are part of this industry, most do not know what their employer's obligations are to them nor do they know if they are being exploited. It is time for the State to step in to make sure that our BPO workers are treated right and just, we must reinforce the moral obligations of the industry to its workers to ensure that its workforce does not succumb to any long term damage the nature of work can cause. It is in the interest of the Business Process Outsourcing companies themselves to protect their workers who are undoubtedly the backbone of their business and their industry's most valuable resource.

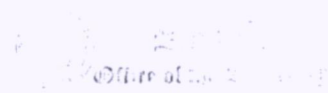
This bill seeks to better promote and protect the rights of our fellow Filipinos in the BPO sector. It also aims to enforce the labor standards of our Labor Code and to institutionalize additional benefits that address the many problems the BPO workers face. Our people are overworked, underpaid and overstressed by majority of the local BPO entities operating today. It is time for reform, let us make this industry not only user-friendly but also people centered; it is time to redesign it into an industry that is trusted not only by its clients but by its employees as well. Lower attrition rates can be achieved by ensuring a healthy and safe working environment

which increases the attraction of capable workers that stay, which lead to a stronger BPO industry.

Similar measures have been filed over the past few years both in the Senate and House of Representatives in recognition of the struggle of the Filipinos in this sector. To eradicate the factors stated above and to ensure the occupational, health, safety and welfare of the BPO workers is what this bill seeks to accomplish.

It is my fervent hope that the Eighteenth (18th) Congress of the Republic of the Philippines sees the passage of this bill into law.


RAMON BONG REVILLA, JR.



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

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

1 Section 1. *Short Title.* – This Act shall be known and cited as the “BPO
2 Workers Health and Safety Act of 2019”

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

- 12
- 13 a.) The importance of health and safety requires that employees, other
14 persons at work and members of the public be given the highest level of
15 protection against risks to their health and safety that is reasonably
16 practicable in the circumstances.

- 1 b.) Persons who Control or manage matters that give rise or may give rise to
2 risks to health or safety are responsible for eliminating or reducing those
3 risks so far as reasonably practicable.
- 4 c.) Employers have a duty to secure the health, safety and welfare of
5 employees and third persons working at or near their workplace. This
6 general duty requires employers to actively prevent risks arising out of
7 their business activities and extends to protecting both employees and
8 independent contractors.
- 9 d.) Employers and self-employed persons should be proactive, and take all
10 reasonably practicable measures, to ensure health and safety at workplace
11 and in the conduct of undertakings.
- 12 e.) Employers and employees should exchange information and ideas about
13 risks to health and safety and measures that can be taken to eliminate or
14 reduce those risks.
- 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
19 shall be understood as follows:

- 20
- 21 a.) "Business Process Outsourcing (BPO)" – Is defined as the delegation of
22 service-type business processes to a third-party service provider. It is
23 generally divided into the following sectors: contact centers, back office
24 services, data transcription, animation, software development, engineering
25 development and game development. Most BPO companies engage in shift
26 work to complete their 24-hour work cycle.
- 27 b.) "Call Center" – Also known as contact center, refers to a central customer
28 service operation where agents – customer care specialists or customer
29 service representatives – handle business-related telephone calls and
30 other IT-related non-voice activities in behalf of a client.

- 1 c.) "Employer" – Includes any person or enterprise acting directly or indirectly
2 in the interest of an employer, in relation to an employee, and shall
3 include government-owned or controlled corporations and institutions, as
4 well as non-profit private institutions or organizations. Indirect employers
5 or contractors shall be considered "employers" in this Act.
- 6 d.) "Employee" – Shall mean any person hired, permitted or suffered to work
7 by an employer.
- 8 e.) "Health" – Shall connote a sound state of the body and mind of the
9 worker, which enables him to perform his job normally, in a state of well-
10 being.
- 11 f.) "Safe or Safety" – Shall refer to the physical or environmental conditions
12 of work or employment, which substantially comply with the provisions of
13 the Standards.
- 14 g.) "Work Accident" – Shall mean an unplanned or unexpected occurrence
15 that may or may not result in personal injury, property damage, work
16 stoppage or interference or any combination thereof, which arises out of
17 and in the course of employment.
- 18 h.) "Work Injury" – Shall mean any tiny injury or occupational illness suffered
19 by a person, which arises out of or in the course of his employment.
- 20 i.) "Occupational Illness" – Means 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
24 employment.
- 25 j.) "Workplace" – Means the office premises or work site, where the workers
26 are habitually employed and shall include the office or place where the
27 workers, who have no fixed or definite work site, regularly report for
28 assignment in the course of their employment.
- 29 k.) "Approved" – Shall mean acceptable to the Secretary in writing after
30 proper examination showing compliance with prescribed Standards.
- 31 l.) "Code" shall mean the Labor Code P.D. 442 as amended.

- 1 m.) "Agencies" – Shall mean government agencies mandated to monitor,
2 administer, promote, and ensure health and safety regulations and
3 standards. These agencies are the Department of Labor and Employment,
4 Bureau of Working Conditions, Employees Compensation Commission and
5 Occupational Safety and Health Center.
- 6 n.) "Department" – Shall mean the Department of Labor and Employment.
- 7 o.) "Secretary" – Shall mean the Secretary of Labor and Employment.
- 8 p.) "Bureau" – Shall mean the Bureau of Working Conditions
- 9 q.) "Director" – Shall mean the Director of the Bureau of Working Conditions
- 10 r.) "Standards" – Shall mean the Occupational Safety and Health Standards
11 and regulations.
- 12 s.) "Enforcement Officer" – Shall mean the industrial safety engineer, the
13 labor regulation officer, or any duly authorized representatives of the
14 Secretary to enforce these standards.
- 15 t.) "Authorized Representative" – shall mean and include chartered cities,
16 municipalities, employees or officials of other government agencies
17 empowered by the Secretary of Labor and Employment to enforce the
18 provisions of the Standards,
- 19 u.) "Workplace Occupational Health and Safety Representative" – As defined
20 in Section 7 of this Act.
- 21 v.) "Registered Interested Party" – Shall mean any duly registered non-stock
22 non-profit organization advocating occupational health and safety (OHS).
- 23 w.) "Shift Work" – Shall mean the employment practice designed to make use
24 of the 24 hours of the clock. Employees are given schedules which
25 correspond to a 24-hour work cycle. The term shift work includes both
26 long-term night shifts and work schedules in which employees change or
27 rotate shifts.

28
29 *Sec. 4. Occupational Health and Safety Standards and Regulations for BPO*
30 *Workers.* – Pursuant to its mandate, the Department of Labor and Employment is
31 tasked to establish Occupational Health and Safety Standards for BPO work.

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

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

Sec. 6. Compliance of the Standards. – The Standards shall be strictly enforced in all establishments operating in the country. Compliance to the provisions of the Standards shall be mandatory.

Sec. 7. Guidelines for the implementation of Standards. – The agencies and the workplace OHS representatives shall regularly monitor the implementation of the Standards.

- a.) The Department through its enforcement officers shall administer and enforce the provisions of the Standards.
- b.) Every employer shall give to the Secretary or his duly authorized representative access to its premises and records for the purpose of determining compliance with the provisions of the Standards.
- c.) Every establishment or place of employment shall be inspected at least once a year to determine compliance with the provisions of the Standards. Special inspection visits however, may be authorized by the Regional Labor Office or as authorized under Rule 1980 of the Labor Code, to

1 investigate accidents, occupational illnesses or dangerous occurrences,
2 especially those resulting in permanent total disability or death, to conduct
3 surveys of working conditions requested by the Bureau for the purpose of
4 evaluating and assessing environment contaminants and physical
5 conditions or to conduct investigations, inspections or follow-up
6 inspections upon request of an employer, worker or a labor union of the
7 establishment.

8 d.) The enforcement officer shall determine reasonable periods of compliance
9 with recommendations depending on the gravity of the hazards needing
10 corrections or the period needed to come into compliance with the order.

11 e.) In case the establishment fails to comply with the Standards to the
12 imminent danger of the workers, the enforcement officer can immediately
13 suspend operations in order to prevent injuries, pending compliance by
14 the establishment.

15 f.) The workplace occupational health and safety committee shall have
16 monitoring rights and can also recommend and declare suspension of
17 operations in the event that the safety and welfare of workers are deemed
18 compromised as stated in Section 7, B, of the Act.

19
20 *Sec. 8. Workplace Occupational Health and Safety Officer.* – An OHS
21 representation is to be elected for the purposes of consultation and monitoring of
22 the Standards if at least one of the persons employed by the employer requests the
23 election of the representative. The employees may elect more than one OHS
24 representative upon approval by the Department.

25 A. Election of workplace OHS representative.

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

27 (2) A person is –

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

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

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

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

9 (a) Conduct the election; or

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

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

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

18 B. Functions of workplace OHS representative. An OHS committee or an OHS
19 representative has the following functions:

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

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

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

26 (4) Such other functions as are prescribed by the regulations
27

28 The workplace OHS representative may file a petition for a time off pay to the
29 enforcement officer. The time off may be for attending courses as required by
30 appropriate agencies and for conducting investigations on matters relating to his

1 duties as a workplace OHS representative. The enforcement officer shall determine
2 the amount of time off 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
8 concerned or its representative; and

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

11 (2) Accompany an inspector during 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 a situation is necessitated;

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

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

24
25 *Sec. 9. Workplace Policy on Occupational Health and Safety.* – Each
26 establishment shall formulate their own occupational health and safety policy which
27 adheres to the Standards as defined in Section 4 of this Act. Any additional safety
28 measure deemed appropriate to the nature of the localized work environment may
29 also be included pending approval by the Bureau. The policy must be reviewed
30 annually by the employers, the workplace OHS representatives and the authorized
31 representative.

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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 benefit of the employees of his employer.

Sec. 11. *Health Insurance.* – All employees are entitled to free 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 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 circular as the case may be. The Employees Compensation Commission shall promptly process any claims for/by injured, disabled, deceased employees or their dependents.

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

Sec. 14. *Penal Provision.*

(a) Unless otherwise provided in any Chapter or section in the Code, any person or establishment who shall violate, disobey, refuse, omit or neglect to comply with any of the rules and regulations promulgated under this Act shall have a criminal liability and upon

1 conviction shall be punished by imprisonment for a period no
2 exceeding six (6) years and a fine not less than One Hundred Fifty
3 Thousand Pesos (Php 150,000.00) depending upon the discretion of
4 the court.

5 (b) Any person who shall interfere with or hinder, or oppose any
6 officer, agent or member of the Department or of the Bureaus and
7 offices under it, in the performance of his duty as such under this
8 Code, or shall tear down, mutilate, deface or alter any placard, or
9 notice, affixed to the punishable upon conviction by imprisonment
10 for an exceeding six (6) months and a fine not less than Fifty
11 Thousand Pesos (Php 150,000.00) and not more than One Hundred
12 Thousand Pesos (Php 100,000.00) per day for each violation
13 depending upon the discretion of the court.

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

20
21 Sec. 15. *Separability Clause.* – If any portion or provision of this Act is
22 declared unconstitutional, the remainder of this Act or any provisions not affected
23 thereby shall remain in force and effect.

24 Sec. 16. *Repealing Clause.* – Any law, presidential decree or issuance,
25 executive order, letter of instruction, rule or regulation inconsistent with the
26 provisions of this Act is hereby repealed or modified accordingly.

27 Sec. 17. *Effectivity.* – This Act shall take effect after fifteen (15) days
28 following its complete publication in the Official Gazette or a newspaper of general
29 circulation.

30
31 Approved,