

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



SENATE
S. No. 2475

Introduced by Senator Francis "Tol" N. Tolentino

AN ACT
PROMOTING THE WELFARE OF EMPLOYEES BY DEFINING REST HOURS,
PROVIDING PENALTIES FOR ANY VIOLATION THEREOF, AND FOR OTHER
PURPOSES

EXPLANATORY NOTE

Sections 15 and 18, Article II of the 1987 Constitution provide that it is the policy of the State to protect and promote the right to health of the people, and to protect the rights of workers and promote their welfare.

In recent years, alternative work arrangements have increasingly been adopted by employers for a variety of reasons, such as for energy efficiency or to enhance "work-life balance" for employees. However, the COVID-19 pandemic has greatly affected and reshaped the business and employment landscape. Due to the lockdown and quarantine protocols imposed by the government, employers are necessarily compelled to implement alternative work arrangements in order to adapt to the demands of the new normal.

In reaction to these developments, the Department of Labor and Employment (DOLE) issued Labor Advisory No. 09 and Labor Advisory No. 17, series of 2020, in order to assist and guide employers and employees in the implementation of various flexible work arrangements, work-from-home arrangements, or telecommuting work

arrangements, pursuant to Department Order 202-2019 or the Implementing Rules and Regulations of Republic Act No. 11165 or the "Telecommuting Act".

While we recognize the benefits of work-from-home and telecommuting arrangements, they have thinned the line between work and personal space and time. Sometimes, technology and work-from-home arrangements distort the idea of work and home from the point of view of the employees. For instance, instead of de-stressing at home from the pressures of work, work is now brought to the employees' homes or wherever they go. Similarly, due to advances in technology, employees are now virtually always at the beck and call of their employers. The power of control of employers now overreaches beyond working hours through the use of phone and email. This blurring between working time and private time has become more pronounced during the pandemic because of the increase in the number of employees on a work-from-home or telecommuting arrangements.

A research by Eurofound shows that people who work regularly from home are more than twice as likely to surpass the maximum of 48 working hours per week, compared to those working on their employer's premises. Almost 30% of those working from home report working in their free time every day or several times a week, compared to less than 5% of office workers.

In 2017, France passed a law to give workers the right to disconnect from email, smartphones, and other work-related electronic devices after the working day ends. French labor unions pushed for a disconnect rule, saying digital technologies have created an explosion of undeclared labor that is forcing employees to work outside the typical work week. Unions in Germany and Ireland also won rights for workers to disconnect.

In January 2021, majority of lawmakers in the European Parliament voted in favor of putting forward a "right to disconnect" law to implement across the European Union. The Parliament sought to grant workers the right to digitally disconnect from work without facing negative repercussions. The right to disconnect

refers to rules that say an employee should not be expected to field work calls and emails, or communications with their bosses, outside of working hours.

Recently, Portugal passed a law that bans employers from contacting workers outside of their regular hours by phone, message, or email following an increase in people working from home amidst the pandemic.

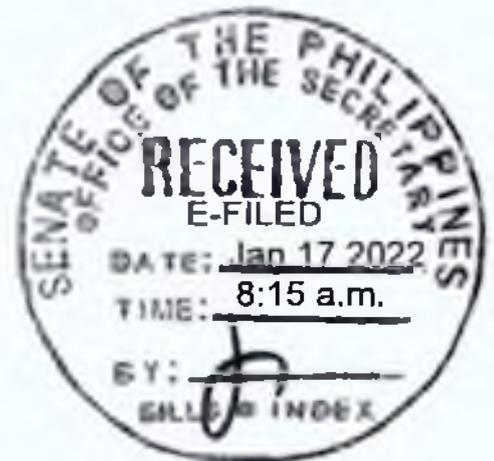
This bill defines the rest hours of employees, and prohibits employers from exacting work or contacting employees, without the latter's consent, during rest hours. An employer that violates the prohibitions set in this bill will be penalized with a monetary sanction and a fine, or with imprisonment if attended with coercion or resulted in discrimination.

The passage of this bill is earnestly sought.



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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 "Workers' Rest Law."
- 2 Section 2. *Declaration of Policy.* – It is the policy of the State to protect and
3 promote the health of the people and instill health consciousness among them. The
4 State shall protect the rights of workers to privacy and personal time, and promote
5 their welfare.
- 6 Section 3. *Coverage.* – The provisions of this Act shall apply to employees in
7 all establishments and undertakings whether for profit or not, but not to field
8 personnel, domestic helpers, persons in the personal service of another, and workers
9 who are paid by results.
- 10 "Field personnel" shall refer to non-agricultural employees who regularly
11 perform their duties away from the principal place of business or branch office of the
12 employer and whose actual hours of work in the field cannot be determined with
13 reasonable certainty. The term shall not include employees who are on a work-from-
14 home arrangement and telecommuting employees as defined by Republic Act No.
15 11165, or the "Telecommuting Act".

1 Section 4. *Hours of Work.* – The normal hours of work of an employee shall
2 not exceed eight (8) hours a day, unless Presidential Decree No. 442, as amended,
3 or the “Labor Code of the Philippines,” provides otherwise.

4 The hours of work of employees on a Compressed Workweek arrangement
5 shall not exceed twelve (12) hours a day.

6 Section 5. *Rest Hours.* – Any period other than the hours of work shall be
7 considered as rest hours of an employee.

8 An employee may not be compelled to render overtime work, unless
9 otherwise allowed by Section 89 of the Labor Code of the Philippines, or unless the
10 employee freely gives their written consent to render overtime work.

11 Any waiver of the right to rest hours or any advance consent to perform
12 overtime work as a condition in the hiring or employment, re-employment, or
13 continued employment shall be void, and the employee shall be entitled to the
14 payment of penalty provided in Paragraph 1, Section 6 of this Act for the hours
15 worked.

16 Section 6. *Prohibitions during Rest Hours.* – During rest hours, and unless the
17 employee gives their consent as required by this Act, the employer, manager,
18 supervisor, or any of their agents, is prohibited from:

- 19 1. Requiring the employee to work;
- 20 2. Requiring the employee to be on duty, to travel, or be at a prescribed
21 place for work or work-related activities, such as attending seminars,
22 meetings, team-building, and other similar activities; or
- 23 3. Contacting the employee for work and work-related purposes through
24 phone, e-mail, message, and other means of communication, unless it
25 is for the purpose of notifying the employee of the necessity of
26 rendering emergency or urgent work as provided under Article 89 and
27 Article 92 of the Labor Code of the Philippines. Employees may not be
28 penalized by the employer for not opening or answering
29 communications received during rest hours.

30 Section 7. *Penalties.* – Any person violating the provisions of this Act shall pay
31 the employee One Thousand Pesos (P1,000.00) per hour of work rendered in

1 violation of this Act, or a fraction thereof. For purposes of this paragraph, substantial
2 evidence is sufficient to prove the violation and number of hours worked.

3 If any of the acts enumerated in Section 5 of this Act is attended with
4 violence, threats, or intimidation, the offender shall be punished for Grave Coercion
5 under Article 286 of Act No. 3815, or the "Revised Penal Code," with the penalty
6 next higher in degree imposed.

7 If as a result of asserting their rights under this Act, the employee is limited,
8 segregated, or classified in any way that would discriminate, deprive, or diminish
9 their employment opportunities, or otherwise adversely affect said employee, the
10 offender shall be penalized with imprisonment of not less than one (1) month nor
11 more than six (6) months, and a fine of not less than One Hundred Thousand Pesos
12 (P100,000.00).

13 If the offense is committed by a corporation, trust, firm, partnership,
14 association, or any other entity, the penalty shall be imposed upon the guilty officer
15 or officers of such corporation, trust, firm, partnership, association, or entity.

16 Section 8. *Separability Clause.* – If any part hereof is held invalid or
17 unconstitutional, the remainder of the provision not otherwise affected shall remain
18 valid and subsisting.

19 Section 9. *Repealing Clause.* – Any law, presidential decree or issuance,
20 executive order, letter of instruction, administrative order, rule, or regulation
21 contrary to or inconsistent with this Act is hereby repealed, modified, or amended
22 accordingly.

23 Section 10. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
24 from its publication in the *Official Gazette* or in at least two (2) newspapers of
25 general circulation.

Approved,