

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

SECRETARY

1916



SENATE

S.B. No. 394

Introduced by Senator JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

The Constitution mandates the State to promote equality of employment opportunities for all. This means that an individual will not be discriminated against due to his age, sex, creed, political inclination or status in life.

Age should not be the basis of one's admission, promotion or continued employment. Most jobs do not really require that an individual be of a certain age to fulfill the demands of these jobs. This requirement of employers is discriminatory and capricious. Age discrimination has no place in our society. This bill seeks to eliminate such bias by prohibiting and punishing any employer, labor contractor and labor organization who will discriminate against any individual because of his or her age.

Thus, the immediate approval of this bill is earnestly sought.




JINGGOY EJERCITO ESTRADA
Senator

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AN ACT
TO PROHIBIT ANY EMPLOYER, LABOR CONTRACTOR AND LABOR
ORGANIZATION FROM DISCRIMINATING AGAINST ANY INDIVIDUAL BECAUSE
OF THE INDIVIDUAL'S AGE

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

Section 1. Short Title. - This Act shall be known as the "Prohibition Against Age
Discrimination Act".

Sec. 2. Declaration of Policy. - It is declared a state policy to ensure equal work
opportunities regardless of one's age.

Sec. 3. Definition of Terms. - For purposes of this Act, the terms:

- a. "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee and shall include the Government and all its branches, subdivision and instrumentalities, all government-owned or controlled corporations and institutions, as well as non-profit private institutions, or organizations.
- b. "labor contractor" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such person.
- c. "labor organization" means any union or association of employees which exists in whole or in part for the purposes of collective bargaining or of dealing with employers concerning terms and conditions of employment.
- d. "employee" includes any individual employed by an employer.
- e. "secretary" refers to the Secretary of the Department of Labor and Employment of the Republic of the Philippines.

Sec. 4. Prohibited Employer Practices. - It shall be unlawful for an employer:

- a. to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;

- b. to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's age; or
- c. to reduce the wage rate of any employee in order to comply with the provision of this Act.

Sec. 5. Prohibited Labor Contractor Practices. - It shall be unlawful for a labor contractor to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of such individual's age, or to classify or refer for employment any individual on the basis of such individual's age.

Sec. 6. Prohibited Labor Organization Practices. - It shall be unlawful for a labor organization:

- a. to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his age;
- b. to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's age;
- c. to cause or attempt to cause an employer to discriminate against an individual in violation of this Act.

Sec. 7. Opposition to Unlawful Practices; Participation in Investigation, Proceedings, or Litigation. - It shall be unlawful for an employer to discriminate against any of his employees or applicants for employment, for a labor contractor to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because such individual, member or applicant for membership has opposed any practice made unlawful by this section, or because such individual, member or applicant for membership has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this Act.

Sec. 8. Printing or Publication of Notice or Advertisement Indicating Preference, Limitation, etc. - It shall be unlawful for an employer, labor organization, or labor contractor to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such a labor contractor, indicating any preference, limitation, specification, or discrimination based on age.

Sec. 9. Exceptions. - It shall not be unlawful for an employer, labor contractor, or labor organization:

- a. to take any action otherwise prohibited under Sections 4, 5, 6, or 8 of this Act where age is a *bona fide* occupational qualification reasonably necessary to the normal operation of the *particular business*, or where the differentiation is based on reasonable factors other than age;
- b. to take any action otherwise prohibited under Sections 4, 5, 6, or 8 of this Act, to observe the terms of a *bona fide* seniority system that is not intended to evade the purposes of this Act;

- c. to discharge or otherwise discipline an individual for good cause;
- d. to observe the terms of a *bono fide* employee retirement or a voluntary early retirement plan consistent with the relevant purpose or purposes of this Act. Provided, such retirement or voluntary retirement plans are in accordance with the Labor Code, as amended, and other related laws;
- e. to take any other action otherwise prohibited under Sections 4, 5, 6, or 8 of this Act, provided that said action be duly certified by the Secretary of Labor and Employment to be in accordance with the purpose or purposes of this Act.

Sec. 10. Penalty. - Any violation of this Act shall be punished with a fine of not less than fifty thousand pesos (P50,000.00) but not more than three hundred thousand pesos (P300,000.00), or imprisonment of not less than three (3) months but not more than two (2) years, or both at the discretion of the court. If the offense is committed by a corporation, trust, firm, partnership or association or other entity, the penalty shall be imposed upon the guilty officer or officers of such corporations, trust, firm, partnership or association or entity.

Sec. 11. Separability Clause. - If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

Sec. 12. Repealing Clause. - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

Sec. 13. Effectivity. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,