

THIRTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

6 JUN -7 P231

SENATE

RECEIVED BY: 

Senate Bill No. 2284

INTRODUCED BY SEN. MANNY VILLAR

EXPLANATORY NOTE

In coming up with a legislative measure to strengthen the legal provision on probationary employment, there are to be considered, on one hand, the employer's prerogative to freely select or discharge his employees and the duty of the state to promote the welfare of the workers, on the other. It may be noted that the said employer's right is subject to regulation by the State in the exercise of paramount police power (**See Eurolinea Phils., Inc. vs. NLRC, 156 SCRA 78; PAL, Inc. vs. PALEA, 57 SCRA 498; Phil. Apparel Workers Union vs. NLRC, 106 SCRA 444**).

Particularly, this bill provides that the probationary employment shall not, in any given circumstance, exceed six (6) months. Any stipulation to the contrary shall be void. Indeed, apprenticeship agreements do not now constitute an exception. Art. 61 of the Labor Code as amended by Executive Order 111 provides a maximum of six (6) months for apprenticeship agreements.

The purpose of the measure is to correct the anomaly of keeping employees under "permanent" probationary status and effectively deprive them of the right to self-organization, collective bargaining and to engage in peaceful concerted activities in accordance with law. Generally, employees with probationary status do not venture into self-organization for fear of immediate dismissal.

For an employee to graduate from probationary status to that of a regular status, six (6) months is reasonably sufficient.

In any case, the right of the employer to dismiss a regular employee for a just cause is always reserved and readily available to him. If after the probationary period the employee fails to observe the standards of work, or to fulfill the reasonable work assignments, the employer may dismiss him (**See Buiser vs. Leogardo, Jr., 131 SCRA 151**).


In view of the foregoing, the passage of this bill is earnestly requested.


MANNY VILLAR

THIRTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

6 JUN -7 P2:31

SENATE

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Senate Bill No. 2284

INTRODUCED BY SEN. MANNY VILLAR

AN ACT
ENHANCING THE RIGHTS OF AN EMPLOYEE TO SECURITY OF TENURE
BY STRENGTHENING THE PROVISION ON THE LIMITATION OF THE
PROBATIONARY PERIOD, AMENDING FOR THIS PURPOSE ARTICLE 281
OF THE PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE
KNOWN AS "THE LABOR CODE OF THE PHILIPPINES"

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

SECTION 1. *Art. 281 of Presidential Decree No. 442, as amended, is
hereby amended to read as follows:*

"Art. 281. Probationary Employment. – Probationary employment shall not exceed six (6) months from the date the employee started working (unless it is covered by an apprenticeship agreement stipulating a longer period). ANY STIPULATION TO THE CONTRARY SHALL BE VOID. The services of an employee who has been engaged on a probationary basis may be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known by the employer to the employee at the time of his engagement. An employee who is allowed to work after a probationary period shall be considered a regular employee."

SECTION 2. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) national newspapers of general circulation, whichever comes earlier.

Approved,