

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

SENATE

Senate Bill No. 430

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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**EXPLANATORY NOTE**

In the absence of a retirement plan or agreement providing for retirement benefits of employees in an establishment, the Labor Code provides that an employee upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) years, which is declared as the compulsory retirement age, who has served at least five (5) years in the said establishment, may retire and shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

However, an employee who is unable to serve for at least five years is entitled to nothing upon his retirement. This is the same situation for retiring employees of retail, service and agricultural establishments or operations employing not more than ten (10) employees or workers since their employers are exempted from the coverage of the retirement provision under the Labor Code.

This bill seeks to address this inequity in the law without however unduly burdening the employers.

Hence, the immediate passage of this bill is therefore earnestly solicited.

  
JINGGOY EJERCITO ESTRADA  
Senator

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AN ACT  
AMENDING ARTICLE 287 OF PRESIDENTIAL DECREE NO. 442, AS  
AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE  
PHILIPPINES, BY PROVIDING FINANCIAL ASSISTANCE TO EMPLOYEES  
WHO REACHED THE AGE OF SIXTY-FIVE BUT ARE NOT ENTITLED TO  
ANY RETIREMENT PAY

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

**SECTION 1.** Article 287 of Presidential Decree No. 442, as amended,  
otherwise known as the Labor Code of the Philippines, is hereby amended to  
read as follows:

"ART. 287. Retirement. - Any employee may be retired upon  
reaching the retirement age established in the collective bargaining  
agreement or other applicable employment contract.

"In case of retirement, the employee shall be entitled to receive  
such retirement benefits as he may have earned under existing laws and  
any collective bargaining agreement and other agreements: *Provided,*  
however, That an employee's retirement benefits under any collective  
bargaining and other agreements shall not be less than those provided  
herein.

"In the absence of a retirement plan or agreement providing for  
retirement benefits of employees in the establishment, an employee upon  
reaching the age of sixty (60) years or more, but not beyond sixty-five (65)  
years which is hereby declared the compulsory retirement age, who has  
served at least five (5) years in the said establishment, may retire and  
shall be entitled to retirement pay equivalent to at least one-half (1/2)  
month salary for every year of service, a fraction of at least six (6) months  
being considered as one whole year. PROVIDED THAT AN EMPLOYEE  
WHO IS NOT ABLE TO SERVE SUCH ESTABLISHMENT FOR AT  
LEAST FIVE (5) YEARS SHALL BE ENTITLED TO A REASONABLE  
FINANCIAL ASSISTANCE.

"Unless the parties provide for broader inclusions, the term one-half  
(1/2) month salary shall mean fifteen (15) days plus one-twelfth (1/12)  
of the 13th month pay and the cash equivalent of not more than five (5) days  
of service incentive leaves.

"An underground mining employee upon reaching the age of fifty (50) years or more, but not beyond sixty (60) years which is hereby declared the compulsory retirement age for underground mine workers, who has served at least five (5) years as underground mine worker, may retire and shall be entitled to all the retirement benefits provided for in this Article. "Retail, service and agricultural establishments or operations employing not more than ten (10) employees or workers are exempted from the coverage of this provision. PROVIDED THAT AN EMPLOYEE OF SUCH ESTABLISHMENT WHO HAS REACHED THE AGE OF SIXTY-FIVE (65) YEARS, MAY BE RETIRED; PROVIDED FURTHER, THAT SUCH EMPLOYEE WHO RETIRES SHALL BE ENTITLED TO A REASONABLE FINANCIAL ASSISTANCE COMMENSURATE TO THEIR LENGTH OF SERVICE.

"Violation of this provision is hereby declared unlawful and subject to the penal provisions provided under Article 288 of this Code." Nothing in this Article shall deprive any employee of benefits to which he may be entitled under existing laws or company policies or practices."

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

*Approved,*