

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 726

HOUSE OF REPRESENTATIVES
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REGISTRATION UNIT BILLS AND INDEX SERVICE

Introduced by: Hon. Karlo A. B. Nograles AND Hon. Jericho Jonas B. Nograles

EXPLANATORY NOTE

The Constitution mandates that the State shall afford full protection to labor and ensure that the workers shall be entitled to security of tenure, humane working conditions of work and just living wages. To pursue this, the Secretary of Labor and Employment under Article 128 of the Labor Code of the Philippines, as amended, exercises visitorial and enforcement power over workplaces and worksites to monitor compliance of establishments with labor standards that are intended to protect workers from hazards in the workplace and promote their welfare by ensuring safe and healthy work environments.

Using the 2010 NSO data, a total of 796,698 establishments should be inspected annually as to comply with the General Labor Standards. However, data from 2007 to 2011 shows that designated labor-inspectors have been unable to do so given their limited number vis-à-vis the number of establishments to be inspected. Limitations are also seen in terms of the capacity of labor inspectors to check compliance with technical safety and occupational safety and health standards.

The DOLE shifted from a regulatory framework to a compliance system in 2012. Crucial to the change in approach is the creation of a culture of voluntary compliance among companies so that they effect immediate restitution and correction. This system will also result in fast and fair settlement of benefits due to workers and in minimizing the issuance of compliance orders that opens the door to long, tedious, and costly litigations. To reinforce the system, personnel from the DOLE handling labor law compliance will likewise have to shift from the merely regulatory approach in inspection to performing developmental tasks, such as educating both employers and workers on labor laws including those on anti-child labor, conducting conciliation-mediation proceedings at the plant-level to encourage compliance, and promoting DOLE programs and services that are aimed at improving working conditions as well as productivity of enterprises.

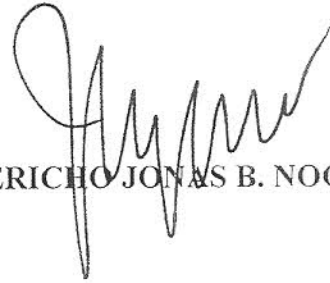
In view of the foregoing, it is imperative to institutionalize this major policy shift by amending Article 128 of the Labor Code of the Philippines, from a purely regulatory framework to the promotion of voluntary compliance through the use of the developmental approach, as a supplement in order to: (a) inculcate a culture of compliance with labor laws; (b) ensure fair.

expeditious, and non-litigious settlement of disputes; (c) encourage the use of settlement in all labor cases; and (d) strengthen tri-partism among the employees, employers and government.

Hence, passage of this significant measure is earnestly sought.



HON. KARLO A. B. NOGRALES



HON. JERICHO JONAS B. NOGRALES

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INTRODUCED BY: Hon. Karlo A. B. NOGRALES AND Hon. Jericho Jonas B. Nograles

AN ACT
FOSTERING A CULTURE OF VOLUNTARY COMPLIANCE WITH LABOR LAWS,
AMENDING FOR THE PURPOSE ARTICLE 128 OF 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. Article 128 of the Labor Code of the Philippines is further amended to read as follows:

"ART. 128. *Visitorial and Enforcement Power.* – (a) The Secretary of Labor and Employment or his duly authorized representatives[, including labor regulation officers.] shall have access to employer's **EMPLOYMENT** records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and investigate any fact, condition or matter which may be necessary to determine violations **OF LABOR STANDARDS, AND OTHER LABOR LAWS AND SOCIAL LEGISLATION** or which may aid in the enforcement of this Code and of any labor law, wage order or rules and regulations issued pursuant thereto.

"(b) Notwithstanding the provisions of Articles 129 and 224 of this Code to the contrary, [and in cases where the relationship of employer-employee still exists.] the Secretary of Labor and Employment or his duly authorized representatives shall have the power to issue compliance orders to give effect to the Labor Standards Provisions of this Code. **INCLUDING THE EXISTENCE OF AN EMPLOYER-EMPLOYEE RELATIONSHIP**, and other labor legislation based on the findings of **THE labor LAWS** [employment and enforcement] **COMPLIANCE** officers [or industrial safety

engineers] made in the course of inspection. The Secretary or his duly authorized representatives shall issue writs of execution to the appropriate authority for the enforcement of [their] orders, except in cases where the employer contests the findings of the labor [employment and enforcement] **LAWS COMPLIANCE** officers and raises issues supported by documentary proofs which were not considered in the course of inspection.

“A[n] **COMPLIANCE** order issued by the duly authorized representative of the Secretary of Labor and Employment under this Article may be appealed to the [latter] **OFFICE OF THE SECRETARY**. In case **THE** said order involves a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the [Secretary of Labor and Employment] **SUPREME COURT OF THE PHILIPPINES** in the amount equivalent to the monetary award in the **COMPLIANCE** order appealed from.

“(c) The Secretary of Labor and Employment **OR THE DULY AUTHORIZED REPRESENTATIVES OF THE SECRETARY** may [likewise] order **THE** stoppage of work [or suspension of operations] of any unit or department of an establishment when non-compliance with the law or implementing rules and regulations [poses] **MAY CAUSE OR HAVE CAUSED** grave and imminent danger to the health and safety of workers in the workplace. Within twenty-four hours, a hearing shall be conducted to determine whether an order for the stoppage of work [or suspension of operations] shall be lifted or not. In case the violation is attributable to the fault of the employer, he shall pay the employees concerned their [salaries or] wages **AND OTHER LABOR STANDARDS BENEFITS** during the period of such stoppage of work or suspension of operation.

“(d) It shall be unlawful for any person or entity, **INCLUDING GOVERNMENT AGENCIES AND INSTRUMENTALITIES**, to obstruct, impede, delay or otherwise render ineffective the orders of the Secretary of Labor and Employment or his duly authorized representatives issued pursuant to the authority granted under this Article.

“THE SECRETARY OF LABOR AND EMPLOYMENT OR THE DULY AUTHORIZED REPRESENTATIVES MAY, AFTER SUMMARY PROCEEDINGS, IMPOSE A FINE OF NOT LESS THAN ONE HUNDRED THOUSAND PESOS (P100,000.00) BUT NOT MORE THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00) FOR ANY VIOLATION OF THIS PROVISION, WITHOUT PREJUDICE TO THE FILING OF APPROPRIATE CRIMINAL ACTION.

“[(e) Any government employee found guilty of violation of, or abuse of authority, under this Article shall, after appropriate administrative investigation, be subject to summary dismissal from the service.]

“[f](E) The Secretary of Labor and Employment may, by appropriate regulations, require employers to keep and maintain such employment records as may be necessary in aid of his visitorial and enforcement powers under this Code.

“(F)THE SECRETARY OF LABOR AND EMPLOYMENT, IN THE EXERCISE OF VISITORIAL AND ENFORCEMENT POWER MAY, BY APPROPRIATE REGULATIONS, ESTABLISH A SYSTEM TO INCULCATE A CULTURE OF VOLUNTARY COMPLIANCE WITH LABOR LAWS, AND ENSURE FAIR, EXPEDITIOUS, AND NONLITIGIOUS SETTLEMENT OF DISPUTES.”

SEC. 2. Presidential Decree No. 442, as amended, otherwise known as the “Labor Code of the Philippines”, and all other laws, decrees, executive orders, rules and regulations, and other issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed, modified or amended accordingly.

SEC. 3. This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved.