

Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City

SEVENTEENTH CONGRESS  
First Regular Session

House Bill No. 1048

HOUSE OF REPRESENTATIVES

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Introduced by:

Gabriela Women's Party Reps. EMMI A. DE JESUS and ARLENE D. BROSAS

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### EXPLANATORY NOTE

Recognition of the fundamental equality of women and men is enshrined in RA 9710 or the Magna Carta of Women. This Act affirms the State's obligation to "pursue equal opportunities for women and men and ensure equal access to resources and to development results and outcome". RA 9710 recognizes the fact that the abolition of the unequal structures and practices that perpetuate discrimination and inequality is a precondition to the realization of equality of men and women. Furthermore, the Labor Code prohibits discrimination against women with regards to labor benefits and employment.

Employment and hiring practices however, continue to be discriminatory of gender, age, or disability. Women continue to be treated as objects instead of being seen as contributors to economy and active participants in nation-building. Hiring notices focus on physical attributes of the potential employee, (height, "pleasing personality") rather than her/his capacities, skills, and experiences relevant to the job.

The airline industry is notorious in its discriminatory practices against its women employees, specifically the flight attendants. In August 2010, the Flight Attendants' and Stewards' Association of the Philippines (FASAP) raised its concern over the age and gender discrimination practice by Philippine Airlines (PAL). Company policy pegs the retirement age for female flight attendants hired before 1996 at 55 years old. Their male counterparts, however, may go on working until they reach the age of 60. Employees hired after 1996, regardless of sex, are forced to retire at the age of 45. This was further lowered to 40 years old for those hired after 2000. It must be mentioned that the accepted retirement age worldwide is 65.

Such practice negated one of the primary functions of flight attendants, that of ensuring the safety of the passengers. With this policy, airline companies have been shown to put premium on the "youthful looks" of their flight attendants instead of their capacity to serve and assist as safety personnel. Training, skills and mastery of aircraft safety and precautions of senior crews should never be relegated as secondary qualifications over youthful appearance.

More importantly, this policy of airline companies violates the employees' security of tenure. The State, by allowing this practice to persist, can be considered criminally negligent and complicit as the Constitution guarantees the security of tenure of the workers.

Airline employees who possess experience in safety and air travel should not be denied employment upon reaching the legitimate age of retirement. Doing so will prove beneficial not only to said employees but to the passengers themselves, whose safety the company should be concerned with in the first place.

In the December 2010 case of FASAP, the Department of Labor and Employment (DOLE) upheld the rights of the flight attendants and stewards. DOLE made it clear that the compulsory age of retirement is 65 years old, consistent with Article 287 of the Labor Code as amended by the Republic Act No. 8558:

*"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 less than 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"*

DOLE reaffirmed its earlier decision by stating that PAL failed to justify its policies in prescribing an early retirement age in April 2011.

There is, however, another provision on the Labor Code with regards to retirement age which opens room for the arbitrary interpretation by the Secretary of Labor and Employment, inconsistent with the intent of the supreme law of the land. Article 132 of the Labor Code allows the DOLE Secretary to "determine minimum age and standards for retirement or termination in special occupations such as those of flight attendants and the like."

We seek to address the inconsistencies in the Labor Code, mindful that the same Labor Code prescribes that any doubt in the interpretation of its provisions be resolved in favor of labor.

Also, the Article 132 of the Labor Code discusses "Facilities for Women" where letter d:

*"(d) To determine appropriate minimum age and other standards for retirement or termination in special occupations such as those of flight attendants and the like."*

This is clearly inconsistent with the other provisions of the said article. With this bill, we aim to set the policy clear that the State protects its employees' right to security of tenure as we also positively act on the affected employees' plea not to leave their fate in the interpretation of the conflicting provisions of the Labor Code and ultimately protect women workers from possible discrimination using the said provision of the law.

  
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**AN ACT REPEALING LETTER D OF ARTICLE 132 OF PRESIDENTIAL DECREE NUMBER FOUR HUNDRED FORTY-TWO (PD 442), OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES**

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

Section 1. Article 132, letter d of Presidential Decree No. 442 otherwise known as the Labor Code of the Philippines is hereby repealed:

XXX

~~(d) To determine appropriate minimum age and other standards for retirement or termination in special occupations such as those of flight attendants and the like.~~

SEC. 2. Repealing Clause. All laws, executive orders, presidential decrees, presidential proclamations, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

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

Approved,