



## HOUSE OF REPRESENTATIVES

### H. No. 64

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BY REPRESENTATIVES NOGRALES (K.), NOGRALES (J.), AGLIPAY-VILLAR, DE JESUS, BROSAS, REVILLA, CASILAO, LOPEZ (M.), CASTRO (F.L.), ELAGO, TING, VELOSO, COSALAN, BELMONTE (R.), BAG-AO, MENDING, DELOSO-MONTALLA, VILLARIN, LAOGAN, ONG (E.), UNABIA, TUPAS, CHIPECO, BERTIZ, SANTOS-RECTO, PAPANDAYAN, TAN (A.), MARTINEZ, TAMBUNTING, MACAPAGAL-ARROYO, BELMONTE (J.), LOBREGAT, DALIPE, PRIMICIAS-AGABAS AND LANETE

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AN ACT STRENGTHENING COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH STANDARDS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

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

#### CHAPTER I

##### DECLARATION OF POLICY

SECTION 1. *Declaration of Policy.* – The State affirms labor as a primary social and economic force and that a safe and healthy workforce is an integral aspect of nation building.

The State shall ensure a safe and healthful workplace for all working people by affording them full protection against all hazards in their work environment. It shall ensure that the provisions of the Labor Code of the Philippines, all domestic laws, and internationally-recognized standards on

occupational safety and health are being fully enforced and complied with by the employers, and it shall provide penalties for any violation thereof.

The State shall protect every worker against injury, sickness or death through safe and healthful working conditions, thereby assuring the conservation of valuable manpower resources and the prevention of loss or damage to lives and properties consistent with national development goals and with the State's commitment to the total development of every worker as a complete human being.

The State, in protecting the safety and health of the workers, shall promote strict but dynamic, inclusive and gender-sensitive measures in the formulation and implementation of policies and programs related to occupational safety and health.

SEC. 2. *Coverage.* – This Act shall apply to all establishments, projects, sites and all other places in all industries where work is being undertaken in all branches of economic activity regardless of the number of employees, nature of operations, and the risk or hazard involved.

SEC. 3. *Definition of Terms.* – As used in this Act:

(a) *Branches of economic activity* refer to undertakings in which workers are employed, except those in the public sector;

(b) *Certified first aider* refers to any person trained and duly certified or qualified to administer first aid by any organization authorized by the Secretary of Labor and Employment;

(c) *Competency standards* refer to industry-determined specification of proficiency required for effective work performance. These are expressed as outcomes with focus on workplace activity rather than training or personal attributes, and the ability to apply new skills in new situations or changing work organization;

(d) *Employer* refers to any person, natural or juridical, including the subcontractor, contractor, and principal employer, who directly or indirectly benefits from the services of the employee;

(e) *Equipment* refers to any machine with engine or electric motor as prime mover;

(f) *General safety and health inspection* refers to an examination of the work environment, including the location and operation of machinery other than those covered by technical safety audits, adequacy of work space, ventilation, lighting, conditions of work environment, handling, storage or work procedures, protection facilities, and other possible sources of safety and health hazards in the workplace;

(g) *Imminent danger* refers to a situation caused by a condition or practice in any place of employment that could reasonably be expected to lead to death or serious physical harm;

(h) *Occupational health personnel* refers to a qualified first aider, nurse, dentist or physician engaged by the employer to provide occupational health services in the establishment, project, site or workplace;

(i) *Occupational Safety and Health Standards (OSHS)* refer to the Occupational Safety and Health Standards prepared by the Department of Labor and Employment (DOLE) as provided for by law in Articles 162 and 165, Chapter 2, Title I of Book Four of the Labor Code of the Philippines, as amended;

(j) *Safety and health audit* refers to a regular and critical examination of project sites, safety programs, records, and management performance on program standards on safety and health;

(k) *Safety and Health Committee* refers to a body created within the workplace tasked with the authority to monitor, inspect, and investigate all aspects of the work pertaining to the safety and health of workers;

(l) *Safety and health program* refers to a set of detailed rules to govern the processes and practices in a specific construction project site, mine site, and in other economic activities to conform with the OSHS, including the personnel responsible and penalties for any violation;

(m) *Safety officer* refers to any employee or officer of the company trained or accredited by the DOLE and tasked by the employer to implement an occupational safety and health program, and ensure that it is in accordance with the provisions of the OSHS;

(n) *Safety signage* refers to any emergency, warning or danger signpost or any safety instruction using the standard colors of signs for safety instructions and warnings in the workplace prescribed by the DOLE; and

(o) *Workplace* refers to any site or location where workers need to be or to go to by reason of their work, and which are under the direct or indirect control of the employer.

## CHAPTER II

### DUTIES AND RIGHTS OF EMPLOYERS, WORKERS, AND OTHER PERSONS

#### SEC. 4. *Duties of Employers, Workers, and Other Persons.* –

(a) Every employer, contractor or subcontractor, if any, and any person who manages, controls, or supervises the work being undertaken shall:

(1) Furnish the workers a place of employment free from hazardous conditions that are causing or are likely to cause death, illness or physical harm to the workers;

(2) Give complete job safety instructions or orientation to all the workers, especially to those entering the job for the first time, including those relating to familiarization with their work environment;

(3) Inform the workers of the hazards associated with their work, health risks involved or to which they are exposed to, preventive measures to eliminate or minimize the risks, and steps to be taken in case of emergency;

(4) Use only approved devices and equipment for the workplace; and

(5) Comply with OSHS including training, medical examination, and provision of protective and safety devices such as personal protective equipment (PPE) and machine guards.

(b) Every worker shall participate in ensuring compliance with OSHS in the workplace. The worker shall make proper use of all safeguards and safety devices furnished for the workers' protection and that of others, and shall observe instructions to prevent accidents or imminent danger situation in the workplace and the steps to be taken in case of emergency.

The worker shall report to the supervisor any work hazard that may be discovered in the workplace.

(c) It shall be the duty of any person, including the builder or contractor or enforcement agent who visits, builds, renovates or installs devices, or conducts business in any establishment or workplace to comply with the provisions of this Act and all other regulations issued by the Secretary of Labor and Employment.

*SEC. 5. Workers' Right to Know.* – The right to safety and health at work shall be guaranteed. All workers shall be appropriately informed by the employer about all types of hazards in the workplace, and provided access to training and education on chemical safety and to orientation on the data sheet of chemical safety, electrical safety, mechanical safety, and ergonomical safety.

*SEC. 6. Workers' Right of Refusal to Work.* – The worker has the right of refusal to work without threat or reprisal from the employer if, as determined by the DOLE, an imminent danger situation exists in the workplace that may result to illness, injury or death, and corrective actions to eliminate the danger have not been undertaken by the employer.

*SEC. 7. Workers' Right to Report Accidents.* – Workers and their representatives shall have the right to report accidents, dangerous occurrences,

and hazards to the employer, to the DOLE, and to other concerned government agencies exercising jurisdiction as the competent authority in the specific industry or economic activity.

SEC. 8. *Workers' Right to Personal Protective Equipment (PPE).* – Every employer, contractor or subcontractor, if any, shall provide their workers, free of charge, protective equipment for their eyes, face, hands and feet, and lifeline, safety belt or harness, gas or dust respirators or masks, and protective shields whenever necessary by reason of the hazardous work process or environment, chemical, radiological, mechanical and other irritants or hazards capable of causing injury or impairment in the function of any part of the body through absorption, inhalation or physical contact. The cost of the PPE shall be part of the safety and health program which is a separate pay item pursuant to Section 20 of this Act.

All PPE shall be of the appropriate type as tested and approved by the DOLE based on its standards. The usage of PPE in all establishments, projects, sites and all other places where work is being undertaken shall be based on the evaluation and recommendation of the safety officer.

### CHAPTER III

#### OCCUPATIONAL SAFETY AND HEALTH PROGRAM AND ORGANIZATION

SEC. 9. *Occupational Safety and Health (OSH) Program.* – All establishments, projects, sites and all other places where work is being undertaken shall have a safety and health program containing policies, guidelines or information on the following:

- (a) Statement of commitment to comply with OSH requirements;
- (b) General safety and health, including a drug-free workplace;
- (c) Human Immunodeficiency Virus (HIV), and Acquired Immune Deficiency Syndrome (AIDS)/tuberculosis/hepatitis prevention and control;
- (d) Company or project details;

- (e) Composition and duties of the Safety and Health Committee;
- (f) Occupational safety and health personnel and facilities;
- (g) Safety and health promotion, training and education;
- (h) Conduct of toolbox meetings;
- (i) Accident/incident/illness investigation, recording and reporting;
- (j) Provision and use of PPE;
- (k) Provision of safety signage;
- (l) Dust control and management, and regulations on activities such as building of temporary structures, and lifting and operation of electrical, mechanical, communication systems and other equipment;
- (m) Provision of workers welfare facilities;
- (n) Emergency preparedness and response plan;
- (o) Waste management system; and
- (p) Prohibited acts, and penalties and sanctions on violations.

The safety and health program shall be prepared and executed by the employer, contractor or subcontractor, if any, and shall be submitted to the DOLE which shall approve, disapprove or modify the same according to existing laws, rules and regulations, and other issuances.

SEC. 10. *Occupational Safety and Health Committee.* – To ensure that the safety and health program is observed and enforced, all establishments, projects, sites and all other places where work is being undertaken shall organize a Safety and Health Committee composed of the following:

- (a) Employer or a representative as the Chairperson, *ex officio*;
- (b) Safety officer of the company or project as the Secretary;
- (c) Safety officers representing the contractor or subcontractor, as the case may be, as members;
- (d) Physicians, nurses, certified first aiders, and dentists as members, *ex officio*, if applicable; and

(e) Workers' representatives who shall come from the union if the workers are organized or elected by the workers through a simple majority vote if they are unorganized as members.

The Committee shall effectively plan, develop, oversee, and monitor the implementation of the safety and health program.

SEC. 11. *Safety Officer.* – To ensure that a safety and health program is duly followed and enforced, all establishments, projects, sites and all other places where work is being undertaken shall have full-time safety officers who shall:

- (a) Oversee the overall management of the safety and health program;
- (b) Frequently monitor and inspect any health or safety aspect of the operation being undertaken;
- (c) Assist government inspectors in the conduct of safety and health inspection at any time whenever work is being performed or during the conduct of an accident investigation; and
- (d) Issue work stoppage order when necessary.

The number of safety officers shall be proportionate to the total number of workers and equipment, and the size of the work area as prescribed by the DOLE.

In addition, each contractor or subcontractor, if any, must provide safety officers to oversee the management of the safety and health program for the contractor and subcontractor's workforce, and the specific areas of operation.

All safety officers must be accredited by the DOLE.

SEC. 12. *Occupational Health Personnel and Facilities.* – All establishments, projects, sites and all other places where work is being undertaken shall have qualified occupational health personnel such as physicians, nurses, certified first aiders, and dentists duly complemented with the required medical supplies, equipment, and facilities. The number of health personnel, equipment, and facilities, and the amount of supplies shall be



proportionate to the total number of workers, the ideal ratio of which shall be prescribed by the DOLE.

SEC. 13. *Safety Signage and Devices.* – All establishments, projects, sites and all other places where work is being undertaken shall have safety signage and devices to warn the workers and the public of the hazards in the workplace. Safety signage and devices shall be posted in prominent positions at strategic locations in a language understandable to all and in accordance with the standards set by the DOLE.

SEC. 14. *Safety in the Use of Equipment.* – In relation to the use of equipment, the employer, contractor or subcontractor, if any, must comply with the DOLE requirements in the different phases of the company or project operation, including the transport to and from the establishment, project, site or place where work is being undertaken.

SEC. 15. *Occupational Safety and Health Information.* – Workers in all establishments, projects, sites and all other places where work is being undertaken shall be provided adequate and suitable information by the employer, contractor or subcontractor, if any, on safety and health hazards, and the appropriate measures, including the probable location of workers for the prevention, control, and protection against those hazards.

SEC. 16. *Occupational Safety and Health Training.* –

(a) All safety personnel shall undergo the mandatory training on basic occupational safety and health for safety officers as prescribed by the DOLE.

(b) All occupational health personnel shall undergo the minimum safety and health training as prescribed by the DOLE.

(c) All workers shall undergo the mandatory one (1) day and eight (8) hours safety and health seminar as required by the DOLE which shall include a portion on joint employer-employee orientation.

(d) All personnel engaged in the operation, erection, and dismantling of equipment and scaffolds, structural erections, excavations, blasting

operations, demolition, confined spaces, hazardous chemicals welding, and flame cutting shall undergo specialized instruction and training on the said activities.

*SEC. 17. Occupational Safety and Health Reports.* –

(a) All employers, contractors and subcontractors shall submit all safety and health reports and notifications prescribed by the DOLE.

(b) All hospitals and clinics shall submit all reports related to injuries and illnesses to the DOLE.

(c) The Bureau of Labor Standards shall conduct an annual assessment of the safety and health condition of the Philippine workplace and shall make its data and reports available to the public with all the necessary information, including the compliance rate, total number of deaths, injuries and sickness, and the progress of investigation, rectification, and prosecution of the employers who violated any OSH standard.

*SEC. 18. Workers Competency Certification.* – In order to professionalize, upgrade, and update the level of competence of workers, the Technical Education and Skills Development Authority (TESDA) shall establish national competency standards and prepare guidelines on competency assessment and certification for critical occupations. In this regard, all critical occupations shall undergo the mandatory competency assessment and certification by the TESDA.

An occupation shall be considered critical when:

- (a) The performance of a job affects the people's lives and safety;
- (b) The job involves the handling of tools, equipment, and supplies;
- (c) The job requires a relatively long period of education and training;

and

(d) The performance of a job may compromise the safety, health, and environmental concerns within the immediate vicinity of the establishment.

SEC. 19. *Workers Welfare Facilities.* – All establishments, projects, sites and all other places where work is being undertaken shall have the following welfare facilities in order to ensure humane working conditions:

- (a) Adequate supply of safe drinking water;
  - (b) Adequate sanitary and washing facilities;
  - (c) Suitable living accommodation for workers, as may be applicable;
- and
- (d) Separate sanitary, washing, and sleeping facilities for men and women workers, as may be applicable.

SEC. 20. *Cost of Occupational Safety and Health Program.* – The total cost of implementing a duly approved occupational safety and health program shall be a mandatory and integral part of the company or project operations cost, and shall be a separate pay item in construction and in all contracting or subcontracting arrangements.

#### CHAPTER IV

##### JOINT AND SOLIDARY LIABILITY

SEC. 21. *Employer's Responsibility and Liability.* – The employer, project owner, general contractor, contractor or subcontractor, if any, and any person who manages, controls or supervises the work being undertaken shall be jointly and solidarily liable for compliance with this Act.

#### CHAPTER V

##### ENFORCEMENT OF OCCUPATIONAL SAFETY AND HEALTH STANDARDS

SEC. 22. *Visitorial Power of the Secretary of Labor and Employment.*  
– Pursuant to Article 128 of the Labor Code of the Philippines, as amended, and other applicable laws, the Secretary of Labor and Employment or the Secretary's authorized representatives shall have the authority to enforce mandatory occupational safety and health standards in all establishments, and conduct, together with labor and employer representatives, an annual spot

audit to ensure compliance with OSH standards. The Secretary or the Secretary's duly authorized representatives can enter workplaces at any time of the day or night where work is being performed, to examine records and investigate facts, conditions or matters necessary to determine compliance with the provisions of this Act.

No person or entity shall obstruct, impede, delay or otherwise render ineffective the orders of the Secretary of Labor and Employment or the Secretary's duly authorized representatives, issued pursuant to the authority granted under Article 128 of the Labor Code of the Philippines, as amended, and no inferior court or entity shall issue a temporary or permanent injunction or restraining order or otherwise assume jurisdiction over any case involving the enforcement orders.

The Secretary of Labor and Employment may likewise order stoppage of work or suspension of operations of any unit or department of an establishment when noncompliance with law or implementing rules and regulations poses grave and imminent danger to the health and safety of workers in the workplace.

The Secretary of Labor and Employment or the Secretary's duly authorized representatives shall inspect establishments and workplaces regardless of the size and nature of operation, and shall disallow self-inspection or any form of employer discretion-based compliance with occupational safety and health laws. However, chartered cities may be allowed to conduct industrial safety inspections of establishments within their jurisdiction in coordination with the DOLE: *Provided*, That they have adequate facilities and competent personnel for the purpose as determined by the DOLE and subject to national standards established by the latter.

SEC. 23. *Payment of Workers During Work Stoppage Due to Imminent Danger.* – If stoppage of work due to imminent danger occurs as a result of the employer's violation or fault, the employer shall pay the workers

concerned their wages during the period of such stoppage of work or suspension of operation. For purposes of payment of wages and any other liabilities arising from a work stoppage order (WSO), the employer is presumed a party at fault if the WSO is issued secondary to an imminent danger situation which would imperil the lives of the workers.

SEC. 24. *Delegation of Authority.* – The authority to enforce mandatory OSHS may be delegated by the Secretary of Labor and Employment to a recognized competent authority.

Representatives of legitimate labor organizations and federations may be authorized to join in the assessment of compliance of establishments with general labor standards, and OSHS, particularly in the construction and mining industries.

SEC. 25. *Standards Setting Power of the Secretary of Labor and Employment.* – In addition to the preceding sections, the Secretary of Labor and Employment shall, in consultation with the other concerned government agencies, by appropriate orders, set and enforce mandatory OSHS to eliminate or reduce occupational safety and health hazards. The Secretary shall also institute new, and update existing programs to ensure safe and healthful working conditions in all workplaces especially in hazardous industries such as mining, fishing, construction, and the maritime industry.

SEC. 26. *Employee's Compensation Claim.* – A worker may file claims for compensation benefit arising out of work-related disability or death. Such claims shall be processed independently of the finding of fault, gross negligence or bad faith of the employer in a proceeding instituted for the purpose.

SEC. 27. *Employment Insurance.* – A worker who is involuntarily separated from service or employment due to a violation of this Act shall be entitled to a monthly cash support equivalent to the existing monthly minimum wage for a maximum of six (6) months: *Provided*, That the worker has at least

six (6) months of contribution prior to the involuntary separation. For this purpose, the Social Security System (SSS) shall promulgate the appropriate rules and regulations.

SEC. 28. *Employer's Liability for Failure to Provide OSH Control Measures.* – In case the worker's injury, illness or death was due to the failure of the employer to comply with any law or to install, maintain or provide safety and health control measures or take other precautions for the prevention of injury, illness or death, the said employer shall pay the State Insurance Fund a penalty of twenty-five percent (25%) of the lump sum equivalent of the income benefit payable to the worker after due process.

SEC. 29. *Unlawful Acts.* – The following are considered as unlawful acts:

(a) Obstruction, delay or refusal to provide labor officers or any person authorized by the Secretary of Labor and Employment access to the establishment, project, site or place where work is being undertaken;

(b) Obstruction, delay or refusal to provide labor officers or any person authorized by the Secretary of Labor and Employment access or copy of the employer's records and documents;

(c) Obstruction, delay or refusal to allow labor officers or any person authorized by the Secretary of Labor and Employment to interview workers and investigate any fact necessary in determining compliance with OSHS;

(d) Making any statement, report, or representation in relation to adherence to OSHS knowing such statement, report or record to be false in any material aspect;

(e) Making retaliatory measures such as termination of employment, refusal to pay, reducing wages and benefits or in any manner discriminates against any worker who has given information in relation to letter (c) hereof;

(f) Failure to comply with the compliance orders issued by the Secretary of Labor and Employment or the Secretary's duly authorized

representatives based on the findings of violations by labor law compliance officers;

(g) Gross negligence of the employers, contractors or subcontractors in complying with the provisions of OSHS; or

(h) Failure to implement OSHS, including the failure to report accidents in the workplace.

Any employer or person who commits the unlawful acts enumerated above shall be administratively fined with a maximum of one hundred thousand pesos (P100,000.00) per day the violation is being committed or such amount that may be determined by the Secretary of Labor and Employment until the violation has ceased or is corrected, without prejudice to the filing of a criminal or a civil case in the regular courts, as the case may be.

The fine collected shall be used for the operation of occupational safety and health initiatives including occupational safety and health training and education, and other occupational safety and health programs.

Any employer or person who commits any of the unlawful acts shall be punished, for every resulting injury, with a fine of not less than one hundred thousand pesos (P100,000.00) but not more than two hundred fifty thousand pesos (P250,000.00), or imprisonment of not less than one (1) year and one (1) day but not more than six (6) years, or both, at the discretion of the court: *Provided*, That in consequence of the physical injuries, the person injured shall have become deformed, or shall have lost any other part of his body, or shall have lost the use thereof, or shall have been ill or incapacitated to perform the work habitually engaged for a period of more than ninety (90) days.

Any employer or person who commits any of the unlawful acts shall be punished, for every resulting death, with a fine of more than two hundred fifty thousand pesos (P250,000.00) but not more than five hundred thousand pesos (P500,000.00), or imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years, or both, at the discretion of the court.

If the violation is committed by a corporation, trust or firm, partnership, association or any other entity, the penalty of imprisonment shall be imposed upon the entity's responsible officers, including the president, vice president, chief executive officer, general manager, managing director or partner.

Any person convicted under this Act shall not be entitled to the benefits provided for under the Probation Law.

## CHAPTER VI

### MISCELLANEOUS PROVISIONS

SEC. 30. *Applicability to Micro and Small Enterprises (MSEs).* – Specific to MSEs, the DOLE shall develop OSH core compliance standards to ensure safe and healthy workplaces. All MSEs shall be required to implement the prescribed standards for housekeeping, materials handling and storage, electrical and mechanical safety, chemical safety, emergency preparedness, fire safety, PPE, and monitor hazards regularly.

SEC. 31. *Intergovernmental Coordination and Cooperation.* – The DOLE shall institute a mechanism for coordination with the Department of Environment and Natural Resources, the Department of Public Works and Highways, the Department of Trade and Industry, the Department of the Interior and Local Government, the Department of Health, and all other government agencies, including local government units, within sixty (60) days from the issuance of the implementing rules and regulations of this Act. They shall regularly convene to monitor the effective implementation of this Act as well as related programs and projects that are established to prevent and eliminate the incidence of injury, sickness or death in all workplaces.

SEC. 32. *Implementing Rules and Regulations.* – The DOLE, in coordination with agencies concerned, shall formulate its rules and regulations within ninety (90) days after the effectivity of this Act.



SEC. 33. *Separability Clause.* – If any part, section or provision of this Act shall be held invalid or unconstitutional, the other provisions not affected by such declaration shall remain in full force and effect.

SEC. 34. *Repealing Clause.* – All laws, acts, decrees, executive orders, rules and regulations or other issuances or parts thereof which are inconsistent with this Act are hereby modified or repealed.

SEC. 35. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,

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