

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

13TH CONGRESS

3RD Regular Session

House Bill No. 5808



INTRODUCED BY: Rep. Ferjanel G. Biron, M.D.

EXPLANATORY NOTE

The liberalization of international economic trade has led to the advent of a global economy that is fast becoming one integrated unit. National economies have become more and more intertwined and dependent on each other.

As a result of better communication and transportation facilities, business opportunities abroad are now within closer reach of local business entities. However, these opportunities may be lost if the local economy fails to adjust and cope with the new demands of the international market.

Thus, it is imperative that Government creates a business environment that allows the local economy to be more competitive in the global market.

Undoubtedly, there is a need to amend certain provisions of our labor laws to spur productivity and employment, afford flexibility to investors, and assure our workers reasonable benefits and security. The economic conditions that prevailed during the time PD 442, otherwise known as the Labor Code of the Philippines, was passed have drastically changed.

Our labor laws must allow business to become more efficient, competitive, and flexible in responding to client needs, and at same time protect the interest of the workforce by providing for an enhanced work-life balance.

This bill, therefore, intends to strike a balance between the two competing interests. It will provide the necessary amendments to the Labor Code that will enable the local economy to be more competitive internationally while safeguarding the interests of the Filipino workers.

Accordingly, this bill seeks the following urgent amendments to provisions of the Labor Code:

1. Allowing compressed workweek/flextime arrangements;
2. Revising the doctrine against the elimination/diminution of benefits under certain conditions;
3. Restructuring the visitorial and enforcement power of the Labor Secretary to ensure compliance with due process and allow for self-regulation;

4. Excepting from the night work prohibition on women such industries or establishments operating on a continuous 24-hour schedule;
5. Recognizing fixed-term employment; and
6. Including gross inefficiency or poor performance as a just cause for dismissal.

In view of the foregoing, approval of this bill is earnestly sought.



FERJENEL G. BIRON, M.D.

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AN ACT AMENDING ARTS. 83, 87, 100, 128, 131, 280, AND 282 OF PD 442, THE LABOR CODE OF THE PHILIPPINES

Sec. 1. Paragraph 1, Art. 83 of PD 442, as amended, is hereby amended to read as follows:

"Art. 83. NORMAL HOURS OF WORK-

The normal hours of work of any employee shall not exceed eight (8) hours a day, EXCEPT WHEN THE BUSINESS REQUIREMENTS OF THE EMPLOYER REQUIRE THE ADOPTION OF A COMPRESSED WORKWEEK ARRANGEMENT; PROVIDED, THAT THE EMPLOYEE SHALL NOT BE SUFFERED TO WORK BEYOND TWELVE (12) HOURS A DAY; PROVIDED FURTHER, THAT THE NUMBER OF REGULAR HOURS OF WORK IN A WEEK SHALL NOT EXCEED FORTY-EIGHT (48) HOURS."

Sec. 2. Art. 87 of PD 442, as amended is hereby amended to read as follows:

"Art. 87. Overtime work-

Work may be performed beyond THE NUMBER OF HOURS A DAY ALLOWED BY LAW provided that the employee is paid for the overtime work an additional compensation equivalent to his regular wage plus at least twenty-five percent (25%) thereof. Work performed beyond THE NUMBER OF HOURS A DAY ALLOWED BY LAW on a holiday or rest day shall be paid an additional compensation equivalent to 130% OF the rate FOR SUCH NUMBER OF HOURS ALLOWED BY LAW."

Sec. 3. Art. 100 of PD 442, as amended, is hereby amended to read as follows:

"Art. 100. Prohibition against elimination or diminution of benefits-

Nothing in this Book shall be construed to eliminate or in any way diminish supplements, or other employee

benefits being enjoyed at the time of promulgation of this Code; PROVIDED THAT, SUPPLEMENTS OR OTHER BENEFITS THEREAFTER GIVEN MAY NOT BE ELIMINATED OR DIMINISHED AFTER HAVING BEEN CONTINUOUSLY GRANTED FOR AT LEAST FOUR (4) YEARS; PROVIDED FURTHER, THAT SUPPLEMENTS OR BENEFITS MAY BE SUBSTITUTED FOR OTHER SUPPLEMENTS OR BENEFITS OF EQUIVALENT VALUE; PROVIDED FINALLY, THAT SUPPLEMENTS OR BENEFITS MAY BE ELIMINATED IF THESE RESULTED FROM AN ERRONEOUS INTERPRETATION OF A DIFFICULT QUESTION OF LAW, WITHIN A PERIOD OF ONE (1) YEAR FROM THE DISCOVERY OF THE ERROR."

Sec. 4. Art 128 (b) and (f)) of PD 442, as amended, is hereby amended to read as follows:

"Art. 128. Visitorial and enforcement power –

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(b) Notwithstanding the provisions of Articles 129 and 217 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 and other labor legislation based on the findings of labor employment and enforcement officers or industrial safety engineers made in the course of inspection; PROVIDED THAT THE RESPONDENTS IN SUCH CASES SHALL BE ALLOWED A REASONABLE PERIOD TO SUBMIT EVIDENCE TO REFUTE THE FINDINGS OF THE SECRETARY OF LABOR OR HIS DULY AUTHORIZED REPRESENTATIVES BEFORE ANY COMPLIANCE ORDER IS ISSUED. 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 officer and raises issues supported by documentary proofs which were not considered in the course of inspection.

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(f) The Secretary of Labor 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. WHERE AN EMPLOYER HAS NOT BEEN CITED FOR ANY VIOLATION OF LABOR STANDARDS LAWS OVER A PERIOD OF THREE (3) YEARS, THE SECRETARY MAY, PURSUANT TO SUCH REGULATIONS, EXEMPT SAID EMPLOYER FROM INSPECTION FOR THE SUCCEEDING YEAR, PROVIDED THE EMPLOYER SUBMITS REPORTS, AS MAY BE REQUIRED BY THE SECRETARY OF LABOR, TO VERIFY COMPLIANCE WITH LABOR AND SOCIAL LEGISLATION.

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Sec. 5. Art. 131 of PD 442, as amended is hereby amended, to read as follows:

"Art. 131. Exceptions –

(a) In cases of actual or impending emergencies caused by serious accident, fire, flood, typhoon, earthquake, epidemic or other disasters or calamity, to prevent loss of life or property, or in cases of force majeure or imminent danger to public safety;

(b) In case of urgent work to be performed on machineries, equipment or installation, to avoid serious loss which the employer would otherwise suffer;

(c) Where the work is necessary to prevent serious loss of perishable goods;

(d) Where the woman employee holds a responsible position of managerial or technical nature, or where the woman employee has been engaged to provide health and welfare service;

(e) Where the nature of the work requires the manual skill and dexterity of women workers and the same cannot be performed with equal efficiency by male workers;

(g) WHERE THE ESTABLISHMENT IS OPERATING ON A 24-HOUR SCHEDULE;

(h) Under other analogous cases exempted by the Secretary of Labor in appropriate regulations."

Sec. 6. Paragraph 1, Art. 280 of PD 442, as amended, is hereby amended to read as follows:

"Art. 280. Regular and Casual Employment –

The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be deemed to be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer, except: 1) where the employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee, or 2) where the work or service to be performed is seasonal in nature and the employment is for the duration of the season, OR 3) WHERE THE EMPLOYMENT IS FOR A FIXED OR DEFINITE PERIOD, WHEREBY BOTH THE EMPLOYER AND THE EMPLOYEE FREELY AND KNOWINGLY AGREED TO ENTER INTO A TERM EMPLOYMENT CONTRACT."

Sec. 7. Art. 282 of PD 442, as amended, is hereby amended to read as follows:

"Art. 282. Termination by employer –

An employer may terminate an employment for any of the following causes:

- a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
- b) Gross and habitual neglect by the employee of his duties;
- c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
- d) Commission of a crime or offense by the employee against the person of his employer or any immediate members of his family or his duly authorized representative;
- e) GROSS INEFFICIENCY OR CONSISTENT FAILURE TO PERFORM IN ACCORDANCE WITH SET REASONABLE STANDARDS, OVER AT LEAST TWO (2) SUCCESSIVE PERFORMANCE RATING PERIODS COVERING A TOTAL PERIOD OF NOT LESS THAN ONE (1) YEAR; and
- f) Other causes analogous to the foregoing."

Sec. 8. Separability Clause – If any part or provision of this Act shall be held unconstitutional or invalid, other provisions thereof that are not affected thereby shall continue to be in full force and effect.

Sec. 9. Repealing Clause - All laws, presidential decrees, executive orders, rules and regulations or parts thereof which are not consistent with this Act are hereby repealed, amended or modified accordingly.

Sec. 10. Effectivity Clause – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspaper of general circulation.

Adopted.