

FIFTEENTH CONGRESS
OF THE REPUBLIC OF THE PHILIPPINES
First Regular Session

HOUSE OF REPRESENTATIVES

House Bill No. 1692

Introduced by Representative Susan A. Yap

EXPLANATORY NOTE

It is undeniable that Filipinas have long been freed from the limiting stereotype of the submissive wife whose worth is measured by her prowess in the kitchen. Women have spread their wings and have conquered all fields which have previously been male-dominated, be it politics, sports, arts, academics, business or labor. As fitting recognition of the contribution of women, the 1987 Constitution includes a new provision for a right that has not been enshrined in the 1935 and 1973 Constitutions, to wit:

Section 14, Article II. The State recognizes the role of women in nation building, and shall ensure the fundamental equality before the law of women and men.

Meanwhile, in the international field, the Convention on the Elimination of All Forms of Discrimination against Women or CEDAW was adopted by the United Nations General Assembly on 18 December 1979, and entered into force on 3 September 1981. The Philippines became a party to the Convention on 05 August 1981. Presently, more than 100 States have become parties to the Convention. By ratifying the said Convention our government bound itself to protect Filipino women from inequalities and discrimination in the civil, economic, social, political, and cultural spheres.

The right of women (and men) to equal opportunities is also made explicit in Book I of the Labor Code, to wit:

"ART. 3. Declaration of basic policy. - The State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work." (emphasis supplied)

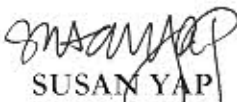
It is true that at first glance Section 1 of Article 135 and Section 2 of Article 137 of the Labor Code seem to champion affirmative action towards female employees. However, in practice, employers have in innumerable times tried and succeeded in circumventing the declared policy of ensuring equal work opportunities regardless of sex by discriminating women as early as the recruitment process. It is not uncommon for employers to indicate preference for male applicants in their advertisements or announcements or by specifying therein distinctly male attributes that not even material to a particular job which may be handled with equal competence by a female applicant.

Hence, it is but proper that the Labor Code be revised to address this practice and to help the government live up to its promise of upholding policies which seek to place women workers on equal footing with their male counterparts.

This bill expands the scope of acts of discrimination by an employer against women as enumerated under Art. 135 of the Labor Code, as amended. The amendment seeks to encourage employers to recruit and hire more women in the workplace thereby eliminating the big stumbling block to women's employability, considering that there are more equally or even more talented, skilled and qualified women in the country today.

This bill penalizes the employer who will give preference to a male employee over a female employee in the hiring process, whether through notices or advertisements for employment or in the actual recruitment, hiring or employment. Also, it prohibits the denial to any women the benefits of employment or other statutory benefits under our laws by reason of her sex.

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


SUSAN YAP
Representative, 2nd District of Tarlac

HOUSE OF REPRESENTATIVES

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AN ACT

EXPANDING THE PROHIBITED ACTS OF DISCRIMINATION AGAINST WOMEN ON ACCOUNT OF SEX, AMENDING FOR THE PURPOSE ARTICLES 135 AND 137 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:

1 **SECTION 1.** Article 136 of Presidential Decree No. 442, as amended. Otherwise
2 known as the Labor Code of the Philippines, is hereby further amended to read as
3 follows:

4
5 "ART. 136. *DISCRIMINATION PROHIBITED* - It shall be
6 unlawful for any employer to discriminate against any woman employee
7 with respect to terms and conditions of employment solely on account of
8 her sex.

9
10 The following are acts of discrimination:

11
12 (a) Payment of a lesser compensation, including wage, salary or other
13 form of remuneration and fringe benefits, to a female employee as against
14 a male employee, for work of equal value; [and]

15
16 (b) Favoring a male employee over a female employee with respect to
17 promotion, **ASSIGNMENT**, training opportunities, study and scholarship
18 grants solely on account of their sexes [-] ;

19
20 **(C) GIVING PREFERENCE TO A MALE EMPLOYEE OVER A**
21 **FEMALE EMPLOYEE IN THE HIRING PROCESS, WHETHER**
22 **THROUGH NOTICES, ANNOUNCEMENTS, OR**
23 **ADVERTISEMENTS FOR EMPLOYMENT AND**
24 **APPRENTICESHIP OR IN THE ACTUAL RECRUITMENT,**
25 **HIRING OR EMPLOYMENT OF WORKERS WHERE THE**
26 **PARTICULAR JOB CAN BE EQUALLY HANDLED BY A**
27 **WOMAN, AND**

28
29 **(D) FAVORING A MALE EMPLOYEE OVER A FEMALE**
30 **EMPLOYEE WITH RESPECT TO DISMISSAL OF PERSONNEL**
31 **OR THE APPLICATION OF THE FIRST IN - FIRST OUT OR**
32 **OTHER RETRENCHMENT POLICY OF THE EMPLOYER".**

1
2 Criminal liability for the willful commission of any unlawful act as
3 provided in this article or any violation of the rules and regulations issued
4 pursuant to Section 2 hereof shall be penalized as provided in Articles 288
5 and 289 of this Code: *Provided*, That the institution of any criminal action
6 under this provision shall not bar the aggrieved employee from filing an
7 entirely separate and distinct action for money claims, which may include
8 claims for damages and other affirmative relief. The actions hereby
9 authorized shall proceed independently of each other."

10
11 **SEC. 2.** Article 137 of the Labor Code is hereby amended to read as" follows:

12
13 "ART. 137. *PROHIBITED ACTS* - (a) It shall be unlawful for any
14 employer:

15
16 (1) To deny any woman employee the benefits provided for in this
17 Chapter or to discharge any woman employed by him for the purpose of
18 preventing her from enjoying any of the benefits provided under this
19 Code;

20
21 (2) To discharge such woman on account of her pregnancy, or
22 while on leave or in confinement due to her pregnancy;

23
24 (3) To discharge or refuse the admission of such woman upon
25 returning to her work for fear that she may again be pregnant [.] **OR**

26
27 **(4) TO DENY ANY WOMAN THE BENEFITS OF**
28 **EMPLOYMENT OR OTHER STATUTORY BENEFITS UNDER**
29 **OUR LAWS BY REASON OF HER GENDER."**
30

31 **SEC. 3. *Penalties.*** - Any employer who commits or attempts in any manner to
32 commit any of the acts herein prohibited shall, in addition to other penalties as may be
33 provided by law, upon conviction hereof, be punished by a fine of not less than Fifty
34 Thousand Pesos (P50,000.00), but not more than Two Hundred Thousand Pesos
35 (P200,000.00), and suffer imprisonment of not less than two (2) years but not more than
36 four (4) years: *Provided*, That the conviction or acquittal obtained by the employer shall
37 not be a bar to the filing by the female employee of a civil suit for the payment of salaries
38 or benefits due her.
39

40 Any employee or person who willfully aids or abets in the commission of the acts
41 prohibited herein or who causes the commission of any such acts by another shall be
42 liable in the same manner as the employer.

43
44 If the offender is not a Filipino citizen, he shall be deported immediately upon
45 service of the sentence imposed herein. If he is a government official or employee, he
46 shall be dismissed from the service and shall serve the maximum penalty prescribed for
47 the offense.
48

49 In the case of associations, partnerships or corporations, the penalty shall be
50 imposed on the partner, president, general manager, branch manager or officer
51 responsible for the violation.
52

53 **SEC. 4. *Implementing Rules and Regulations.*** - Within thirty (30) days from the
54 effectivity of this Act, the Secretary of Labor and Employment, in consultation with the
55 Tripartite Industrial Peace Council, shall issue and publish the necessary rules and
56 regulations to implement the provisions of this Act.
57

1 **SEC. 5. *Separability Clause.*** - If any provision of this Act is declared
2 unconstitutional, the same shall not affect the validity and effectivity of the other
3 provisions hereof.

4
5 **SEC. 6. *Repealing Clause.*** - All laws, executive orders, presidential decrees,
6 presidential proclamations, rules and regulations or parts thereof inconsistent with the
7 provisions of this Act are hereby repealed or modified accordingly.

8
9 **SEC. 7. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days after its
10 complete publication in the *Official Gazette* or in a newspaper of general circulation.

11
12 Approved,