

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 00 6073



Introduced by Representative TEDDY A. CASIÑO

EXPLANATORY NOTE

The Philippines is now the world's number one business process outsourcing (BPO) destination, only 11 years after the first call center was established in Clark, Pampanga in 2001. In 2010, the BPO industry boasted annual revenue of Php 271 Trillion and employed more than 350,000 for its operations. There are more than one thousand BPO or call center companies operating all over the Philippines, most of these are found in highly urbanized cities in Metro Manila, Cebu, and Baguio.

The monetary benefits of BPO work draw many young professionals to enter this kind of employment. The hip lifestyle projected in the advertisements of BPO companies belies the real work-related risks to health and safety which their employees are exposed to. BPO workers often work in night shifts to adjust to the time of their Western-based clients. They are also exposed to an artificial daytime environment which simulate the time schedule of the clients. Most of these workers sat talking for hours on end under the glare of computer monitors while doing repetitive encoding on computer keyboards. This working condition and the night schedule contribute to the high attrition rate of the workforce due to illness.

According to the Institute of Occupational Health and Safety Development (IOHSAD), recent studies have shown that night work increases risks of getting breast cancer for women shift workers. The 2001 Rotating Night Shifts and Risk of Breast Cancer in Women Participating in the Nurses' Health Study documented elevated risk of breast cancer for nurses in the United States of America. The nurses involved in the studies worked for many years as shift workers. After a 10-year research, the International Agency for Research on Cancer and the World Health Organization placed shift work on Classification 2A or "probably carcinogenic to humans". Class 2A is used when there is limited evidence of carcinogenicity in humans and sufficient evidence of carcinogenicity in experimental animals.

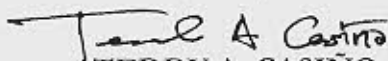
Underneath the short-term economic advantages of the BPO industry is a ticking time-bomb of illnesses which in the end the country will have to pay for through its social health services and ailing workforce. This early, many BPO workers are aware that the night-shift schedule affects their biological rhythm and causes undue stress. It is only a matter of time before night work-related illness start hounding the BPO industry as in the case of India. It is the moral duty of the BPO industry to ensure that our relatively young workforce do not succumb to illness caused by the

industry to ensure that our relatively young workforce do not succumb to illness caused by the unnatural work environment. Compliance to occupational health and safety (OHS) standards is a must for limiting the adverse effects of night-shift and call center work to employees' health.

This bill seeks to promote occupational health and safety in the BPO industry by: (1) protecting the health and welfare of BPO workers through the formulation of OHS standards for BPO work; (2) creating OHS workplace representatives to monitor the work environment in BPO firms; (3) instituting guidelines for compliance to international OHS standards; (4) making employers criminally liable for acts endangering the welfare of BPO workers; and (5) providing mechanism for compensation for work-related injuries and illnesses.

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

Approved,


TEDDY A. CASINO

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AN ACT
ENSURING THE OCCUPATIONAL HEALTH, SAFETY AND WELFARE OF
BUSINESS PROCESS OUTSOURCING (BPO) WORKERS AND OTHERS SIMILARLY
EMPLOYED

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

SECTION 1. *Short Title.* This Act shall be known as the "BPO Workers Health and Safety Act."

SEC. 2. *Declaration of Policy.* It is hereby declared policy of the State to secure the health, safety and welfare of the BPO or call center workers and others similarly employed. The State must ensure safe and healthy work environment for call center employees that protects them from injury and illness and that is adapted to their physiological and psychological needs. The State shall formulate and mandate progressively higher standards of occupational health and safety to account for changes in technology and work practices. All call centers operating in the country must adhere to the following principles of health and safety protection for the mutual benefit of the employees and employers:

- a) The importance of health and safety requires that employees, other persons at work and members of the public be given the highest level of protection against risks to their health and safety that is reasonably practicable in the circumstances.
- b) Persons who control or manage matters that give rise or may give rise to risks to health or safety are responsible for eliminating or reducing those risks so far as is reasonably practicable.
- c) Employers have a duty to secure the health, safety and welfare of employees and third persons working at or near their workplace. This general duty requires employers to actively prevent risks arising out of their business activities and extends to protecting both employees and independent contractors.

- d) Employers and self-employed persons should be proactive, and take all reasonably practicable measures, to ensure health and safety at workplaces and in the conduct of undertakings.
- e) Employers and employees should exchange information and ideas about risks to health and safety and measures that can be taken to eliminate or reduce those risks.
- f) Employees are entitled, and should be encouraged, to be represented in relation to health and safety issues.

SEC. 3. *Definition of Terms.* For purposes of this Act, the following terms shall be understood as follows:

- a) "Business Process Outsourcing (BPO)" is defined as the delegation of service-type business processes to a third-party service provider. It is generally divided into the following sectors: contact centers, back office services, data transcription, animation, software development, engineering development and game development. Most BPO companies engage in shift work to complete their 24-hour work cycle.
- b) "Call Center", also known as contact center, refers to a central customer service operation where agents – customer care specialists or customer service representatives – handle business-related telephone calls and other IT-related non-voice activities in behalf of a client.
- c) "Employer" includes any person or enterprise acting directly or indirectly in the interest of an employer, in relation to an employee, and shall include government-owned or controlled corporations and institutions, as well as non-profit private institutions or organizations. Indirect employers or contractors shall be considered "employers" in this Act.
- d) "Employee" shall mean any person hired, permitted or suffered to work by an employer
- e) "Health" shall connote a sound state of the body and mind of the worker, which enables him to perform his job normally, in a state of well-being.
- f) "Safe or Safety" shall refer to the physical or environmental conditions of work or employment, which substantially comply with the provisions of the Standards.
- g) "Work Accident" shall mean an unplanned or unexpected occurrence that may or may not result in personal injury, property damage, work stoppage or interference or any combination thereof, which arises out of and in the course of employment.
- h) "Work Injury" shall mean any injury or occupational illness suffered by a person, which arises out of or in the course of his employment.
- i) "Occupational Illness" shall mean any illness caused by environmental factors, the exposure to which is characterized or peculiar to a particular process, trade or occupation and to which an employee or worker is not ordinarily subjected to or exposed outside of or away from such employment.

- j) "Workplace" means the office, premises or work site, where the workers are habitually employed and shall include the office or place where the workers, who have no fixed or definite work site, regularly report for assignment in the course of their employment.
- k) "Approved" shall mean acceptable to the Secretary in writing after proper examination showing compliance with prescribed Standards.
- l) "Code" shall mean the Labor Code P.D. 442 as amended.
- m) "Agencies" shall mean government agencies mandated to monitor, administer, promote, and ensure health and safety regulations and standards. These agencies are the Department of Labor and Employment, Bureau of Working Conditions, Employees Compensation Commission and Occupational Safety and Health Center.
- n) "Department" shall mean the Department of Labor and Employment.
- o) "Secretary" shall mean the Secretary of Labor and Employment.
- p) "Bureau" shall mean the Bureau of Working Conditions.
- q) "Director" shall mean the Director of the Bureau of Working Conditions.
- r) "Standards" shall mean the Occupational Safety and Health Standards and regulations.
- s) "Enforcement officer" shall mean the industrial safety engineer, the labor regulation officer, or any duly authorized representatives of the Secretary to enforce this Standards.
- t) "Authorized Representative" shall mean and include chartered cities, municipalities, employees or officials of other government agencies empowered by the Secretary of Labor and Employment to enforce the provisions of the Standards.
- u) "Workplace Occupational Health and Safety Representative" as defined in Section 7 of this Act.
- v) "Registered Interested Party" shall mean any duly registered non-stock non-profit organization advocating occupational health and safety (OHS)
- w) "Shift work" shall mean the employment practice designed to make use of the 24 hours of the clock. Employees are given schedules which correspond to a 24-hour work cycle. The term shift work includes both long-term night shifts and work schedules in which employees change or rotate shifts. Shift work is an.

SEC. 4. Occupational Health and Safety Standards and Regulations for BPO Workers.

Pursuant to its mandate, the Department of Labor and Employment is tasked to establish Occupational Health and Safety Standards (Standards) for BPO work.

The Standards shall adhere to the prevailing standards of health and safety for BPO work and other similar employment. It is imperative that the minimum provisions in the Standards meet the International Labor Organization's recommendations. Further provisions which the Agencies and the concerned parties deem appropriate for the protection of the workers in the local setting should be included. The Standards should be reviewed annually by the agencies, workplace OHS representatives and registered interested parties.

SEC. 5. *The Nature of BPO Night-Shift Work.* Establishments engaged in shift work to complete their 24-hour work cycle expose their employees to health and security risks, thus night-shift work is considered hazardous in this Act. The erratic schedule, repetitive work, and artificial daytime environment which the employees are subjected to cause undue physical and psychological stress on BPO workers.

SEC. 6. *Compliance of the Standards.* The Standards shall be strictly enforced in all establishments operating in the country. Compliance to the provisions of the Standards shall be mandatory.

SEC. 7. *Guidelines for the Implementation of Standards.* The agencies and the workplace OHS representatives shall regularly monitor the implementation of the Standards.

- a) The Department through its enforcement officers shall administer and enforce the provisions of the Standards.
- b) Every employer shall give to the Secretary or his duly authorized representative access to its premises and records for the purpose of determining compliance with the provisions of the Standards.
- c) Every establishment or place of employment shall be inspected at least once a year to determine compliance with the provisions of the Standards. Special inspection visits, however, may be authorized by the Regional Labor Office or as authorized under Rule 1980 of the Labor Code, to investigate accidents, occupational illnesses or dangerous occurrences, especially those resulting in permanent total disability or death, to conduct surveys of working conditions requested by the Bureau for the purpose of evaluating and assessing environmental contaminants and physical conditions or to conduct investigations, inspections or follow-up inspections upon request of an employer, worker or a labor union of the establishment.
- d) The enforcement officer shall determine reasonable periods of compliance with recommendations depending on the gravity of the hazards needing corrections or the period needed to come into compliance with the order.
- e) In case the establishment fails to comply with the Standards to the imminent danger of the workers, the enforcement officer can immediately suspend operations in order to prevent injuries pending compliance by the establishment.
- f) The workplace occupational health and safety committee shall have monitoring rights and can also recommend and declare suspension of operations in the event that the safety and welfare of workers are deemed compromised as stated in Section 7 B of this Act.

SEC. 8. *Workplace Occupational Health and Safety Officer.* An OHS representation is to be elected for the purposes of consultation and monitoring of the Standards if at least one of the

persons employed by the employer requests the election of the representative. The employees may elect more than one OHS representative upon approval by the Department.

A. Election of workplace OHS representative.

- (1) A workplace OHS representative is to be elected by the workers.
- (2) A person is -
 - (a) only eligible to be elected as a workplace representative if he or she is an employee; and
 - (b) not eligible to be elected as a health and safety representative if he or she is disqualified under section 56 from acting as a health and safety representative.
- (3) All employees are entitled to vote in an election.
- (4) The employees and the employers may determine how an election is to be conducted, in the event that they do not reach agreement within a reasonable time, any employee may ask the Department to arrange for an enforcement officer to -
 - (a) conduct the election; or
 - (b) if the inspector considers it appropriate, appoint another person to conduct the election.
- (5) An election must be conducted in accordance with the procedures (if any) prescribed by the regulations.
- (6) If the number of candidates for election as a health and safety representative equals the number of vacancies, the election need not be conducted and each candidate is to be taken to have been elected as a health and safety representative for the designated work group.

B. Functions of workplace OHS representative. An OHS committee or an OHS representative has the following functions:

- (1) to keep under review the measures taken to ensure the health, safety and welfare of persons at the place of work,
- (2) to investigate any matter that may be a risk to health and safety at the place of work,
- (3) to attempt to resolve the matter but, if unable to do so, to request an investigation by an inspector for that purpose, and
- (4) such other functions as are prescribed by the regulations.

The workplace OHS representative may file a petition for a time off with pay to the enforcement officer. The time off may be for attending courses as required by appropriate agencies and for conducting investigations on matters relating to his duties as a workplace OHS representative. The enforcement officer shall determine the amount of time off commensurate to the task being performed.

C. Powers of the workplace OHS representative. A health and safety representative may do any of the following:

- (1) inspect any part of a workplace
 - (a) at any time after giving reasonable notice to the employer concerned or its representative; and
 - (b) immediately in the event of an incident or any situation involving an immediate risk to the health or safety of any person;

- (2) accompany an inspector during an inspection of a workplace at which a member of the designated work group works;
- (3) require the establishment of a health and safety committee to assist in the monitoring if situation necessitates;
- (4) under extra ordinary circumstances, the representative may give notice to the employer and the enforcement officer for the suspension of workplace operation if the welfare and safety of the employees are at risk. The notice must be acted upon by the employer and the enforcement within 24 hours so as to prevent endangering the lives of the workers; and,
- (5) assist or submit in behalf of the injured and ill employee, or his beneficiaries in case of death, compensation claims to the Employees Compensation Commission (ECC).

SEC. 9. *Workplace Policy on Occupational Health and Safety.* Each establishment shall formulate their own occupational health and safety policy which adheres to the Standards as defined in Section 4 of this Act. Any additional safety measure deemed appropriate to the nature of the localized work environment may also be included pending approval by the Bureau. The policy must be reviewed annually by the employers, the workplace OHS representatives and the authorized representative.

All employees shall be informed of the OHS policy. Informational materials such as posters, brochures and similar devices shall be distributed to the employees free of charge.

SEC. 10. *Health Program.* The company physician shall, in addition to his duties stated in the Labor Code, develop and implement a comprehensive occupational health program for the benefit of the employees of his employer.

SEC. 11. *Health Insurance.* All employees are entitled to free full medical examination upon entry and annually during his tenure of employment. The establishment shall provide full health insurance to the employees, the coverage of which shall be agreed upon by the company and its employees.

SEC. 12. *Work-Related Injuries, Sickness and Death Compensation.* All employees and their dependents shall be also be compensated for injuries, medical complications, illness, disability and death arising from and related to their work in accordance to existing laws, labor policies, guidelines or circulars as the case may be. The Employees Compensation Commission shall promptly process any claims for/by injured, disabled, deceased employees or their dependents.

SEC. 13. *Independent Contractors.* Article 106 of the Labor Code expressly prohibits the "labor only" contracting. Employers engaging independent contractors to perform work on their behalf have a duty to minimize the health and safety risks to the contractor's employees. This is because they are deemed to be employees for the purposes of the Act; and because employers have a duty to protect third parties at or near their workplace. A failure to maintain a safe workplace for contractors' employees may constitute a contravention of the employer's general duty under the Act.

SEC. 14. *Penal Provision.*

- (a) Unless otherwise provided in any Chapter or section in the Code, any person or establishment who shall violate, disobey, refuse, omit or neglect to comply with any of the rules and regulations promulgated under this Act shall have a criminal liability and upon conviction shall be punished by imprisonment for a period not exceeding six (6) years and a

fine not less than One Hundred Fifty Thousand Pesos (Php 150,000.00) depending upon the discretion of the court.

- (b) Any person who shall interfere with or hinder, or oppose any officer, agent or member of the Department or of the bureaus and offices under it, in the performance of his duty as such under this Code, or shall tear down, mutilate, deface or alter any placard, or notice, affixed to the premises in the enforcement of the Code, shall be guilty of a misdemeanor and punishable upon conviction by imprisonment for a exceeding six (6) months and a fine not less than Fifty Thousand Pesos (Php 150,000.00) and not more than One Hundred Thousand Pesos (Php 100,000.00) per day for each day of violation depending upon the discretion of the court.
- (c) In case of injury, illness or death due to violation, disobedience, refusal, omission or neglect to comply with Standards and regulations in this Act, the employers and/or the establishment shall have a criminal liability and shall be punished by imprisonment and penalties applicable under the Republic Act 3815 also known as the Revised Penal Code.

SEC. 15. *Separability Clause.* If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, such other sections or provisions not affected thereby shall remain in full force and effect.

SEC. 16. *Repealing Clause.* Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provision of this Act is hereby repealed, modified or amended accordingly.

SEC. 17. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,