

SIXTEENTH CONGRESS
OF THE REPUBLIC OF THE PHILIPPINES
First Regular Session

HOUSE OF REPRESENTATIVES

House Bill No. 399



Introduced by Representative Susan A. Yap

EXPLANATORY NOTE

The 1987 Constitution includes a new provision for a right that has not been enshrined in the 1935 and 1973 Constitutions:

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.

The right of women (and men) to equal opportunities is also made explicit in Book 1 of the Labor Code:

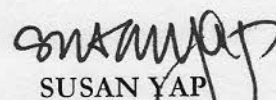
“ART. 3. *Declaration of basic policy.* - The State shall afford protection to labor, promote full employment, **ensure equal work opportunities regardless of sex**, race or creed and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, 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.

In a report by the Bureau of Women and Young Workers and the National Statistics Office, it was stated that women employees generally earn less than their male counterparts because they are predominantly in low-skilled jobs, and only a few of them advance to the top of the organizational hierarchy.

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.

Under the measure, any employer found guilty of favoring a male employee over a female employee with respect to dismissal of personnel or the application of any retrenchment policy of the employer solely on account of their sexes shall be fined or suffer imprisonment or both. It makes it a violation to deny any woman the benefits of employment or other statutory benefits under our laws by reason of her gender.


SUSAN YAP

Representative, 2nd District of Tarlac

HOUSE OF REPRESENTATIVES

House Bill No. 399

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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:

SECTION 1. Article 135 of Presidential Decree No. 442, as amended, otherwise known as the "Labor Code of the Philippines", is hereby amended to read as follows:

"ARTICLE 135. *Discrimination Prohibited.* – It shall be unlawful for any employer to discriminate against any woman employee with respect to terms and conditions of employment solely on account of her sex.

"The following are acts of discrimination:

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

"(b) Favoring a male employee over a female employee with respect to promotion, **ASSIGNMENT**, training opportunities, study and scholarship grants solely on account of their sexes[.]; **AND**

"(C) FAVORING A MALE EMPLOYEE OVER A FEMALE EMPLOYEE WITH RESPECT TO DISMISSAL OF PERSONNEL OR THE APPLICATION OF ANY RETRENCHMENT POLICY OF THE EMPLOYER SOLELY ON ACCOUNT OF THEIR SEXES.

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

SECTION 2. Article 137 of the Labor Code is hereby amended to read as follows:

"ARTICLE 137. *Prohibited Acts.* – (a) It shall be unlawful for any employer:

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

"(2) To discharge such woman on account of her pregnancy, or while on leave or in

1 confinement due to her pregnancy;

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

4 “(4) TO DENY ANY WOMAN THE BENEFITS OF EMPLOYMENT
5 OR OTHER STATUTORY BENEFITS UNDER OUR LAWS BY
6 REASON OF HER SEX.

7 “ANY EMPLOYER WHO COMMITS OR ATTEMPTS IN ANY
8 MANNER TO COMMIT ANY OF THE ACTS PROHIBITED UNDER THIS
9 ARTICLE OR ANY RULE OR REGULATION ISSUED PURSUANT
10 THERETO SHALL, IN ADDITION TO OTHER PENALTIES AS MAY BE
11 PROVIDED BY LAW, UPON CONVICTION, BE PUNISHED BY A FINE
12 OF NOT LESS THAN FIFTY THOUSAND PESOS (P50,000.00) BUT NOT
13 MORE THAN TWO HUNDRED THOUSAND PESOS (P200,000.00),
14 AND SUFFER IMPRISONMENT OF NOT LESS THAN TWO (2) YEARS
15 BUT NOT MORE THAN FOUR (4) YEARS: *PROVIDED*, THAT THE
16 CONVICTION OR ACQUITTAL OBTAINED BY THE EMPLOYER
17 SHALL NOT BE A BAR TO THE FILING BY THE FEMALE
18 EMPLOYEE OF A CIVIL SUIT FOR THE PAYMENT OF SALARIES OR
19 BENEFITS DUE HER.

20 “ANY EMPLOYEE OR PERSON WHO WILLFULLY AIDS OR ABETS
21 IN THE COMMISSION OF THE ACTS PROHIBITED HEREIN OR
22 WHO CAUSES THE COMMISSION OF ANY SUCH ACTS BY
23 ANOTHER SHALL BE LIABLE IN THE SAME MANNER AS THE
24 EMPLOYER.”

25 SECTION 3. *Implementing Rules and Regulations.* – Within thirty (30) days from the
26 effectivity of this Act, the Secretary of Labor and Employment, in consultation with the
27 Tripartite Industrial Peace Council, shall issue and publish the necessary rules and regulations to
28 implement the provisions of this Act.

29 SECTION 4. *Separability Clause.* – If any provision of this Act is declared unconstitutional, the
30 same shall not affect the validity and effectivity of the other provisions hereof.

31 SECTION 5. *Repealing Clause.* – All laws, executive orders, presidential decrees, presidential
32 proclamations, rules and regulations or parts thereof inconsistent with the provisions of this Act are
33 hereby repealed or modified accordingly.

34 SECTION 6. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
35 complete publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,