

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session



House Bill No. **2605**

Introduced Representatives EMMI A. DE JESUS and LUZVIMINDA C. ILAGAN
Representatives NERI COLMENARES, CARLOS ISAGANI ZARATE,
FERNANDO HICAP, JAMES MARK TERRY RIDON and ANTONIO TINIO

EXPLANATORY NOTE

Recognition of the fundamental equality of women and men is further reiterated by RA 9710 or the Magna Carta of Women, which affirms the State's obligation to "pursue equal opportunities for women and men and ensure equal access to resources and to development results and outcome. RA 9710 recognizes that the abolition of the unequal structures and practices that perpetuate discrimination and inequality is a precondition to the realization of equality of men and women. Also, the Labor Code also prohibits discrimination against women in the areas of labor benefits and employment.

Employment and hiring practices however, continue to be discriminatory of gender, age or disability. Women continue to be treated as objects instead of contributors to economy and active participants in nation-building. Hiring notices focus on physical attributes of the potential employee (height, "pleasing personality") instead of her/his capacities and experience in a particular field of endeavor.

The airline industry is particularly tarnished in its discriminatory practices against its women employees, specifically against female flight attendants. In August 2010, the Flight Attendants' and Stewards' Association of the Philippines (FASAP) raised its concern over the age and gender discrimination practice by Philippine Airlines (PAL) against its employees. Company policy pegs the retirement age for female flight attendants hired before 1996 at 55 years old while their male counterparts may work until 60 years old. Employees hired after 1996, regardless of sex, are forced to retire at the age of 45, while those hired are 2000 are forced to retire at 40 years old.

This practice belies the avowed functions of flight attendants as safety personnel. With this policy, airline companies have been shown to market the "youthful looks" of their flight attendants, instead of their capacity to serve and assist as safety personnel. Training, skills and mastery of aircraft safety and precautions of senior crews should never be relegated as a secondary qualification over "youthful looks".

More importantly, this policy of airline companies gravely violates its employees' security of tenure. The State, by allowing this practice can be considered negligently criminally complicit in allowing the airline companies to run afoul with the Constitutional guarantee of security of tenure, thereby allowing the airline companies to abandon their employees in their productive years and way before worldwide accepted retirement age of 65.

These airline employees who have with them experience in safety and air travel should not be denied of their productive and gainful employment before reaching the legitimate age of retirement. It is beneficial not only to these employees but to airline passengers who are and should be primarily concerned with safety of travel.

In December 2010, in the case of the Flight Attendants' and Stewards' Association of the Philippines (FASAP), the Department of Labor and Employment (DOLE) upheld the rights of the flight attendants and stewards. DOLE made it clear that the compulsory age of retirement is 65 years old, consistent with Article 287 of the Labor Code as amended by the Republic Act No. 8558:

"In the absence of a retirement plan or agreement providing for retirement benefits of employees in the establishment, an employee upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) years which is hereby declared the compulsory retirement age, who has served at least five (5) years in the said establishment, may retire and shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year"

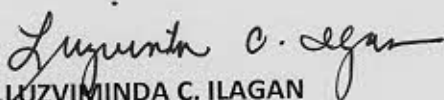
DOLE reaffirmed its earlier decision by stating that PAL failed to justify its policies in prescribing an early retirement age in April 2011.

There is, however, another provision of the Labor Code with regards retirement age, which opens room for the arbitrary interpretation by the Secretary of Labor and Employment, inconsistent with the intent of the supreme law of the land. Article 132 of the Labor Code allows the DOLE Secretary to *"determine minimum age and standards for retirement or termination in special occupations such as those of flight attendants and the like."*

This is clearly inconsistent with the other provisions of the said article. With this bill, we aim to set the policy clear that the State protects its employees' right to security of tenure as we also positively act on the affected employees' plea not to leave their fate in the interpretation of the conflicting provisions of the Labor Code and ultimately protect women workers from possible discrimination using the said provision of the law.



REP. EMMI A. DE JESUS
Gabriela Women's Party

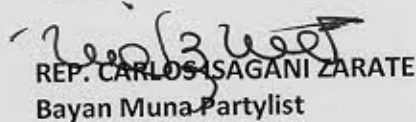


REP. LUZVIMINDA C. ILAGAN
Gabriela Women's Party



REP. NERI COLMENARES
Bayan Muna Partylist

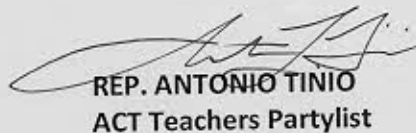
REP. FERNANDO HICAP
Anakpawis Partylist



REP. CARLOS SAGANI ZARATE
Bayan Muna Partylist



REP. JAMES MARK TERRY RIDON
Kabataan Partylist



REP. ANTONIO TINIO
ACT Teachers Partylist

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AN ACT REPEALING LETTER D OF ARTICLE 132 OF PRESIDENTIAL DECREE NUMBER FOUR HUNDRED FORTY-TWO (PD 442), OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES

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

Section 1. Article 132, letter d of Presidential Decree No. 442 otherwise known as the Labor Code of the Philippines is repealed to read as follows:

XXX

~~(d) To determine appropriate minimum age and other standards for retirement or termination in special occupations such as those of flight attendants and the like.~~

SEC. 2. Repealing Clause. All laws, executive orders, presidential decrees, presidential proclamations, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 3. Effectivity Clause. This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in a newspaper of general circulation.

Approved,