

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

SIXTEENTH CONGRESS
First Regular Session



HOUSE BILL NO. 3139

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

EXPLANATORY NOTE

Many employers, especially those in the service, retail and manufacturing sectors, do not hide their preference for younger employees. Survey our malls and it is difficult to find sales ladies or sales attendants who are over twenty five (25) years of age. The same is true for food servers, factory workers, entertainers, flight attendants, and many others. This can also be easily validated by mere visits to restaurants, fast food outlets, factories, and a ride or two in an airplane. Job advertisements also almost always prescribe age preference of usually not older than twenty five (25) years old. Opportunities for job placements abroad also favour younger applicants, in some instances, aspiring overseas seafarers, for example, are required to be not older than twenty five (25) years old. As to why this is so is not justified.

For sure, older people cannot be said to be less capable of working as sales personnel or attendants, factory workers, entertainers or flight attendants. There are no data or study either that will support a proposition that younger workers can do the job better than their older counterparts. What we prevalently see, therefore, is a form of discrimination on the basis of age and, sadly, this does not, occur only in the industries mentioned above.

Moreover, the propensity to discriminate against older members of our population does not only factor in the hiring process, it also plays a discriminatory role in the promotion, separation and termination of employees.

To allow the perpetuation of age discrimination in employment is to allow the perpetuation of a culture that trivializes equality. It allows the continued neglect of the older or aging members of our society. It also allows the employers to maximize profit by giving them unhampered and unregulated exercise of management prerogative to give preference to the younger members of society who are most susceptible to exploitation.

This kind of discrimination disregards its long term negative impact on the society and the economy as a whole. For one, it aids the employers to skirt the demand of security of tenure that is guaranteed under the Constitution as it also tends to cheapen the value and dignity of labor.

Another negative effect of age discrimination in employment is that it impacts on women the most. In big retail industries, for example, employers additionally capitalize on women's age and physical appearance when these qualities have no direct bearing on their performance. While it can benefit women who possess these additional qualifications, it sets aside, for the meantime, the reality that they too are going to age and diminish in appearance in the long run. Does this then justify the employers' action to replace them with younger and more attractive ones? Of course, it does not.

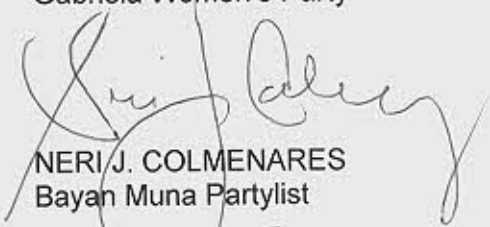
In essence, therefore, any form of discrimination that is allowed and tolerated as a practice, short-changes the people. It deprives them of their basic rights, in this case, the right to employment and to security of tenure in employment.

To be able to effectively eliminate this form discrimination that has become very common, this proposed law does not only prohibit age discrimination in employment, it also, imposes on the State its obligation to guarantee the people's right to employment and to the security of their source of livelihood. It likewise behoves the State to provide opportunities for older members of society so that they too will be able to provide their own families by being productive way past their youth.

The foregoing premises considered your support to this bill is earnestly sought.

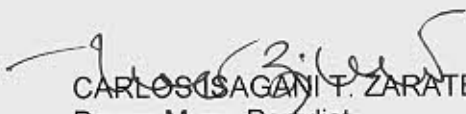

REP. EMMI A. DE JESUS
Gabriela Women's Party

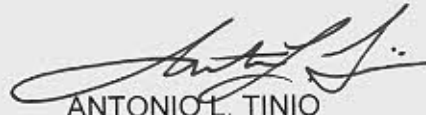

REP. LUZVIMINDA C. ILAGAN
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**AN ACT PROHIBITING AGE DISCRIMINATION IN EMPLOYMENT
AND IN THE WORKPLACE**

SECTION 1. *Short Title.* -The Act shall be known as the "Anti-Age Discrimination in Employment Act of 2013."

SECTION 2. *Declaration of Policies.* - The State shall promote equal opportunities in employment for everyone. The State shall also provide employment opportunities for the older members of the society. To achieve this end, it shall be the policy of the State to:

- a) Promote and provide employment of individuals on the basis of their abilities, knowledge, skills and qualifications rather than their age;
- b) Prohibit arbitrary age limitations in hiring and employment;
- c) Assist both employers and employees in devising ways to resolve problems that may take place as a direct or indirect impact of age discrimination on employment; and
- d) Protect older people and prohibit forcible premature retirement especially for those in the age bracket of forty (40) and above

SECTION 3. *Recognition of Rights.* - Pursuant to the above-declared principles, the following rights of citizens are hereby acknowledged, and the State guarantees their enjoyment to:

- a) The right to qualify for a job position regardless of age, and on the basis of their merits and qualifications;

- b) The right of older applicants or employees to be treated equally with the younger applicants or employees in terms of hiring, compensation, trainings, benefits, promotions, and other employment activities;
- c) The right of any individual to access public records in the exercise of his or her rights granted under this Act.

SECTION 4. *Definition of Terms.* The following terms shall have their respective meanings:

- a. *"Employee"* includes any individual employed by an employer;
- b. *"Employer"* includes any person acting directly or indirectly in the interest of an employer relating to an employee and shall include the Government and all its branches, subdivisions and instrumentalities, all government-owned or controlled corporations and institutions, as well as non-profit private institutions, or organizations;
- c. *"Job Applicant"* includes any person who formally applies for a specific and vacant position for which an employer is seeking candidates for employment;
- d. *"Labor Organization"* means any union or association of employees which exists in whole or in part for the purpose of collective bargaining or for dealing with employers concerning terms and conditions of employment.
- e. *"Publisher"* includes any person or juridical entity engaged in the printing of information on paper and its distribution, buying or otherwise securing of airtime or space on television, radio, internet, social media and similar media, or other similar methods to convey employment opportunities.
- f. *"Discriminate" or "Discrimination"* means to distinguish or differentiate individuals based on their inclusion to a specific category or group of people based on specific characteristics;
- g. *"Age Discrimination"* means to discriminate against an individual on the basis of their age, specifically 25 years of age to 65 years old;

SECTION 5. *Employers Covered.* - The provisions of this Act shall apply to all employers regardless of nationality and including national and local governments.

SECTION 6. *Individuals Covered.* - The provisions of this Act shall apply to all individuals between twenty five (25) years old and sixty five (65) years old, whether

employees or job applicants who may be discriminated in the workplace, or hiring or promotion process on the basis solely of their age.

SECTION 8. *Prohibition of Age Discrimination.* - It shall be unlawful for any employer to:

1. Decline any employment application or terminate an employee solely because of the employee's age;
2. Discriminate against an individual in terms of compensation, terms and conditions or privileges of employment on the account of employee's age;
3. Deny any employee promotions or opportunities for development, skills enhancement and trainings including supplementary education on the basis of his/her age;
4. Forcibly lay-off an employee merely because of old age and/or impose early retirement on the basis of such employee's age; and
5. Reduce the wage rate of any employee to be able to comply with this Act;
6. Discriminate against any of the applicants for employment or employees because such individual has opposed any practice made unlawful by this section, or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this Act.

SECTION 9: It shall also be unlawful for a labor group to-

1. Deny or revoke membership to an employee because of his/her age;
2. Cause or attempt to cause an employer to discriminate against an individual in violation of this act;
3. Classify or categorize employees according to their age and/or identify older employees by virtue of limiting promotions or opportunities for development, skills enhancement and trainings including supplementary education on the basis of his/her age;
4. Cause the employer directly or indirectly discriminate an employee based on their age;
5. Discriminate against any of his members or applicants for membership, who has opposed any practice made unlawful by this section, or because such individual has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this Act.

SECTION 9. *Investigation and Enforcement.* - The DOLE shall have the authority to investigate and require the keeping of records necessary for the administration of this Act. It shall issue such rules, regulations, orders and instructions as it deems necessary and appropriate to carry out its responsibilities under this Act.

SECTION 10. *Penalty.* - Any violation of this Act shall be punished with a fine of not less than Fifty Thousand Pesos (P50,000.00) but not more than Five Hundred Thousand Pesos (P500,000.00), or imprisonment of not less than three (3) months but not more than two (2) years, or both at the discretion of the court. If the offense is committed by a corporation, trust, firm, partnership or association or other entity, the penalty shall be imposed upon the guilty officer or officers of such corporation, trust, firm, partnership or association or entity.

SECTION 11. *Separability Clause.* - Should any provision herein be subsequently declared invalid or unconstitutional, the same shall not affect the validity or the legality of the other provisions not so declared.

SECTION 12. *Repealing Clause.* - All laws, presidential decrees, executive orders, rules and regulations, other issuances, and parts thereof, which are inconsistent with the provisions of this Act, are hereby repealed and modified accordingly.

SECTION 13. *Effectivity.* - This Act shall take effect fifteen (15) days after publication in the Official Gazette or in at least (2) newspapers of general circulation.