

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Sixteenth Congress
First Regular Session

HOUSE BILL NO. **3712**



Introduced by Representative Catalina "Baby" G. Leonen-Pizarro, ABS Party-list

EXPLANATORY NOTE

Article 13, Section 3, paragraphs 1 and 2 of the 1987 Constitution state that:

"The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equal employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law."

The call center industry has been dubbed as a "sunshine industry" in the Philippines, with the sector expected to generate around 900,000 jobs in 2016, an added \$14.7 billion dollars in the BPO (Business Process Outsourcing) industry's revenues. In 2012 alone, around half million Filipinos have worked as call center agents in the country, contributing more than \$8 billion in revenues to the Philippine economy. Without a doubt, the BPO industry, particularly the call center segment of this industry, plays a major role in the national economy and the livelihood of millions of Filipinos, and yet, the government still hasn't adapted a legislation which will ensure the welfare and protection of the key players in this industry.

While the country's economy owes a lot to the BPO sector, there is a need to balance the business interests of BPO companies with the labor rights of employees. A recent study conducted by the ILO showed the hazards of working in call centers. The study found that 43% percent of BPO employees in the country work the night shift. This typical work schedule is linked to health and occupational safety problems. Around 48% percent of Filipino BPO workers surveyed suffered from insomnia, while 54 percent suffered from fatigue. Call center employees were also found to have relatively low autonomy. Their jobs are described as typically involving heavy workloads backed by performance targets and tight rules and procedures enforced by

electronic monitoring which are known to produce high levels of work-related stress. The pressure they experience at the workplace is intense because they know their work is being measured, their speech monitored, which often leaves them mentally, physically and emotionally exhausted. There have also been persistent reports of violations by several BPO companies on minimum wage, working hours, service incentives and benefits, employment facilities, freedom of association, among others.

Another issue with the industry is the way it discourages unions. Several surveys and research in Europe showed that unions matter in the call center industry. The protection of trade unions is very important given the nature of call center work. The Communication Workers Union (CWU), for example, is the biggest union for the telecoms industry in the United Kingdom with 215,000 members. The CWU "exists to protect, advance and serve the interests of its members throughout the communications industry".

This legislative measure aims to enact policies that would better protect the interests and welfare of the workers in the call center industry.

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



CATALINA "BABY" G. LEONEN-PIZARRO

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AN ACT
ENSURING THE WELFARE AND PROTECTION OF CALL CENTER AGENTS AND THE
RECOGNITION OF THEIR RIGHTS AS PROVIDED FOR IN THE LABOR CODE OF THE PHILIPPINES

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

SECTION 1. *Short Title.* - This Act shall be known as the "Call Center Agents' Welfare and Protection Act of 2014."

SECTION 2. *Declaration of Policy.* - It is hereby declared the policy of the State to protect the rights and promote the welfare of all workers, including those in the Business Process Outsourcing (BPO) industry, and to take appropriate steps to recognize such rights and welfare. The State must ensure safe and healthy work environment for BPO workers, especially call center agents, that protects them from injury and illness and that is satisfactory 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. The State recognizes the role of BPO workers in nation-building and that protecting and promoting their rights and welfare form an integral part of national development. The State shall strive to improve and promote their social and economic status, living and working conditions, terms of employment, professional growth and career development.

SECTION 3. *Definition of Terms.* As used in this act, the term:

- a) "Business Process Outsourcing" or "BPO" refers to the transfer of an organization's non-core processes to a third-party who uses an information technology based service delivery, and in turn manages the selected process based on defined and measurable performance criteria;
- b) "Call center" is a type of BPO and refers to a centralized office for receiving and transmitting requests by telephone or Internet. Call center operations include, but are

not limited to, the granting of incoming product support, information inquiries from consumers, and outgoing calls for telemarketing, clientele, product services, and debt collection;

- c) "Call center agent" shall refer to any person employed in a call center company either in a temporary, probationary or permanent capacity;
- d) "Department" shall refer to the Department of Labor and Employment (DOLE);
- e) "Secretary" shall refer to the Secretary of the Department of Labor and Employment;

SECTION 4. *Standard of Treatment.* - The employer and the supervisors must, at all times, treat the call center agent in a just and humane manner and ensure and provide that rights and benefits of call center agents be accorded them as mandated by Presidential Decree 442, otherwise known as the Labor Code of the Philippines. Abusive language, physical violence or any act which debases the dignity of a person shall not be used against the call center agent.

SECTION 5. *Regular Hours of Work.* - Normal hours of work for call center agents shall not exceed eight (8) hours a day. Any work done by call center agents beyond the regular hours of work shall be duly compensated by the employer.

SECTION 6. *Overtime Work.* - Call center agents may be required to render services beyond his/her required working hours in cases provided for in the Labor Code; *Provided*, That the employee is paid for the overtime work with an additional compensation equivalent to not less than his regular wage plus twenty-five percent (25%).

SECTION 7. *Night Shift Differential.* - Call center agents shall be paid a night shift differential of not less than ten percent (10%) of his regular wage for each hour of work performed between ten o'clock in the evening and six o'clock in the morning.

SECTION 8. *Hazard Pay.* - Call center agents of regular employment status shall be entitled to receive hazard pay of not less than 10% of their regular monthly salary.

SECTION 9. *Rest & Meal Periods.* - Call center agents shall be entitled to compensable rest periods and meal periods of not less than what is provided for in the Labor Code and other existing laws. To comply with such, the call center company shall devise a mechanism in order to ensure the implementation of regular restroom breaks among its workers without sacrificing the continuous flow of work among its employees.

SECTION 10. *Regular Working Days.* - All call center agents shall render work for not more than six (6) consecutive days per week. While the specific day of the week set aside as rest day may be stipulated in the employment contract, the same may be changed for another day of the week upon the mutual agreement of the employer and the call center agent; *Provided*, That the employer shall respect the preference of the call center agent for his/ her weekly rest day when

said preference is based on religious grounds, and shall notify the call center agent at least three days in advance of any changes in his or her schedule.

SECTION 11. *Work On Holidays.* – Call center agents may be required to work on days designated as non-working holidays in the Philippines granted the nature of their profession; *Provided*, That the employer shall duly compensate the employee's work on such days in accordance to existing laws with regard to holiday pay.

SECTION 12. *Leave Benefits.* – Call center agents shall be entitled to all leave benefits and privileges, such as but not limited to maternity, paternity, vacation and sick leaves, as provided for under existing laws: *Provided*, That upon separation of the call center agent from service, they shall be entitled to all accumulated leave credits with pay. No call center agent may be terminated based solely on unapproved leaves without affording the employee due process in an administrative proceeding.

SECTION 13. *Transportation Benefits.* - In the absence of or in the lack of safe and adequate public transportation services in the call center agents' places of work, they shall be entitled to safe transportation service, which may include, but are not limited to shuttle services, to and from the place of work to designated drop-off points, to be provided by the company in order to facilitate the safe commute of call center agents at vulnerable times at night or early in the morning.

SECTION 14. *Medical Examination and Treatment.* – Call center agents shall be entitled to a medical examination free of charge upon entry in the BPO company and not merely upon regularization, and every year thereafter during his/her tenure of employment. They shall also be compensated for injuries and medical complications arising from and related to their work in accordance to existing laws, labor policies, guidelines or circulars as the case may be.

SECTION 15. *Workplace Policy on Occupational Safety and Health* - An occupational safety and health policy shall be formulated by each call center establishment addressing the safety and health concerns in call center workplaces and worksites, in accordance with the Occupational Safety and Health Standards (OSHS) and other related OSH issuances.

SECTION 16. *Access to Relevant Information.* -The State shall ensure that call center companies allow their call center agent workers access to relevant information to make them understand their rights, benefits, obligations, conditions and realities attending to their profession. BPO companies shall not restrain the call center agents from organizing or attending activities, such as, but are not limited to, workshops and symposia, that seek to equip them with relevant information with regard to their rights, welfare and conditions.

SECTION 17. *Protection from Understaffing or Overloading.* - There shall be no understaffing or overloading of call center agents. The ratio of call center agents to client quota or quantitative targets shall be such as to reasonably effect a sustained quality of service at all times without overworking the worker and over-extending his/her services beyond what is stipulated in the employment contract, or what is allowed as the worker's regular hours of

work. The employer may request the employee to perform tasks beyond the duties stipulated in the employment contract; *Provided*, that the employee consents and; *Provided*, that such tasks are duly compensated by the employer with an additional pay of not less than 25% of the regular rate per hour.

SECTION 18. *Regularization.* All call center agents shall be considered regular employees upon the sixth month of employment as trainee or apprentice, or upon the completion of a maximum probationary training period of six months.

SECTION 19. *Right to Self-Association, to engage in Collective Bargaining, and to participate in Democratic Exercises.* - It shall be unlawful for any person or company to restrict the right of call center agents to join, organize, or assist organizations, to collective bargaining and to participate in the deliberation of issues and in the formulation of policies that affect them.

SECTION 20. *Freedom from Interference or Coercion.* - It shall be unlawful for any person or company to commit any of the following acts of interference or coercion:

- a) to require as condition of employment that call center agents shall not join, form or assist in the formation of an organization;
- b) to discriminate in order to encourage or discourage membership in an organization;
- c) to prevent a call center agent from carrying out his duties and functions in his organization and to penalize the call center agent for any lawful action performed in that capacity;
- d) to perform acts calculated to diminish the independence and freedom of the union or organization to direct its own affairs.

SECTION 21. *Freedom from Company Bond.* - It shall be unlawful for any person or company to compel a call center agent to commit to a company bond, imposing an exorbitant fee to be paid by the call center agent upon leaving the company before a specified length of time.

SECTION 22. *Right to Money Claims.* - The company may *not*, in any case, prevent a call center agent from receiving his/her rightful money claims arising from labor disputes.

SECTION 23. *Protection from Discrimination.* - Call center agents shall be protected from discrimination by reason of sex, sexual orientation, age, political or religious beliefs, civil status, physical characteristics or disability, or ethnicity.

SECTION 24. *Safeguards in Administrative Proceedings.* -In any administrative proceeding, a call center agent shall have:

- a) the right to be informed of the charges;
- b) the right to full access on evidence against him/her;
- c) the right to defend himself/herself or by a counsel of his/her choice;
- d) the right to be given adequate time to prepare his/her case, which shall in no case be less than one week;
- e) the right to appeal to designated authorities;
- f) such other rights as will ensure fairness and impartiality during proceedings.

SECTION 25. *Security of Tenure.* - No call center agent of regular employee status may be terminated except for just cause as may be provided by the Labor Code and other existing laws and after due process in an administrative proceeding as provided for in this Act.

SECTION 26. *Subsidiary Liability of Clients.* All foreign or local call center companies operating in the Philippines directly or in behalf of an agency, are subsidiary liable, in the event that their Philippine counterpart or agency fails to compensate its employees here. The foreign companies shall also be held liable if they don't properly compensate their counterparts or agencies here in the Philippines.

SECTION 27. *Prohibition Against Elimination or Diminution of Benefits.* - Nothing in this Act shall be construed to eliminate or diminish in any way existing benefits being enjoyed by call center agents at the time of the effectivity of this Act, or benefits beyond the minimum standards set forth by this Act.

SECTION 28. *Call Center Help Desk.* - There shall be a Call Center Help Desk at the national and regional offices of the Department of Labor and Employment. It shall be equipped to advise call center agents or prospective call center agents of the terms and conditions of their employment when presented with a copy of the contract. It shall also inform call center agents of the proper procedure in filing complaints for violation of this Act.

SECTION 29. *Grievance Mechanism.* - There shall be a mechanism in every call center company for the adjustment and resolution of grievances arising from the interpretation and enforcement of employment contracts and company personnel policies. This shall not require the prior existence of a collective bargaining agreement for the mechanism to be put in place.

SECTION 30. *Jurisdiction.* - The Labor Arbiter shall have primary and exclusive jurisdiction to hear and decide within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, cases involving all workers in the call center industry as provided for under Article 217 of the Labor Code.

SECTION 31. *Application to Other Sectors of the BPO Industry.* - The provisions of this Act shall apply to other areas of the BPO industry whenever applicable.

SECTION 32. *Annual Report to Congress.* - The Secretary shall submit a report within one year from the implementation of this Act, and every year thereafter, on the improvement in the working conditions and attrition rate in the call center industry.

SECTION 33. *Implementing Rules and Regulations.* - The Secretary shall formulate and disseminate the Implementing Rules and Regulations of this Act.

SECTION 34. *Separability Clause.* - If any provision of this Act is declared unconstitutional or invalid, the remainder thereof not affected thereby shall continue to be in full force and effect.

SECTION 35. *Repealing Clause.* - All laws, ordinances, rules and regulations, other issuances or parts thereof which are inconsistent with this law are hereby repealed or modified accordingly.

SECTION 36. *Effectivity.* -This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,