

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



SIXTEENTH CONGRESS
First Regular Session

House Bill No. **4635**

Introduced by Representatives EMMI A. DE JESUS and LUZVIMINDA C. ILAGAN,

EXPLANATORY NOTE

The labor NGO Institute for Occupational Health and Safety Development or IOHSAD reports that many workers in the country fall ill, are injured or killed at the workplace or in relation to their occupation. In fact, as far as workers' job-related deaths are concerned, IOHSAD claims that there is a "massacre," albeit "hidden," of workers in the country.

According to the International Labor Organization, more than two million workers across the globe die annually due to work-related diseases and incidents. In the Philippines, there is no annual data explaining the number of work-related deaths and injuries. Many of our wealth creators and honest taxpayers, the working people, die silently and anonymously, while erring employers are given a mere slap on the wrist when they fail to uphold safety standards resulting in loss of limbs and lives.

Nonetheless, the number of workers who have died under the presidency of Benigno Simeon Aquino III alone is staggering by itself and merits immediate action: Eton Towers (2010, 10 dead), Keppel (2011, 5 dead), Ali Mall (2012, 4 dead), Novo (2012, 17 dead), and SPC Malaya Power Corporation (2013, five dead). A week ago, eight female workers died in Pasay City when the makeshift electronics warehouse in which they worked and lived caught fire. The building was padlocked from the outside by their employer and did not have an emergency exit that could have enabled them to vacate the area in the soonest possible time.

An immediate cause of the prevalence of such illnesses, injuries or deaths are the violations of existing occupational health and safety or OHS standards by employers.

It could be argued that as long as production is geared towards creating profits, workers' OHS will always take the backseat to that goal. Adherence to OHS standards will always be subjected to capitalist penny-pinching.

It is therefore of utmost importance for government to continuously and closely monitor employers' adherence to OHS standards and at the same time lay down stiff punishments for violations of such standards.

What we are seeing, however, is the exact opposite. The government has even gone as far as allowing employers to carry out self-inspection of their adherence to OHS standards and it has laid down only meager penalties for violations, even for those that result in the death of workers.

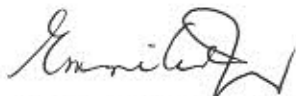
Taking advantage of gray areas in the Labor Code, the government has allowed the "self-inspection" by employers of their adherence to OHS standards. The Department of Labor and Employment Order No. 57-04 states that "This voluntary mode shall be encouraged in establishments with at least 200 workers. It shall also apply to unionized establishments with Certified Collective Bargaining Agreement regardless of the number of workers."

This bill, also known as the Workers' Safety and Health Inspection and Employers' Liability Decree or "Workers' SHIELD" seeks to advance workers' health and safety in the workplace by addressing the two main flaws in the government's approach to workers' OHS. It seeks to compel the Labor Department to carry out inspection of employers' adherence to OHS standards. It also seeks to clearly define penalties for violation of workers' OHS and criminalize those that result in deaths.

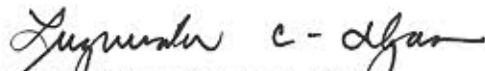
It is hoped that the stricter sanctions in this proposed measure would deter safety violators, and that DOLE will be more responsible in enforcing strict adherence to Philippine safety standards.

There is an immediate need to put a stop to workplace-related illnesses, injuries or death, and those accountable must be penalized accordingly.

Thus, the passage of this bill is earnestly sought.



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



REP. LUZVIMINDA C. ILAGAN
Gabriela Women's Party

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House Bill No. **4635**

Introduced by Representatives **EMMI A. DE JESUS** and **LUZVIMINDA C. ILAGAN**,

AN ACT IMPOSING STRICT COMPLIANCE THROUGH MANDATORY INSPECTION AND PROVIDING PENALTIES FOR VIOLATIONS OF OCCUPATIONAL SAFETY AND HEALTH PROVISIONS OF THE TITLE I BOOK IV OF THE LABOR CODE OF THE PHILIPPINES, THEREBY AMENDING PD 442, AS AMENDED.

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 "Worker's Safety and Health Inspection and Employer's Liability Decree" or "Worker's SHIELD."

SECTION 2. Declaration of Policies. It is hereby declared that:

- a. The State affirms labor as a primary social and economic force and that a safe and healthy workforce is an integral aspect of nation building;
- b. The State shall ensure a safe and healthful workplace for all working people by affording them with full protection against all hazards in the workplace. It shall ensure that the provisions of Title I Book IV of the Labor Code of the Philippines, all domestic laws and internationally-recognized standards on occupational safety and health are being fully enforced and complied with by the employers, and shall provide for penalties in any violation thereof;
- c. The State in protecting the safety and health of the workers shall promote strict but dynamic, inclusive and gender-sensitive measures in the formulation and implementation of policies and programs related to occupational safety and health.

SECTION 3. Article 165 of Title I Book IV of the Labor Code of the Philippines, is hereby amended as follows:

ART. 165. Administration of safety and health laws. –

- a. The Department of Labor and Employment shall be solely responsible for the administration and enforcement of occupational safety and health laws, regulations and standards in all establishments and workplaces wherever they may be located; ~~however, chartered cities may be allowed to conduct industrial safety inspections of establishments within their respective jurisdictions where they have adequate facilities and competent personnel for the purpose as determined by the Department of Labor and Employment and subject to national standards established by the latter.~~ **IT SHALL BE MANDATED TO INSPECT ALL ESTABLISHMENTS AND WORKPLACES REGARDLESS OF SIZE AND NATURE OF OPERATION AND SHALL DISALLOW SELF-INSPECTION OR ANY FORM OF EMPLOYER DISCRETION-BASED COMPLIANCE WITH SAFETY AND HEALTH LAWS. HOWEVER, CHARTERED CITIES MAY BE ALLOWED TO CONDUCT INDUSTRIAL SAFETY INSPECTIONS OF ESTABLISHMENTS WITHIN THEIR JURISDICTIONS, IN COORDINATION WITH THE DEPARTMENT OF LABOR AND EMPLOYMENT, WHERE THEY HAVE ADEQUATE FACILITIES AND COMPETENT PERSONNEL FOR THE PURPOSE AS DETERMINED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT AND SUBJECT TO NATIONAL STANDARDS ESTABLISHED BY THE LATTER.**
- b. The Secretary of Labor and Employment may, through appropriate regulations, collect reasonable fees for the inspection of steam boilers, pressure vessels and pipings and electrical installations, the test and approval for safe use of materials, equipment and other safety devices and the approval of plans for such materials, equipment and devices. The fee so collected shall be deposited in the national treasury to the credit of the occupational safety and health fund and shall be expended exclusively for the administration and enforcement of safety and other labor laws administered by the Department of Labor and Employment.
- c. **THE BUREAU OF LABOR STANDARDS SHALL CONDUCT AN ANNUAL ASSESSMENT OF THE SAFETY AND HEALTH CONDITION OF THE PHILIPPINE WORKPLACE AND SHALL PUBLISH A REPORT WITH ALL THE NECESSARY INFORMATION INCLUDING BUT NOT LIMITED TO THE COMPLIANCE RATE, TOTAL NUMBER OF DEATH, INJURY AND SICKNESS AND THE PROGRESS OF INVESTIGATION, RECTIFICATION AND PROSECUTION OF THE EMPLOYERS WHO VIOLATED ANY PROVISION OF THIS TITLE.**
- d. **ANY EMPLOYER WHO COMMITS A VIOLATION ON ANY PROVISION UNDER THIS TITLE SHALL BE PUNISHED WITH A FINE OF NOT LESS THAN TEN THOUSAND PESOS (P10,000.00) NOR MORE THAN TWENTY-FIVE THOUSAND PESOS (P25,000.00) FOR EACH DAY THAT THE VIOLATION CONTINUES AND AN IMPRISONMENT OF NOT LESS THAN**

SIX MONTHS NOR MORE THAN ONE YEAR. HOWEVER, IF AN INJURY IS CAUSED BY SUCH VIOLATION, THE EMPLOYER SHALL BE PUNISHED WITH A FINE OF NOT LESS THAN THIRTY THOUSAND PESOS (P30,000.00) BUT NOT MORE THAN FIFTY THOUSAND PESOS (P50,000.00) FOR EACH DAY THAT THE VIOLATION CONTINUES AND AN IMPRISONMENT OF NOT LESS THAN ONE YEAR AND ONE DAY TO A MAXIMUM PERIOD OF SIX YEARS; AND IF DEATH IS CAUSED BY SUCH VIOLATION, THE EMPLOYER SHALL BE GUILTY OF INDUSTRIAL HOMICIDE AND SHALL BE PUNISHED WITH A FINE OF NOT LESS THAN SEVENTY-FIVE THOUSAND PESOS (P75,000.00) FOR EACH DAY OF VIOLATION AND A MINIMUM IMPRISONMENT PERIOD OF SIX YEARS AND ONE DAY TO A MAXIMUM PERIOD OF TWELVE YEARS.

- e. FOR THE PURPOSE OF THE IMPOSITION OF PENALTIES, AN EMPLOYER INCLUDES ANY PERSON DEFINED IN ARTICLE 167(F) OF THIS CODE AND, IN ADDITION, THE SUBCONTRACTOR, CONTRACTOR AND PRINCIPAL EMPLOYER WHO DIRECTLY OR INDIRECTLY BENEFITED FROM THE SERVICE OF THE INJURED EMPLOYEE. IF THE VIOLATION IS COMMITTED BY A CORPORATION, TRUST OR FIRM, PARTNERSHIP, ASSOCIATION OR ANY OTHER ENTITY THE PENALTY OF IMPRISONMENT SHALL BE IMPOSED UPON THE ENTITY'S RESPONSIBLE OFFICERS, INCLUDING, BUT NOT LIMITED TO, THE PRESIDENT, VICE-PRESIDENT, CHIEF EXECUTIVE OFFICER, GENERAL MANAGER, MANAGING DIRECTOR OR PARTNER.

SECTION 4. Repealing Clause. All laws, presidential decrees, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 5. Separability Clause. If any provision or part of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

SECTION 6. Effectivity Clause. This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Adopted.