

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

16th Congress
Second Regular Session

House Bill No. 4659



Introduced by: **Hon. Karlo Alexei B. Nograles**

EXPLANATORY NOTE

The Constitution mandates that the State shall afford full protection to labor and ensure that the workers shall be entitled to security of tenure, humane conditions of work and just living wages. To pursue this, the Secretary of Labor and Employment under Article 128 of the Labor Code of the Philippines, as amended, exercises visitorial and enforcement power over workplaces and worksites to monitor compliance of establishments with labor standards that are intended to protect workers from hazards in the workplace and promote their welfare by ensuring safe and healthy work environments.

Using the 2010 NSO data, a total of 769,698 establishments should be inspected annually as to comply with the General Labor Standards. However, data from 2007 to 2011 shows that designated labor-inspectors have been unable to do so given their limited number vis-à-vis the number of establishments to be inspected. Limitations are also seen in terms of the capacity of labor inspectors to check compliance with technical safety and occupational safety and health standards.

President Benigno S. Aquino III, in his 2012 Labor Day speech, directed the full implementation of the country's labor laws, the non-tolerance of violations and circumventions, and giving workers what are due them under the law. To implement this Presidential directive, the DOLE shifted from a regulatory framework to a compliance system, with a strong pro-active and developmental dimension in enforcing and disposing labor standard cases. Crucial to the change in approach is the creation of a culture of voluntary compliance among companies so that they effect immediate restitution and correction. This system will also result in fast and fair settlement of benefits

due to workers and in minimizing the issuance of compliance orders that opens the door to long, tedious, and costly litigations. To reinforce this system, personnel from the DOLE handling labor law compliance will likewise have to shift from the merely regulatory approach in inspection to performing developmental tasks, such as educating both employers and workers on labor laws including those on anti-child labor, conducting conciliation-mediation proceedings at the plant-level to encourage compliance, and promoting DOLE programs and services that are aimed at improving working conditions as well as productivity of enterprises.

In view of the foregoing, it is imperative to institutionalize this major policy shift by amending Article 128 of the Labor Code of the Philippines, from a purely regulatory framework to the promotion of voluntary compliance through the use of the developmental approach, as a supplement. in order to: (a) inculcate a culture of compliance with labor laws; (b) ensure fair, expeditious, and non-litigious settlement of dispute; (c) encourage the use of settlement in all labor cases; and (d) strengthen tripartism among the employees, employers and the government

Hence, passage of this significant measure is earnestly sought.



KARLO ALEXEI B. NOGRALES

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AN ACT FOSTERING A CULTURE OF VOLUNTARY COMPLIANCE WITH LABOR LAWS, AMENDING FOR THE PURPOSE ARTICLE 128 OF PRESIDENTIAL DECREE NO. 422, AS AMENDED, OTHERWISE KNOWN AS 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. Article 128 of the Labor Code is hereby amended as follows:

"Art. 128. Visitorial and enforcement power. - (a) The Secretary of Labor and Employment or his/HER duly authorized representatives shall have access to employer's EMPLOYMENT records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and investigate any fact, condition or matter which may be necessary IN THE DETERMINATION OF VIOLATION OF LABOR STANDARDS AND OTHER LABOR LAWS AND SOCIAL LEGISLATION or which may aid in the enforcement of this Code and of any labor law, wage order or rules and regulations issued pursuant thereto.

(b) Notwithsatnding the provisions of Article 129 and 217 of this Code to the contrary, the Secretary of Labor and Employment or his/HER duly authorized representatives shall have the power to issue compliance orders, to give effect to the labor standards provision of the Code including THE EXISTENCE OF AN EMPLOYER-EMPLOYEE RELATIONSHIP and other labor legislation based on the findings of THE LABOR LAWS COMPLIANCE OFFICERS made in the course of inspection. The Secretary or his/HER duly authorized

representatives shall issue writs of execution to the appropriate authority for the enforcement of their orders, except in cases where the employer contests the findings of the LABOR LAWS COMPLIANCE OFFICERS and raises issues supported by documentary proof which were not considered in the course of inspection.

A COMPLIANCE order issued by the duly authorized representative of the Secretary of Labor and Employment under this Article may be appealed to the OFFICE OF THE SECRETARY. In case said order involves a monetary award, an appeal by the employer may be perfected only upon the posting of a cash or surety bond issued by a reputable bonding company duly accredited by the SUPREME COURT OF THE PHILIPPINES in the amount equivalent to the monetary award in the COMPLIANCE order appealed from.

(c) The Secretary of Labor and Employment OR HIS/HER DULY AUTHORIZED REPRESENTATIVES may order THE stoppage of work of any unit or department of an establishment when non-compliance with the laws or implementing rules and regulations MAY CAUSE OR CAUSED grave and imminent danger to the health and safety of workers in the workplace. Within twenty four hours, a hearing shall be conducted to determine whether an order for the stoppage of work shall be lifted or not. In case the violation is attributable to the fault of the employer, he shall pay the employees concerned their wages AND OTHER LABOR STANDARDS BENEFITS during the period of such stoppage of work or suspension of operation.

(d) It shall be unlawful for any person or entity, INCLUDING GOVERNMENT AGENCIES AND INSTRUMENTALITIES, to obstruct, impede, delay or otherwise render ineffective the orders of the Secretary of Labor and Employment or his/HER duly authorized representatives issued pursuant to the authority granted under this Article, and no inferior court or entity shall issue temporary or permanent injunction or restraining order or otherwise assume jurisdiction over any case involving the enforcement orders issued in accordance with this Article.

THE SECRETARY OF LABOR AND EMPLOYMENT OR HIS/HER DULY AUTHORIZED REPRESENTATIVES MAY, AFTER SUMMARY PROCEEDINGS, IMPOSE A FINE OF NOT LESS THAN ONE HUNDRED THOUSAND (P 100,000.00) BUT NOT MORE THAN FIVE HUNDRED THOUSAND (P 500,000.00) FOR ANY VIOLATION OF THIS PROVISION, WITHOUT PREJUDICE TO THE FILING OF APPROPRIATE CRIMINAL ACTION.

(e) The Secretary of Labor and Employment may, by appropriate regulations, require employers to keep and maintain such employment records as may be necessary in aid of his visitorial and enforcement power under this Code.

(F) THE SECRETARY OF LABOR AND EMPLOYMENT IN THE EXERCISE OF HIS/HER VISITORIAL AND ENFORCEMENT POWER MAY, BY APPROPRIATE REGULATIONS, ESTABLISH A COMPLIANCE SYSTEM TO INCULCATE A CULTURE OF VOLUNTARY COMPLIANCE WITH LABOR LAWS, AND ENSURE FAIR, EXPEDITIOUS, AND NON-LITIGIOUS SETTLEMENT OF DISPUTES.

(G) ANY MONETARY AWARD GRANTED TO THE EMPLOYEES UNDER THIS ARTICLE WHICH ARE NOT PAID TO THE SAID EMPLOYEES BECAUSE THEY CANNOT BE LOCATED AFTER DILIGENT AND REASONABLE EFFORT WITHIN A PERIOD OF THREE (3) YEARS FROM THE DATE OF NOTICE THEREOF SHALL BE HELD AS A SPECIAL FUND OF THE DEPARTMENT OF LABOR AND EMPLOYMENT TO BE USED FOR THE PROMOTION OF COMPLIANCE WITH LABOR STANDARDS."

SEC. 2 Implementing Rules and Regulations. – The Department of Labor and Employment shall issue the necessary rules and regulations for the effective implementation of this Act.

SEC. 3 Repealing Clause. – Presidential Decree No. 442, as amended, otherwise known as the "Labor Code of the Philippines", and all other acts, laws, decrees, executive orders, proclamations, rules and regulations or any part thereof, which are inconsistent with the provisions of this Act, are hereby repealed or modified accordingly.

SEC. 4 Effectivity. – This Act shall take effect after fifteen (15) days from the date of its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,