

**Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City**

**SEVENTEENTH CONGRESS
First Regular Session**

House Bill No. 4447



**Introduced by TUCP PARTY-LIST
Representative RAYMOND DEMOCRITO C. MENDOZA**

EXPLANATORY NOTE

Strike action is one of the fundamental means available to workers and their organizations to promote their welfare and interests. It is the last resort of workers' organizations in pursuit of their demands, and the right to strike is protected by ILO Convention No. 87. The Philippine Constitution guarantees the right to strike in accordance with law.

Although the right to strike is not absolute, it should not be subject to certain legal conditions or restrictions as to impede its lawful exercise.

This bill:

- (a) Authorizes a group or representative of workers to file the notice of, and to go on strike, and
- (b) Removes dismissal and imprisonment as penalty in violation of orders, prohibitions or injunctions issued by the Secretary of Labor, and direct participation by union officers in illegal strike.

The Labor Code gives the right to strike only to a 'registered' labor organization. The proposal authorizes a group or representative of workers to file the notice of, and to go on strike in the absence of a legitimate labor organization. This enhances the right to engage in concerted activities for purposes of collective bargaining and workers' mutual protection and self-organization. This approximates the constitutional mandate granting the right to strike to the workers themselves.

The principle of freedom of association guarantees workers adequate protection against acts of anti-union discrimination in respect of their employment. This protection particularly applies to union officers because, in order to perform their trade union duties in full independence, they should have a guarantee that they will not be prejudiced on account of the mandate

they hold from their unions.

Dismissal or imprisonment as penalty in violation of orders, prohibitions or injunctions issued by the Secretary of Labor, and direct participation by union officers in illegal strike is too harsh and not proportionate to the seriousness of the violation or action. Today, such violation or action may be under immediate disciplinary measure or punishable by fine or imprisonment or both under Article 272 (a) of the Labor Code and the Revised Penal Code.

This bill is part of a series of proposed amendments to the Labor Code addressing the observations by the Committee of Experts of the ILO as highlighted by the ILO High Level Mission to the Philippines on 22-29 September 2009 on violations of freedom of association faced by Filipino workers.



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**AN ACT
STRENGTHENING THE WORKERS' RIGHT TO STRIKE, AMENDING
FOR THE PURPOSE PRESIDENTIAL DECREE NO. 442, 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. Short Title. – This Act shall be known as the “The Workers’ Right to Strike Act of 2016”.

Section 2. Authorizing a Group or Representative of Workers to File the Notice of, and to Go on Strike. – Article 263 (a) of the Labor Code is hereby amended to read as follows:

“ARTICLE 263. Strikes, picketing and lockouts.

- (c) In case of bargaining deadlocks, the duly certified or recognized bargaining agent may file a notice of strike or the employer may file a notice of lockout with the Ministry at least 30 day before the intended date thereof. In cases of unfair labor practice, the period of notice shall be 15 days and in the absence of a duly certified or recognized bargaining agent, the notice of strike may be filed by any legitimate labor organization in behalf of its members. However, in case of dismissal from employment of union officers duly elected in accordance with the union constitution and by-laws, which may constitute union busting, where the existence of the union is threatened, the 15-day cooling-off period shall not apply and the union may take action immediately.

IN CASES OF UNFAIR LABOR PRACTICE CONSTITUTING UNION BUSTING, THE NOTICE OF STRIKE SHALL BE FILED BY ANY GROUP WORKERS OR LEGITIMATE REPRESENTATIVE OF WORKERS CONSTITUTING AT LEAST A

MAJORITY OF WORKERS IN THE BARGAINING UNIT IN THE EVENT THAT THERE IS NOT EVEN A LEGITIMATE LABOR ORGANIZATION TO FILE THE SAME, AND THE GROUP OF WORKERS MAY TAKE ACTION IMMEDIATELY.”

Section 3. Removing Dismissal or Loss of Employment Status and Imprisonment as Penalty in Violation of Orders, Prohibitions or Injunctions Issued by the Secretary of Labor, and Direct Participation by Union Officers in Illegal Strike.

A. Article 263 (g) of the Labor Code is hereby amended to read as follows:

“ARTICLE 263. Strikes, picketing and lockouts.

(g) XXXX xxx

In line with the national concern xxx xxx. For this purpose, the contending parties are strictly enjoined to comply with such orders, prohibitions and/or injunctions as are issued by the Secretary of Labor and Employment or the Commission, under pain of immediate disciplinary action, including [dismissal or loss of employment status or] payment by the locking-out employer of backwages, damages and other affirmative relief, even criminal prosecution against either or both of them.

Xxx xxx”

B. Article 264 (a) of the Labor Code is hereby amended to read as follows:

“ARTICLE 264. Prohibited activities. –

(a) Xxx xxx

Xxx xxx

Any worker whose employment has been terminated as a consequence of any unlawful lockout shall be entitled to reinstatement with full backwages. Any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a strike may be [declared to have lost his employment status] UNDER PAIN OF IMMEDIATE DISCIPLINARY ACTION: Provided, That mere participation of a worker in a lawful strike shall not constitute sufficient ground for [termination of his employment] IMMEDIATE DISCIPLINARY ACTION, even if a replacement had been hired by the employer during such lawful strike.”

C. Article 272 (a) of the Labor Code is amended as follows:

“ARTICLE 272. Penalties.

(a) Any person violating any of the provisions of Article 264 of this Code shall be punished by a fine of not less than one thousand pesos (P50,000.00) nor

more than ten thousand pesos (P500,000.00) [and/or imprisonment for not less than three months nor more than three (3) years, or both such fine and imprisonment,] at the discretion of the court. Prosecution under this provision shall preclude prosecution for the same act under the Revised Penal Code, and vice versa.”

Section 4. Separability Provisions. -- If any part of this Act is held invalid or declared unconstitutional, the same shall not affect the validity and effectivity of the other parts thereof.

Section 5. Repealing Clause. – All laws, decrees, executive orders, rules and regulations or parts thereof, which are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

Section 6. Effectivity. – This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,