

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

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2126



Introduced by Honorable Representatives
ARLENE D. BROSAS (Gabriela Women's Party);
FRANCE L. CASTRO (ACT Teachers Partylist);
and **RAOUL DANNIEL A. MANUEL (Kabataan Partylist)**

**AN ACT CRIMINALIZING VIOLATIONS OF OCCUPATIONAL SAFETY AND HEALTH
STANDARDS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 11058,
OTHERWISE KNOWN AS THE OCCUPATIONAL SAFETY AND HEALTH (OSH)
STANDARDS LAW**

EXPLANATORY NOTE

In August 2018, the Occupational Safety and Health (OSH) Standards Law was enacted after years of lobbying and campaign by workers' groups, labor non-governmental organizations (NGOs), and families of workplace tragedy victims. However, the final version of the measure left out the criminalization of OSH violations, which has been the crucial call of advocates pushing for safer workplaces. While the law mandates OSH inspections in all workplaces and the compliance of companies with the OSH standards, violations – even if resulting in injuries or deaths – are only punished with fines.

The past three (3) years have shown how occupational safety and health is placed way below the list of the government's priorities. Labor inspection only covered less than 10% of establishments or 70,298 at most out of around 900,000 to 1 million registered. The national compliance with Occupational Safety and Health Standards (OSHS) only ranged from 58.36-70.28%, with the lowest recorded a year after the implementation of the OSH Law. It even dropped to 34.80% within six months into the pandemic. First aiders, safety officers, and fire inspection certificates were persistently lacking.

The COVID-19 pandemic has inhibited effective inspection of workplaces by the already meager number of workplace inspectors of the Department of Labor and Employment (DOLE). Without the proper enforcement of OSH standards and COVID-19 protocols in the workplace, rapid viral transmission and outbreaks have become possible in several reported worksites. Not much is known or officially reported about the extent of the outbreaks inside special economic zones, which continued operations even at the height of the lockdown.

With the resumption of economic activities due to loosening of pandemic restrictions, occurrences of workplace injuries and deaths have increasingly become frequent. In just a span of forty-five (45) days, twelve (12) workers died in the workplace from May 31 to July 15, 2022 in separate but consecutive incidents:

- On May 31, 2022, three (3) workers died when the second floor of the building being rented by E-ONE Consumers Trading Corporation, a warehouse firm located in an

industrial park in Meycauayan, Bulacan, collapsed.

- On June 2, 2022, Stephen Corilla, a contractual worker at Universal Robina Corporation (URC) in Mandaue, Cebu died while cleaning the pulverizer machine. Lack of orientation on occupational safety and health, haphazard reassignment of tasks, and the use of unsafe machinery contributed to the death of Corilla.
- On July 8, 2022, two (2) elevator maintenance workers (Manuel Linayao and Rey Miguel Gilera) died while fixing the elevator of Burgundy Corporate Tower in Makati City. A report indicated that the elevator which was undergoing repair, dropped from the 38th floor to the 6th floor where the maintenance crew were fixing the elevator at around 2:55 a.m. Two other elevator installers were reportedly hurt in the incident.
- On July 11, 2022, six (6) workers died when a concrete wall next to their barracks collapsed in a construction site in Tagaytay City amid heavy rainfall.

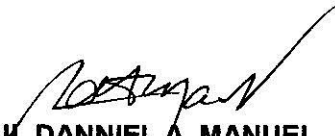
These consecutive workplace deaths, not to mention other accidents and cases of work-related injuries, highlight the need to criminalize the employers' violation of OSH standards to strengthen the law in preventing another loss of life at work. It is about time that we treat gross violations of OSH standards which result in, or place workers at risk of, injuries or death as a criminal offense, unlike under the current setup wherein liability over lost lives can be cleared thru payment of fines.

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

Approved,


ARLENE D. BROSAS
Gabriela Women's Party

FRANCE L. CASTRO
ACT Teachers Partylist


RAOUL DANNIEL A. MANUEL
Kabataan Partylist

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

Section 1. Section 28 of Republic Act No. 11058 is hereby amended to read as follows:

SEC. 28. Prohibited Acts. The following are considered as prohibited acts:

- (a) Willful failure or refusal of an employer, contractor or subcontractor to comply with the required OSH standards or with a compliance order issued by the Secretary of Labor and Employment or by the Secretary's authorized representative shall make such employer, contractor or subcontractor liable for an administrative fine not exceeding one hundred thousand pesos (P100,000.00) per day until the violation is corrected, counted from the date the employer or contractor is notified of the violation or the date the compliance order is duly served on the employer. The amount of fine imposed shall depend on the frequency or gravity of the violation committed or the damage caused. Provided, however, That the maximum amount shall be imposed [only] when the violation exposes the workers to a risk of death, serious injury or serious illness.
- (b) An employer, contractor or subcontractor who willfully fails or refuses to comply with the required OSH standards or with a duly issued compliance order, and engages in any of the following acts to aid, conceal or facilitate such noncompliance, shall be **CONSIDERED AS HAVING GROSSLY VIOLATED THIS ACT AND SHALL BE** liable for a maximum of THREE HUNDRED THOUSAND PESOS (P300,000.00) [one hundred thousand pesos (P100,000.00)] administrative fine separate from the daily fine imposed above[:], **OR IMPRISONMENT OF NOT LESS THAN ONE (1) YEAR AND (1) DAY BUT NOT MORE THAN THREE (3) YEARS, OR BOTH, AT THE DISCRETION OF THE COURT:**
 - (1) Repeated obstruction, delay or refusal to provide the Secretary of Labor and Employment or any of its authorized representative access to the covered workplace or refusal to provide or allow access to relevant records and documents or obstruct the conduct of investigation of any fact necessary in determining compliance with OSH standards.

- (2) Misrepresentation in relation to adherence to OSH standards, knowing such statement, report or record submitted to the DOLE to be false in any material aspect;
- (3) Making retaliatory measures such as termination of employment, refusal to pay, reducing wages and benefits or in any manner discriminates against any worker who has given information relative to the inspection being conducted[.];
- (4) **FAILURE TO COMPLY WITH THE COMPLIANCE ORDER ISSUED BY THE SECRETARY OF LABOR AND EMPLOYMENT OR ANY OF ITS AUTHORIZED REPRESENTATIVE BASED ON THE FINDINGS OF VIOLATIONS BY LABOR LAW COMPLIANCE OFFICERS;**
- (5) **WILLFUL FAILURE OR NEGLECT IN CONDUCTING MANDATORY WORKERS' TRAINING, WHICH INCLUDE JOB SAFETY ORIENTATION PRIOR TO WORK, FIRST AID TRAINING, AND MANDATORY OSH TRAINING FOR SAFETY OFFICERS AND HEALTH PERSONNEL;**
- (6) **DELIBERATE DEPLOYMENT AND USE OF DEVICES AND EQUIPMENT WHICH ARE NOT CERTIFIED OR APPROVED AS SAFE FOR THE TASK;**
- (7) **REFUSAL TO ENSURE THE SUFFICIENT PROVISION OF PERSONAL PROTECTIVE EQUIPMENT (PPE) TO WORKERS FREE OF CHARGE AS PROVIDED FOR UNDER SECTION 8 OF THIS ACT;**
- (8) **FAILURE TO SUBMIT A REPORT TO THE DEPARTMENT OF LABOR AND EMPLOYMENT REGARDING ACCIDENTS WHICH RESULT IN INJURIES OR DEATHS, OR DANGEROUS OCCURRENCES IN THE WORKPLACE WITHIN TWENTY-FOUR (24) HOURS FROM THE TIME OF ACCIDENT OR OCCURRENCE;**
- (9) **FAILURE TO ENSURE THE PROVISION OF ADEQUATE INFORMATION ON THE HAZARDS AND RISKS IN THE WORKPLACE AS PROVIDED FOR UNDER SECTION 11 OF THIS ACT;**
- (10) **WILLFUL FAILURE OR REFUSAL TO ESTABLISH THE MANDATORY OCCUPATIONAL SAFETY AND HEALTH COMMITTEE IN THE WORKPLACE**
- (11) **WILLFUL FAILURE OR REFUSAL TO DESIGNATE FIRST AIDERS AND SAFETY OFFICERS; AND**
- (12) **FAILURE TO SECURE A FIRE SAFETY CERTIFICATE.**

IF ANY OF THE GROSS VIOLATION RESULTS IN INJURY OF THE EMPLOYEE, THE EMPLOYER, CONTRACTOR, OR SUBCONTRACTOR SHALL BE PUNISHED, FOR EVERY RESULTING INJURY, WITH A FINE OF NOT LESS THAN THREE HUNDRED THOUSAND PESOS (P300,000.00), BUT NOT MORE THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00), OR IMPRISONMENT OF NOT LESS THAN ONE (1) YEAR AND (1) DAY BUT NOT MORE THAN SIX (6) YEARS, OR BOTH, AT THE DISCRETION OF THE COURT: PROVIDED, THAT IN CONSEQUENCE OF THE PHYSICAL INJURIES, THE PERSON INJURED SHALL HAVE BECOME DEFORMED, OR SHALL HAVE LOST ANY OTHER PART OF HIS OR HER BODY, OR SHALL HAVE LOST THE USE THEREOF, OR SHALL HAVE BEEN ILL OR INCAPACITED TO PERFORM THE WORK IN WHICH HE OR SHE IS HABITUALLY ENGAGED FOR A PERIOD OF MORE THAN SIXTY (60) DAYS.

IF ANY OF THE GROSS VIOLATION RESULTS IN DEATH OF THE EMPLOYEE, THE EMPLOYER, CONTRACTOR, OR SUBCONTRACTOR SHALL BE PUNISHED, FOR EVERY RESULTING DEATH, WITH A FINE OF MORE THAN ONE MILLION PESOS (P1,000,000.00) BUT NOT MORE THAN THREE MILLION PESOS (P3,000,000.00), OR IMPRISONMENT OF NOT LESS THAN SIX (6) YEARS AND ONE (1) DAY BUT NOT MORE THAN TWELVE (12) YEARS, OR BOTH, AT THE DISCRETION OF THE COURT.

PROVIDED, THAT A CONTRACTING EMPLOYER AND THE CONTRACTOR OR

SUBCONTRACTOR SHALL BE SOLIDARILY LIABLE TO INDEMNIFY EACH EMPLOYEE WITH NO LESS THAN SEVENTY-FIVE THOUSAND PESOS (PHP75,000.00) IN CASE OF INJURY OR DEATH WITHOUT PREJUDICE TO OTHER MONETARY AWARDS TO WHICH SUCH EMPLOYEE MAY BE ENTITLED SUCH AS BACKWAGES, MONETARY CLAIMS AND BENEFITS UNDER AN APPLICABLE COLLECTIVE BARGAINING AGREEMENT OR COMPANY POLICY, WHETHER WRITTEN OR OTHERWISE. IN CASE OF DEATH OF AN EMPLOYEE, HIS OR HER HEIRS SHALL BE AWARDED THE INDEMNITY. IN CASE OF DEATH OF THE EMPLOYEE, HIS OR HER HEIRS SHALL BE AWARDED THE INDEMNITY.

PROVIDED FURTHER, THAT IN CASES OF GROSS VIOLATIONS OF THIS ACT, THE BUSINESS PERMIT OF THE VIOLATING ENTITY SHALL BE SUSPENDED FOR ONE (1) WEEK FOR THE FIRST OFFENSE, AND TWO (2) MONTHS FOR SECOND OFFENSE. WORKERS AFFECTED BY THE SUSPENSION OF THE BUSINESS PERMIT SHALL BE PROPERLY COMPENSATED BY THE EMPLOYER, CONTRACTOR AND/ OR SUBCONTRACTOR. FOR THIRD OFFENSE, THE BUSINESS PERMIT OF THE OFFENDER SHALL BE CANCELLED.

IN ANY OF THE VIOLATIONS OF OSH STANDARDS ENUMERATED ABOVE, THE EMPLOYER, CONTRACTOR AND SUBCONTRACTOR SHALL BE SOLIDARILY LIABLE TO THE EMPLOYEE OR EMPLOYEES. NO WAIVER OR AFFIDAVIT OF DESISTANCE SHALL PREVENT THE FILING OF COMPLAINTS NOR DERAIL THE PROCEEDINGS AGAINST THE EMPLOYER, CONTRACTOR AND SUBCONTRACTOR.

[For the purpose.] T[t]he Secretary of Labor and Employment, in consultation with relevant stakeholders, shall issue a list of offenses with corresponding reasonable administrative fines depending on the severity, frequency and damage caused without prejudice to the filing of a criminal or a civil case in the regular courts, as the case may be.

The fine collected shall be used for the operation of occupational safety and health initiatives, including occupational safety and health training and education and other occupational safety and health programs.

IF THE VIOLATION IS COMMITTED BY A CORPORATION, TRUST OR FIRM, PARTNERSHIP, ASSOCIATION OR ANY OTHER JURIDICAL ENTITY, THE PENALTY OF IMPRISONMENT SHALL BE IMPOSED UPON THE ENTITY'S RESPONSIBLE OFFICERS, INCLUDING THE PRESIDENT, VICE PRESIDENT, CHIEF EXECUTIVE OFFICER, GENERAL MANAGER, MANAGING DIRECTOR OR PARTNER.

ANY PERSON CONVICTED UNDER THIS ACT SHALL NOT BE ENTITLED TO THE BENEFITS PROVIDED FOR UNDER THE PROBATION LAW.

Section 2. Implementing Rules and Regulations. The Department of Labor and Employment (DOLE) shall, within ninety (90) days after the effectivity of this Act, formulate the necessary rules and regulations for its effective implementation.

Section 3. 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 4. Effectivity Clause. - This Act shall take effect fifteen (15) days after publication in the Official Gazette or in any newspaper of general circulation.

Approved,