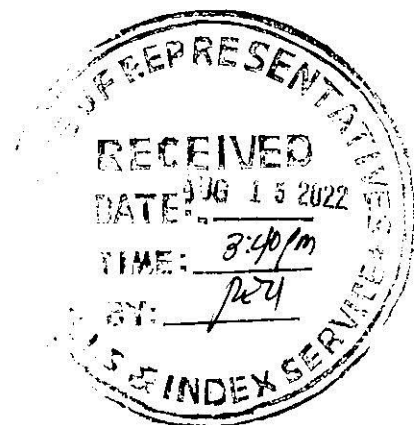


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

House Bill No. 3600



INTRODUCED BY REPRESENTATIVES RALPH WENDEL P. TULFO
AND JOCELYN P. TULFO

EXPLANATORY NOTE

The Philippines is one of the top labor-exporters in the world. According to the World Bank, remittances from Overseas Filipino Workers ("OFW") comprise 9.6% of the country's Gross Domestic Product in 2020.¹ While OFWs are dubbed as our modern-day heroes, many are left as victims of fraudulent recruiters.

In 2020, data from the Department of Labor and Employment ("DOLE") and Bureau of Immigration ("BI") reported that 295 passengers were denied departure due to being tagged as possible trafficking victims after failing to present required documents and carrying fraudulent documents issued by illegal recruiters.² In 2017, former DOLE Secretary Silvestre Bello III issued Department Order No. 185, series of 2017, ordering the suspension of the issuance of Overseas Employment Certificates for fifteen (15) days due to "persistent reports of illegal recruitment activities, including direct hires – and in order to protect the public from the pernicious activities of certain unscrupulous individuals preying on our OFWs."

The 1987 Constitution mandates that the State shall afford full protection to labor, whether local and overseas.³ Towards this goal, the Labor Code of the Philippines and The Migrant Workers and Overseas Filipino Act of 1995, including their amendments, define and penalize the crime of illegal recruitment committed by a syndicate, which is illegal recruitment carried out by a group of three (3) or more persons conspiring or confederating with one another. Due to the gravity of the offense, offenders convicted of illegal recruitment committed by a syndicate are meted with a harsher penalty vis-à-vis simple illegal recruitment. However, many unscrupulous recruiters escape the stiffer penalty simply by failing to prove that three (3) persons acted in concert to commit the crime. It is not unlikely that two (2) persons ganging up on unsuspecting victims would do as much or even more damage than three (3) or more illegal recruiters. As the saying goes, *it only takes two to tango*.

In the spirit of protecting our local and overseas workers and curbing illegal recruitment activities, this proposed bill seeks to amend and redefine the definition of illegal recruitment

¹ Personal remittances, received (% GDP), The World Bank, available at <https://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS> (last accessed July 26, 2022).

² *Illegal recruitment in this pandemic*, Department of Labor and Employment – Cordillera Administrative Region, available at <https://car.dole.gov.ph/news/illegal-recruitment-in-this-pandemic/> <https://data.worldbank.org/indicator/BX.TRF.PWKR.DT.GD.ZS> (last accessed July 26, 2022).

³ Article XIII, Section 3 and Article II, Section 18 of the 1987 Constitution.

committed by a syndicate by lowering the required number of perpetrators from three (3) to two (2) persons.

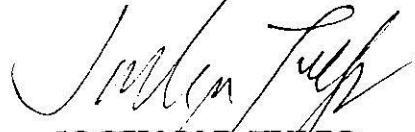
In view of the foregoing, the urgent passing of this bill is earnestly sought.



RALPH WENDEL P. TULFO

Representative

2nd District of Quezon City



JOCELYN P. TULFO

Representative

ACT-CIS Partylist

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INTRODUCED BY REPRESENTATIVES RALPH WENDEL P. TULFO
AND JOCELYN P. TULFO

1 AN ACT REDEFINING THE CRIME OF ILLEGAL RECRUITMENT COMMITTED BY A
2 SYNDICATE, AMENDING FOR THE PURPOSE BOOK ONE, TITLE ONE, CHAPTER III,
3 ARTICLE 38 (B) OF PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE
4 KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AND SECTION 6 OF REPUBLIC
5 ACT NO. 8042, AS AMENDED, OTHERWISE KNOWN AS THE MIGRANT WORKERS
6 AND OVERSEAS FILIPINOS ACT OF 1995

7 *Be It enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:*

8
9 **SECTION 1.** Book One, Title One, Chapter III, Article 38 (b) of Presidential Decree No. 442,
10 as amended, otherwise known as the Labor Code of the Philippines, is hereby further
11 amended to read as follows:

12
13 Article 38. *Illegal Recruitment.* - xxx xxx xxx

14
15 “(b) Illegal recruitment when committed by a syndicate or in large scale shall
16 be considered an offense involving economic sabotage and shall be penalized
17 in accordance with Article 39 hereof.

18
19 “Illegal recruitment is deemed committed by a syndicate if carried out by a
20 group of ~~three (3)~~ TWO (2) or more persons conspiring and/or confederating
21 with one another in carrying out any unlawful or illegal transaction, enterprise
22 or scheme defined under the first paragraph hereof. Illegal recruitment is
23 deemed committed in large scale if committed against three (3) or more
24 persons individually or as group.

25
26 xxx xxx xxx

27
28 **SEC. 2.** Section 6 of Republic Act No. 8042, as amended, otherwise known as the Migrant
29 Workers and Overseas Filipinos Act of 1995, is hereby further amended to read as follows:

30
31 **SEC. 6. Definition.** - For purposes of this Act, illegal recruitment shall mean any
32 act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or
33 procuring workers and includes referring, contract services, promising or
34 advertising for employment abroad, whether for profit or not, when

undertaken by non-licensee or non-holder of authority contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: Provided, That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority:

xxx xxx xxx

(n) To allow a non-Filipino citizen to head or manage a licensed recruitment/manning agency.

Illegal recruitment is deemed committed by a syndicate if carried out by ~~three (3)~~ TWO (2) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group

xxx xxx xxx

SEC. 2. *Implementing Rules and Regulations.* - The Department of Labor and Employment and Philippine Overseas Employment Administration, acting singly or jointly, shall promulgate the implementing rules and regulations of this Act within sixty (60) days after the effectivity of this Act.

SEC. 3. *Separability Clause.* - If, for any reason, any provision of this Act is declared to be unconstitutional or invalid, the other sections or provisions hereof which are not affected thereby shall continue to be in full force or effect.

SEC. 4. *Repealing Clause.* - All laws, decrees, orders, rules and regulations, or parts thereof which are inconsistent with or contrary to the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 5. *Effectivity.* - 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.

Approved,