

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
NINETEENTH CONGRESS
First Regular Session



HOUSE BILL NO. 8205

Introduced by HON. GUS S. TAMBUNTING

**AN ACT
EXPANDING THE PROHIBITED ACTS OF DISCRIMINATION
AGAINST WOMEN AND OTHER GENDER-BASED MINORITIES ON
ACCOUNT OF SEX AND GENDER, AMENDING FOR THE
PURPOSE ARTICLES 133 [135] AND 135 [137] OF PRESIDENTIAL
DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE
LABOR CODE OF THE PHILIPPINES**

EXPLANATORY NOTE

Sec. 18, Art. II of the 1987 Constitution states that “The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.”

The purpose of this law is to broaden the current Labor preferring a male employee over a female employee when it comes to assignment and firing is prohibited under the code. marginalization based just on their sexes; depriving women of the perks of their jobs or statutory benefits because of their gender.

Additionally, the bill imposes specific criminal penalties on employers who engage in any of the illegal forms of discrimination, as well as on any employees or other parties who facilitate their commission.

On behalf of the people of Parañaque City’s Second District, and for the common good of the Filipino people, the approval of the said measure is earnestly sought.


REP. GUS S. TAMBUNTING
2nd District, Parañaque City

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

SECTION 1. Article 133 [135] of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines, is hereby amended to read as follows:

“ARTICLE 135. *Discrimination Prohibited.* - It shall be unlawful for any employer to discriminate against any woman employee with respect to terms and conditions of employment solely on account of her sex, or to discriminate against any other person with respect with respect to terms and conditions of employment solely on account of gender-based conditions (such as, but not limited to, sexual orientation, pregnancy, marital status, and the like). The following are acts of discrimination:

- (a) Payment of a lesser compensation, including wage, salary or other form of remuneration and fringe benefits, to a female employee as against a male employee, or to an employee belonging to a gender-based minority as against any other employee, for work of equal value; [and]
- (b) Favoring a male employee over a female employee with respect to promotion, **ASSIGNMENT**, training opportunities, study and scholarship grants solely on account of their sexes [.]; **PROVIDED, THAT THIS PROVISION SHALL ALSO APPLY TO, OR BE IN FAVOR OF, AN EMPLOYEE BELONGING TO A GENDER-BASED MINORITY; AND**
- (C) **FAVORING A MALE EMPLOYEE OVER A FEMALE EMPLOYEE OR EMPLOYEE BELONGING TO A GENDER-BASED MINORITY WITH RESPECT TO DISMISSAL OF**

PERSONNEL OR THE APPLICATION OF ANY RETRENCHMENT, REDUNDANCY OR SIMILAR POLICY OF THE EMPLOYER SOLELY ON ACCOUNT OF THEIR SEX, GENDER, AND REPRODUCTIVE FUNCTION AND POTENTIAL.

Criminal liability for the willful commission of any unlawful act as provided in this Article or any violation of the rules and regulations issued pursuant to Section 2 hereof shall be penalized as provided in Articles 303 and 304 of this Code: *Provided*, That the institution of any criminal action under this provision shall not bar the aggrieved employee from filing an entirely separate and distinct action for money claims, which may include claims for damages and other affirmative reliefs. The actions hereby authorized shall proceed independently of each other.

IN CASES OF DISCRIMINATION UNDER THIS ARTICLE, VICTIMS SHALL BE ENTITLED TO MONETARY COMPENSATION TO COMPENSATE FOR DAMAGES SUFFERED AS A RESULT OF DISCRIMINATION. EMPLOYERS FOUND GUILTY OF DISCRIMINATORY PRACTICES MAY BE LIABLE FOR PUNITIVE DAMAGES AS DETERMINED BY THE SEVERITY AND NATURE OF THE DISCRIMINATION.

EMPLOYERS MUST IMPLEMENT AND MAINTAIN COMPREHENSIVE ANTI-DISCRIMINATION POLICIES IN THE WORKPLACE. EMPLOYERS SHALL CONDUCT REGULAR TRAINING PROGRAMS TO EDUCATE EMPLOYEES ON THEIR RIGHTS AND RESPONSIBILITIES PERTAINING TO DISCRIMINATION AND INCLUSIVITY. THE PURPOSE OF THESE POLICIES AND TRAINING PROGRAMS IS TO PROMOTE AWARENESS, FOSTER A CULTURE OF INCLUSIVITY, AND CULTIVATE RESPECT WITHIN ORGANIZATIONS. FAILURE TO COMPLY WITH THIS PARAGRAPH SHALL RESULT IN ADMINISTRATIVE SANCTIONS TO BE DETERMINED BY THE DOLE.”

SEC. 2. Article 135 [137] of the Labor Code is hereby amended to read as follows:

“ARTICLE 137. *Prohibited Acts.* - (a) It shall be unlawful for any employer:

- (1) To deny any woman employee the benefits provided for in this Chapter or to discharge any woman employed by him for the purpose of preventing her from enjoying any of the benefits provided under this Code;
- (2) To discharge such woman on account of her pregnancy, or while on leave or in confinement due to her pregnancy;

(3) To discharge or refuse the admission of such woman upon returning to her work for fear that she may again be pregnant [.]; **OR**

(4) **TO DENY ANY WOMAN THE BENEFITS OF EMPLOYMENT OR OTHER STATUTORY BENEFITS UNDER OUR LAWS BY REASON OF HER SEX.**

ANY EMPLOYER WHO COMMITS OR ATTEMPTS IN ANY MANNER TO COMMIT ANY OF THE ACTS PROHIBITED UNDER THIS ARTICLE OR ANY RULE OR REGULATION ISSUED PURSUANT THERETO SHALL, IN ADDITION TO OTHER PENALTIES AS MAY BE PROVIDED BY LAW, UPON CONVICTION, BE PUNISHED BY A FINE OF UP TO FIFTY THOUSAND PESOS (P50,000.00): PROVIDED, THAT THE CONVICTION OR ACQUITTAL OBTAINED BY THE EMPLOYER SHALL NOT BE A BAR TO THE FILING BY FEMALE EMPLOYEE OF A CIVIL SUIT FOR THE PAYMENT OF SALARIES OR BENEFITS DUE HER.

THIS ARTICLE SHALL ALSO APPLY TO, OR BE IN FAVOR OF, AN EMPLOYEE BELONGING TO A GENDER-BASED MINORITY.

ANY EMPLOYEE OR PERSON WHO WILFULLY AIDS OR ABETS IN THE COMMISSION OF THE ACTS PROHIBITED HEREIN OR WHO CAUSES THE COMMISSION OF ANY SUCH ACTS BY ANOTHER SHALL BE LIABLE IN TIHE SAME MANNER AS THE EMPLOYER.”

SEC. 3. *Implementing Rules and Regulations.* - Within thirty (30) days from the effectivity of this Act, the Secretary of Labor and Employment, in consultation with the Tripartite Industrial Peace Council and other relevant stakeholders, shall issue the necessary rules and regulations to implement the provisions of this Act.

SEC. 4. *Separability Clause.* - If any provisions of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

SEC. 5. *Repealing Clause.* - All laws, executive orders, presidential decrees, presidential proclamations, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

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

Approved,