

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HB NO. 1415

Introduced by **Rep. Roseller L. Barinaga**

EXPLANATORY NOTE

It is a well-known fact that, in the Philippines and even in other advanced countries, a significant number of children are indiscriminately made to participate in economic activities at very young ages. Despite the difficult economic conditions expected to be experienced by these children in such situations, it cannot be denied that unscrupulous employers take advantage of their predicament – luring them to work in industries which are clearly hazardous even by adult standards, where they are practically forced to be engaged in every imaginable work and labor under questionable working conditions. While a few of these children have learned to disengage themselves from the grips of those abusers, the greater number have succumbed to the ill effects of such premature, hazardous and misguided employment.

Towards the noble goal of rectifying this undesirable situation on the part of Filipino working children, the State has adopted national and international legal instruments aimed at protecting our children from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development. Among these are the 1987 Philippine Constitution, the U. N. Convention on the Rights of the Child, the Labor Code of the Philippines, the Child and Youth Welfare Code, and the most recent law on the subject, the Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act (R.A. 7610). Although perceived as indispensable tools to achieve such desired full protection, they have not, strictly speaking, fully and sufficiently addressed the issue of hazardous work among children.

To plug this loophole, Republic Act No. 7658, otherwise known as “An Act Prohibiting the Employment of Children Below 15 Years of Age in Public and Private Undertakings” was enacted, specifically banning the hiring of children under 15 years old, except in certain exceptional cases. But even this law, which has significantly re-enforced the provisions of the Labor Code against the employment of minors, has notably failed to cover the imperative need, without exception, of prohibiting the employment of children in the 15-17 age category from all forms of hazardous and exploitative occupations and activities.

This bill, therefore, is being offered to cure those deficiencies. Its enactment will, in no small measure, strengthen our resolve and armor against the increasing horde of exploiters of child labor in our country.

Early passage of this bill is earnestly recommended.



ROSELLER L. BARINAGA
Representative
2nd District, Zamboanga del Norte

Congress of the Philippines)
Thirteenth Congress)
First Regular Session)

HOUSE OF REPRESENTATIVES

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AN ACT

PENALIZING THE EMPLOYMENT OF CHILDREN IN ANY PUBLIC OR PRIVATE UNDERTAKING OR OCCUPATION WHICH IS CONSIDERED HAZARDOUS TO HIS/HER LIFE, SAFETY, HEALTH AND MORALS, OR WHICH UNDULY INTERFERES WITH HIS/HER NORMAL DEVELOPMENT, AND FOR OTHER PURPOSES

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

SECTION 1. Declaration of State Policy. In recognition of the right of every child to a standard of living necessary for his/her physical, mental, spiritual, moral and social development, it is hereby declared the policy of the State to institute measures that will ensure their protection against economic exploitation and from having to perform any hazardous work or activity that will unduly interfere with his/her education, or is harmful to the child's physical, mental, spiritual, moral or social development. In pursuance of this policy, the State shall provide sanctions against the commission of the above identified prohibited acts and carry out a program for the prevention and deterrence of employment of children in any work, undertaking, project or program which are harmful to their morals or health or dangerous to life or likely to hamper their normal development.

SEC. 2. Definition of Terms. For purposes of this Act, the term:

(a) "Child" refers to any person below eighteen (18) years of age, or those over such age but unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition;

(b) "Employer" refers to any person, whether natural or juridical, which procures, uses, avails or contracts out the services of a child in any undertaking or occupation for profit or for any consideration;

(c) "Legal Guardian" refers to any person appointed by the Court to exercise parental authority over a child.

SEC. 3. Prohibitions. The following prohibitions shall be strictly enforced:

(a) No child shall be employed in any activity which is considered a hazardous undertaking by this Act; and that

(b) No child shall be employed in any occupation which is classified as hazardous for children by this Act, or as may be determined as such by the Secretary of Labor and Employment.

SEC. 4. "*Hazardous undertakings*" shall refer, but not limited, to the following circumstances:

(a) Any work, undertaking, project or program which exposes the child to dangerous environmental elements, contaminants or work conditions such as ionizing radiation, chemicals, fire, flammable substances, noxious components and the like;

(b) Any work, undertaking, project or program which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;

(c) Any work, undertaking, project or program which exposes the child to physical danger, such as but not limited to the dangerous feat of balancing, physical strength or contortion;

(d) Any work, undertaking, project or program where the child is exposed to power-driven or explosive power-actuated tools;

(e) Any work, undertaking, project or program where the child is exposed to biological agents, such as bacteria, fungi, viruses, protozoans, hematoads and other parasites, or to sub-human conditions; and

(f) Any work, undertaking, project or program where the child is engaged in the manufacture or handling of explosives and other pyrotechnic products.

SEC. 5. The following are classified as "Hazardous Occupations" for children:

I. FARMING, FISHING, HUNTING, LOGGING AND RELATED OCCUPATIONS

1. fisherman (deep sea and offshore);
2. divers (of sponge, pearl, and shell);
3. logging (as cutter, sawyer, stripper, cable installer, feller);
4. charcoal burners (big scale); and
5. operators of farm machines and equipment, and working in areas close to moving machines and equipment.

II. MINING, QUARRYING AND RELATED OCCUPATIONS

1. operators (of drilling and blasting machines, stone crushing equipment, conveyor, compressor, steam boiler, air receiver, gas cylinder, acetylene generator, oil exploration machines);
2. firing (with fuse, electricity);
3. stone splitter; and

4. underground, and similarly confined space workers.

III. TRANSPORT, COMMUNICATION AND NAVIGATIONAL OCCUPATIONS

1. drivers or operators of bulldozer, crane, pile driving equipment, trailer, road roller, tractor, lifting appliances, scaffold winch, hoist, excavator, loading machine, trucks, buses, jeepneys and taxis;
2. oilers and greasers of heavy machineries; and
3. traffic controllers and dispatchers.

IV. CRAFTSMAN, PRODUCTION PROCESSES AND RELATED OCCUPATIONS

1. occupations involved in the textile industry;
2. fiber and plastic preparers;
3. tool maker, machinist, plumber, welder, flame cutter and plater;
4. installer and repairer of telephone and telegraph;
5. electrical and electronic fitter;
6. occupations involved in the semiconductor industry;
7. linemen and cable joiner;
8. sawyer and woodworking machine setter and operator;
9. furnace man and kilnman in the manufacture of glass, ceramic and bricks;
10. handling and carrying of glass and metal sheets;
11. tanner;
12. blacksmith, hammersmith, foreman;
13. slaughtering and killing of hogs and large cattle (carabao, cow, horse); and
14. assorting, manufacturing or packing tobacco.

VI. CONSTRUCTION

Heavy work in the building trades (laborers/helpers in construction work; carrying mixtures, hollow blocks, bags of cement, etc.)

VII. SERVICE, SPORTS AND RELATED WORK

1. fire-fighters and guards;
2. ship stewards;
3. flight attendants;
4. bartenders;
5. bus conductors and conductresses;
6. hostesses, receptionists, guest relations officers, masseuses, taxi, dancers, stripteasers, a-go-go dancers, burlesque dancers, fe/male escorts for wo/men, bath house attendants, masseurs, macho dancers, and the like;
7. personal service in bars, cocktail lounges, motels, hotels, massage clinics and other drinking places;
8. janitors in bawdy houses;
9. lifeguards in swimming pools and resorts;
10. jockey and horse trainers;
11. judo-karate instructors;
12. embalmers and undertakers;

13. game table supervisors (dealers, groupers, bookies and bet takers),
14. stevedoring/dock work; and
15. lifting, carrying, handling and moving heavy loads.

The Secretary of Labor and Employment may from time to time update the list of what should be considered as hazardous occupations for children.

SEC. 6. Penalties. Any employer, parent, or legal guardian found to be violating the provisions of this Act, or any of its implementing rules and regulations, shall suffer the penalty of a fine of not less than ten thousand pesos (P10,000.00) but not more than five hundred thousand pesos (P500,000.00), or imprisonment of not less than six (6) months but not more than twelve (12) years, or both such fine and imprisonment at the discretion of the Court. In addition thereto, and without prejudice to the filing of civil or criminal charges against him, the offender shall render community service specifically geared towards the proper development of children.

The Secretary of Labor and Employment, or his duly authorized representatives, may, after due notice and hearing, order the closure of any business firm or establishment found to have repeatedly violated any of the provisions of this Act and its implementing rules and regulations. He may likewise order immediate closure of any of any such firm or establishment when the violated any of the provisions of this Act and its implementing rules and regulations. He may likewise order the immediate closure of any such firm or establishment when the violation of any provision of this Act or when non-compliance with its implementing rules and regulations has resulted in the death, insanity or serious physical injury of a child employed in such establishment.

In case of such closure, the employer shall be required to pay his/her employee their separation pay and other monetary benefits provided for by law.

SEC. 7. Implementing Rules and Regulations. The Department of Labor and Employment shall issue, within a period of ninety (90) days after the effectivity of this Act, the rules and regulations for its effective implementation.

It shall submit to the Committee on Labor and Employment of both Houses of Congress copies of such implementing rules and guidelines within (30) days after its promulgation.

Any unjustified violation of this Section shall render the officials concerned liable under R.A. 6713, otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees", and other existing administrative and/or criminal laws.

SEC. 8. Repealing Clause. All laws, presidential decrees, executive orders, presidential proclamation, rules and regulations or parts thereof contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 9. Separability Clause. If any part or provision of this Act is declared unconstitutional, the remaining parts or provisions not affected thereby, shall remain in full force and effect.

SEC. 10. *Effectivity.* This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of national circulation.

Approved.