

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FOURTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 445

Introduced by:
Rep. Raul V. Del Mar

EXPLANATORY NOTE

The Constitution is explicit and unequivocal in its command: The State "shall ensure the fundamental equality before the law of women and men," (Sec. 14, Art. II, Constitution) and shall provide "such facilities and opportunities that enhance their welfare and enable to realize their full potential in the service of the nation"(Sec. 14, Art. XIII).

Consistent with this constitutional mandate, the attached bill seeks to prohibit absolutely any act of employer or any person acting on behalf of the employer from discriminating directly or indirectly, against female employees or workers - or giving preference to male workers - in all matters pertaining to employment or employment opportunities and employment benefits. The prohibited act shall include announcements, publications or advertisements of any kind or any form that would have the effect of denying women equal employment opportunities on account of their being women.

The present environment is indisputably a highly competitive market. Job seekers, which include the underemployed and even those already employed seeking better pay, and employers, who have become demanding and strict in their hiring standards, contend with literally hundreds of employment applications for limited job vacancies. Already perceived to be the "weaker sex" despite what women have achieved in all major fields of endeavor - which already creates some kind of bias or discrimination against women - women find themselves in the competitive job market fighting, as it were, with a handicap that, not unexpectedly, diminishes their chances of employment. This has to be corrected.

A strictly statutory prohibition against any form of discrimination in matter of employment will go a long way in erasing all wrong perceptions out our working

women and female job applicants; it will inject some fairness in the playing field, and

force men and women to compete on an even keel. This absolute prohibition, will not only strengthen that prohibition against discrimination under existing laws but, more importantly, will send the clearest signal - because, of *Stiff penalties* provided for violation thereof - that this time the law means business.

It may be stressed that this bill passed on third and final reading in the House of Representatives during the Thirteenth Congress but was not approved by the Senate, for lack of time upon congressional adjournment.

In view of all the foregoing, approval of the Bill is earnestly requested.

RAUL V. DEL MAR

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AN ACT
EXPANDING THE PROHIBITED ACTS OF DISCRIMINATION AGAINST
WOMEN ON ACCOUNT OF SEX, AMENDING FOR THE PURPOSE
ARTICLES 135 AND 137 OF PRESIDENTIAL DECREE NO. 442, AS
AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE
PHILIPPINES

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

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

"ART. 135. Discrimination Prohibited. - It shall be unlawful for any employer or discriminate against any woman employee with respect to terms and conditions of employment solely on account of her sex.

"The following are acts of discrimination:

"(A) GIVING PREFERENCE TO A MALE APPLICANT OVER A FEMALE APPLICANT IN THE HIRING PROCESS, WHETHER THROUGH NOTICES, ANNOUNCEMENTS OR ADVERTISEMENTS FOR EMPLOYMENT OR APPRENTICESHIP OR IN THE ACTUAL RECRUITMENT, ADVERTISEMENTS FOR EMPLOYMENT OR APPRENTICESHIP OR IN THE ACTUAL RECRUITMENT, HIRING

OR EMPLOYMENT OF WORKERS WHERE THE PARTICULAR JOB CAN BE EQUALLY HANDLED BY A WOMAN;

"[(a)] **(B)** 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, for work of equal value; [and]

"[(b)] **(C)** 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[.]; **AND**

"(D) FAVORING A MALE EMPLOYEE OVER A FEMALE EMPLOYEE WITH RESPECT TO DISMISSAL OR PERSONNEL OR THE APPLICATION OF ANY RETRENCHMENT POLICY OF THE EMPLOYER SOLELY ON ACCOUNT OF THEIR SEXES."

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

"ART. 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 provide 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."**

SEC. 3. Penalties. - Any employer who commits or attempts in any manner to commit any of the acts herein prohibited shall, in addition to other penalties as may be provided by law, upon conviction hereof, be punished by a fine of not less than Fifty thousand pesos (P50,000.00), but not more than Two hundred thousand pesos (P200,000.00), and suffer imprisonment of not less than two years but not more than four

years: *Provided*, That the conviction or acquittal obtained by the employer shall not be a bar to the filing by the female employee of a civil suit for the payment of salaries or benefits due her.

Any employee or person who willfully 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 the same manner as the employer.

If the offender is not a Filipino citizen, he shall be deported immediately upon service of the sentence imposed herein. If he is a government official or employee, he shall be dismissed from the service and shall serve the maximum penalty prescribed for the offense.

In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president, general manager, branch manager or responsible officer responsible for the violation.

SEC. 4. 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 Council, shall issue and public the necessary rules and regulations to implement the provisions of this Act.

SEC. 5. Separability Clause. If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

SEC. 6. Repealing Clause. - All laws, executive orders, presidential decrees, presidential proclamation, rules and regulations or parts thereof consistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 7. Effectivity Clause. - This Act shall take effect fifteen (15) days upon its complete publication in the Official *Gazette* or in at least two newspapers of national circulation, whichever comes earlier.

Approved,