

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Constitution Hills, Quezon City

**SEVENTEENTH CONGRESS**  
First Regular Session

HOUSE BILL NO. 3556



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Introduced by Honorable Mark O. Go

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### EXPLANATORY NOTE

Cases of violation on the prohibition on labor-only contracting and what is commonly described and tagged as "5-5-5" or "endo" have become rampant and unabated for the past few years. Circumvention of the prohibition on labor-only contracting persists despite the provisions of the Labor Code and its implementing rules, DOLE Department Order 18-A.

These practices perpetuated by some contractors have developed a misconception and imputed a bad reputation on the whole manpower service industry as violator of workers' rights characterized by non-payment of proper wages, benefits and other incentives, and the execution of 5-month end of contract or "ENDO."

As of 2014, the Philippine Statistical Authority (PSA) estimated that there are 621,905 agency-hired workers employed in various business establishments in the Philippines. For the same year, records of the Integrated Survey on Labor and Employment (ISLE) showed an estimate of 21,650 (61.5%) of the establishments engaged the services of agency-hired workers.

The manufacturing industry hired the largest number of agency workers at 244,538 or 39.3% of total agency-hired workers reported. Nearly two-fifths (36.8% or 228,886) of total agency-hired workers were engaged in security and janitorial services. The next largest share of agency-hired workers is in wholesale and retail trade at 90,763 or 14.6%. Agriculture, forestry and fishing ranked next at 7.1% or 43,955. This was followed by accommodation and food service activities (7.0% or 43,354).

For 2016, the figure rose to an estimate of 2,000,000 contractor's employees. These figures covered those contractual workers who are employed under legitimate contractors registered with the Department of Labor and Employment (DOLE). As per DOLE records, there are now 5,600 legitimate service contractors registered with the Department.

According to a study by the Boston Consulting Group, service contracting has helped 61 million workers gain access to the international labor market. Service contracting is a worldwide trend.

The guiding principle of D.O.18-A provides: "Contracting and subcontracting arrangement are expressly allowed by law and are subject to regulations for the promotion of employment and the observance of the rights of workers to just and humane conditions of work, security of tenure, self-organization and collective bargaining."

It is the intent of this proposed measure to redefine and simplify job contracting and labor-only contracting under the term "outsourcing of work." Under this bill, outsourcing of work refers to the contracting out of work or service by an employer to a contractor or sub-contractor whose employees perform functions and activities which are directly or indirectly related to the principal business of the employer.

This bill seeks to regulate outsourcing of work by providing conditions for its practice and penalties for any violation.

The measure also seeks to resolve recurring problems in the practice of contractualization and to achieve a "win-win" situation for both the employees and employers, being essential components of a progressive economy, and as partners in attaining sustainable growth and development for the country.

This is an opportune time to do what is necessary and to make changes in the light of current global order that will be beneficial for our employees, employers, manpower service contracting industry and the economy.

Hence, immediate consideration and approval of this proposed measure is earnestly sought.



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**AN ACT**  
**REGULATING THE OUTSOURCING OF WORK AMENDING FOR THE PURPOSE**  
**ARTICLE 106 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 106 of Presidential Decree No. 442, as amended, is hereby further amended to read as follows:

“Article 106. *OUTSOURCING OF WORK BY A contractor or subcontractor.* Whenever an employer enters into a contract with another person for the performance of the former’s work, the employees of the contractor and of the latter’s subcontractor, if any, shall be paid in accordance with the provisions of this Code.

In the event that the contractor or subcontractor fails to pay the wages of his employees in accordance with this Code, the employer shall be jointly and severally liable with his contractor or subcontractor to such employees to the extent of the work performed under the contract, in the same manner and extent that he is liable to employees directly employed by him.

[The Secretary of Labor and Employment may, by appropriate regulations, restrict or prohibit the contracting-out of labor to protect the rights of workers established under this Code. In so prohibiting or restricting, he may make appropriate distinctions between labor-only contracting and job contracting as well as differentiations within these types of contracting and determine who among the parties involved shall be considered the employer for purposes of this Code, to prevent any violation or circumvention of any provision of this Code.]

[There is "labor-only" contracting where the person supplying workers to an employer does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and the workers recruited and placed by such person are performing activities which are directly related to the principal business of such employer. In such cases, the person or intermediary shall be considered merely as an agent of the employer who shall be responsible to the workers in the same manner and extent as if the latter were directly employed by him.]

"OUTSOURCING OF WORK" REFERS TO THE CONTRACTING OUT OF WORK OR SERVICE BY AN EMPLOYER TO A CONTRACTOR OR SUB-CONTRACTOR WHOSE EMPLOYEES PERFORM FUNCTIONS AND ACTIVITIES WHICH ARE DIRECTLY OR INDIRECTLY RELATED TO THE PRINCIPAL BUSINESS OF THE EMPLOYER.

THE PERIOD OF CONTRACT FOR OUTSOURCING OF WORK SHALL NOT BE LESS THAN ONE (1) YEAR AND MAY BE SUBJECT FOR RENEWAL. DURING THE PERIOD OF THE CONTRACT, AN EMPLOYER-EMPLOYEE RELATIONSHIP EXISTS BETWEEN THE EMPLOYEES AND CONTRACTOR OR SUB-CONTRACTOR. IN THE EVENT OF NON-PAYMENT OF WAGES, THE OBLIGATION OF THE EMPLOYER AND THE CONTRACTOR OR SUB-CONTRACTOR, AS PROVIDED UNDER THE SECOND PARAGRAPH OF THIS ARTICLE SHALL BE FOLLOWED.

OUTSOURCING OF WORK SHALL BE ALLOWED UNDER THE FOLLOWING CONDITIONS:

1. EMPLOYEES OF THE CONTRACTOR OR SUB-CONTRACTOR SHALL NOT EXCEED 20% OF THE TOTAL EMPLOYEES OF AN EMPLOYER OR COMPANY;
2. WITHIN THE PERIOD OF HIS CONTRACT, EMPLOYEES OF THE CONTRACTOR OR SUB-CONTRACTOR SHALL NOT BE TERMINATED WITHOUT JUST CAUSE AND DUE PROCESS, AS PROVIDED THIS DECREE;
3. FOR OUTSOURCING OF WORK, IN CASE OF NON-COMPLETION OF THE CONTRACT PERIOD DUE TO THE FAULT OF THE EMPLOYER, EMPLOYEES OF THE CONTRACTOR OR SUB-CONTRACTOR ARE ENTITLED TO RECEIVE SALARY UP TO THE LAST DAY OF THE CONTRACT;
4. AFTER COMPLETION OF THE WORK OR PROJECT, THE EMPLOYEES OF THE CONTRACTOR OR SUB-CONTRACTOR ARE ENTITLED TO RECEIVE A SEPARATION PAY EQUIVALENT TO 1/12 OF THE ANNUAL SALARY;

IN THE EVENT OF A RE-ASSIGNMENT OF THE EMPLOYEES OF THE CONTRACTOR OR SUB-CONTRACTOR TO ANOTHER

PROJECT OF THE SAME CONTRACTOR, ALL ASSIGNMENTS IN VARIOUS PROJECTS SHALL BE THE BASIS IN COMPUTING AND DETERMINING THE NUMBER OF YEARS OF SERVICE RENDERED BY THE EMPLOYEES.

5. THE EMPLOYEES OF THE CONTRACTOR OR SUB-CONTRACTOR ARE ENTITLED TO OTHER BENEFITS AND INCENTIVES PROVIDED BY EXISTING LAWS;
6. THE RIGHT TO ORGANIZE SHALL BE GUARANTEED BY THE CONTRACTOR OR SUB-CONTRACTOR; AND
7. THE CONTRACTOR OR SUBCONTRACTOR SHALL PROVIDE SKILLS COMPETENCY AND TRAINING PROGRAM FOR THE EMPLOYEES.

TO ENSURE COMPLIANCE TO THE PROVISIONS OF THIS ACT, THE CONTRACTOR OR SUB-CONTRACTOR ENGAGED IN OUTSOURCING OF WORK MUST BE REGISTERED WITH THE DEPARTMENT OF LABOR AND EMPLOYMENT WHICH SHALL EXERCISE ITS VISITORIAL POWER IN THE WORKPLACE OF THE EMPLOYEES OF THE CONTRACTOR OR SUB-CONTRACTOR."

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**Section 2.** Article 288 of the same Decree, as amended, is hereby further amended to be read as follows:

"Article 288. *Penalties.* - XXX

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A CONTRACTOR OR SUBCONTRACTOR WHO IS GUILTY OF VIOLATING ARTICLE 106 OF THIS DECREE SHALL BE IMPOSED THE PENALTY OF FIFTY THOUSAND PESOS TO ONE MILLION PESOS TO BE DETERMINED BY THE COURT.

FOR THE SECOND OFFENSE, THE CONTRACTOR OR SUB-CONTRACTOR SHALL BE IMPOSED THE PENALTY OF ONE HUNDRED THOUSAND PESOS TO TWO MILLION PESOS TO BE DETERMINED BY THE COURT AND SHALL BE SUBJECTED TO THE REVOCATION OF LICENSE TO OPERATE AN OUTSOURCING BUSINESS.

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**Section 3. Repealing Cause.** - All laws, decrees, executive orders, letters of implementations, rules and regulations or part or parts thereof inconsistent with any provision of this Act are hereby repealed, modified, superseded or amended accordingly.

**Section 4. 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, whichever comes earlier.

*Approved,*