

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **5843**



INTRODUCED BY Hon. John Marvin "Yul Servo" Nieto, Hon. Edward Vera Perez Maceda, Hon. Dale "Along" R. Malapitan, and Hon. Eric M. Martinez

EXPLANATORY NOTE

Article XIII, Section 2 of the 1987 Constitution provides that,

"The promotion of Social Justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance."

Further, it is also provided under Article II, Section 18 that,

"The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare."

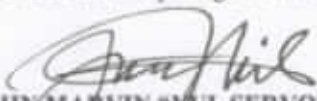
It is then the duty of the State to make sure that the welfare of the work force will not be compromised by the changing demands of the companies and the society.

This piece of legislation aims to protect the rights of employees engaged in telecommuting, a flexible work arrangement or alternative work schedule in which an employee may spend part or all the regular work week at a location other than the employer's office, which does not require commute or travel by public transportation to a central place of work. Encouraging new and alternative modes of work arrangement such as telecommuting is very timely considering the worsening traffic situation in Metro Manila and increasingly unpredictable weather.

This piece of legislation does not, in any way, change employment status. It also does not compel companies to reclassify their employees. It only affirms and ensures the rights of telecommuting employees — that they are given fair treatment and be afforded the same protection and privileges as those given to employees that are within the premises of the employer.


To this end, the State also recognizes the indispensable role of the private sectors and they will not be prejudiced by the implementation of this policy.

Hence, the immediate passage of this bill is earnestly sought.


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AN ACT INSTITUTIONALIZING TELECOMMUTING IN THE WORKPLACE AND FOR OTHER PURPOSES

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

SECTION 1. TITLE. This act shall be known as the "Telecommuting Act of 2017"

SECTION 2. Declaration of Policy: It is hereby the policy of the State to affirm labor as a primary social economic force. To this end, it shall protect the rights of workers and promote their welfare, especially in light of technological development that has opened up new and alternative avenues for employees to carry out their work such as telecommuting and other flexible work arrangements.

SECTION 3. Telecommuting Defined. For purposes of this Act, the term "telecommuting" means a work arrangement or alternative work schedule in which an employee may spend part or all the regular work week at a location other than the employer's office, which does not require commute or travel by public transportation to a central place of work.

SECTION 4. Telecommuting Program. Employers shall be allowed to offer telecommuting program to its employees upon such terms and conditions as they may mutually agree. In all cases, the employer shall provide the telecommuting employee with relevant written information in order to adequately apprise him/ her of his/ her responsibilities.

SECTION 5. Fair treatment. The employer shall ensure that its telecommuting employees are given the same treatment as that of comparable employees working at the employer's premises. The employer shall ensure, among others, that telecommuting employees shall:

- a.) Receive rate of pay, including overtime and night shift differential pay, and other similar monetary benefits not lower than applicable legislation and collective agreements;
- b.) Have the same or equivalent workload and performance of standards of the telecommuting employee;
- c.) Have the same access to training and career development opportunities as comparable workers at the employer's premises and are subject to the same appraisal policies as these workers;
- d.) Receive appropriate training targeted at the technical equipment at their disposal and at the characteristics of this form of work organizations; and
- e.) Have the same collective rights as workers at the employer's premises and no obstacles are place to communicating with workers representatives;

The employer shall also ensure that measures are taken to prevent the telecommuting employee from being isolated from the rest of the working community in the company, as giving him/ her the opportunity to meet with colleagues on a regular basis and access to company information.

SECTION 6. Data Protection. The employer shall be responsible for taking the appropriate measures with regard to software to ensure the protection of data used and processed by the telecommuting employee for professional purposes. The employer shall inform the telecommuting employee of all relevant legislation and company rules concerning data protection. The telecommuting employee shall ensure that confidential and proprietary information are protected at all times.

For this purpose, the provision of Data Privacy Act of 2013 shall have supplementary effect.

SECTION 7. Administration. The parties to the telecommuting work arrangements shall be primarily responsible for its administration. In case of differences in interpretation, the following guidelines shall be observed:

- a.) If there is no grievance mechanism or if this mechanism is inadequate, the grievance shall be referred to the Regional Office of the Department of Labor and Employments (DOLE) which has jurisdiction over the workplace for appropriate conciliation.
- b.) To facilitate the resolution of grievances, employers are required to keep and maintain as part of their records, the documentary requirements proving that the telecommuting work arrangement was voluntarily adopted.

SECTION 8. Telecommuting Pilot Program. The DOLE shall establish and maintain a Telecommuting Pilot Program in select industries, which shall last for a period of not more than three (3) years. The DOLE shall be responsible for baselining, scoping, and profiling research work prior to implementation, regular quarterly monitoring and evaluation. At the end of the period of the program, the DOLE shall submit a report to the Congress.

SECTION 9. Implementing Rules. Within 60 days from the effectivity of this Act, the Department of Labor and Employment shall, in consultation with relevant stakeholders, issue the appropriate implementing rules and regulations of this Act.

SECTION 10. Separability Clause. If any part of provision of this Act shall be declared unconstitutional and invalid, such declaration shall not invalidate other parts thereof which shall remain in full force and effect.

SECTION 11. Repealing Clause. All laws, executive orders, rules and regulations or any part hereof inconsistent herewith are deemed repealed or modified accordingly.

SECTION 12. Effectivity. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspaper of general circulation, whichever comes earlier.

Approved,