

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2183

HOUSE OF REPRESENTATIVES

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INTRODUCED BY CONGRESSMAN ALFRED VARGAS

EXPLANATORY NOTE

Article III Section 18 of the 1987 Constitution provides that:

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

This State policy is further espoused in Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines:

The State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers. (Article 3)

It is, therefore, the responsibility of the Philippine State to eliminate any kind of discrimination at work. This includes treating men and women fairly and solely on the basis of their merit or the requirement of the job, irrespective of such personal characteristics like sex, gender identity, and sexual orientation.

However, this is not the case as many employers demonstrate indirect discrimination by publishing job advertisements that express a preference for or discourages someone from applying because of his or her sex (e.g., *Help Wanted: Cashiers, preferably female with pleasing personality*).

This bill seeks to prohibit gender discrimination in employment advertising by providing guidelines, enumerating the unlawful practices and imposing penalties for violations.

To ensure that all Filipino workers, regardless of their sex and gender identity, pursue their holistic development in conditions of freedom and dignity, and of economic security and equal opportunity, the passage of this bill is urged.


ALFRED VARGAS

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AN ACT
TO PROHIBIT GENDER DISCRIMINATION IN EMPLOYMENT ADVERTISING

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

SECTION 1. *Short Title.* – This Act shall be known as the “Anti-Gender Discrimination in Employment Advertising Act”.

SECTION 2. *Declaration of Policy.* – It is the policy of the State to ensure equality of men and women by prohibiting gender discrimination in job opportunity advertising.

SECTION 3. *Definition of Terms.* – For purposes of this Act, the term:

- a. “Employer” includes any person acting in the interest of an employer, directly or indirectly. The term shall not include any labor organization or any of its officers or agents except when acting as employer.
- b. “Labor Organization” means any union or association of employees that exists in whole or in part for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment.
- c. “Private Employment Agency” means any person or entity engaged in the recruitment and placement of workers for a fee which is charged, directly or indirectly, from the workers or employers or both.
- d. “Recruitment and Placement” refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, procuring workers and other similar acts, and includes referrals, locally or abroad, whether for profit or not: Provided, That any person or entity which, in any manner, offers or promises, for a fee, employment to two or more persons shall be deemed engaged in recruitment and placement.

SECTION 4. *Prohibited Acts.* –

- a. It shall be an unlawful discriminatory practice for any employer, whether for profit or not, any labor organization or any private employment agency to print, circulate, or publish or cause to be printed, circulated or published any statement, circulation or publication relating to employment by such an employer or membership in or any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification or discrimination, based on sex, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on sex is a bonafide occupational qualification for employment.
- b. It shall be an unlawful discriminatory practice for any person to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this section or to attempt to do so.

SECTION 5. *Certification of Exemption.* - The Department of Labor and Employment shall have the power and duty to certify upon request of any person that a particular occupation or position is exempt from the provisions of this Act relating to unlawful employment practices if the Department of Labor and Employment finds that the occupation or position reasonably requires the employment of a person or persons of a particular sex and that such certification is not sought as means of circumventing the spirit and purpose of this Act.

SECTION 6. *Guidelines.* - The placement of an advertisement in columns classified by publishers on the basis of sex, such columns headed "Male" or "Female" will be considered an expression of preference, limitation, specification or discrimination based on sex provided that the advertisement shall contain a sufficient notice that it is considered by the exemption to be determined by the Department of Labor and Employment as provided for in Section 5 hereof.

SECTION 7. *Prevention of Unlawful Employment Practices.* - Whenever it is charged in writing under oath by a person claiming to be aggrieved, or a written charge has been filed by the Department of Labor and Employment or its authorized representative where there is a reasonable cause to believe, that a violation of this Act as occurred that an employer, private employment agency or labor organization has engaged in an unlawful employment practice, the Department of Labor and Employment shall furnish such employer, private employment agency, or labor organization with a copy of such charge and make an investigation of such charge, Provided, That such charge shall not be made public by the Department of Labor and Employment.

If the Department of Labor and Employment shall determine after such investigation, that there is a reasonable cause to believe that the charge is true, the Department of Labor and Employment, shall endeavour to eliminate any such alleged unlawful employment practice.

SECTION 8. *Regulations.* - The Department of Labor and Employment (DOLE) shall promulgate rules and regulations to implement the provisions of this Act.

SECTION 9. *Scope.* – The provisions of this Act shall apply only to employment advertising by private employer, labor organization, private employment agency and other private entities.

SECTION 10. *Penalties.* – Any violation of this Act shall be punished with a fine of not less than fifty thousand pesos (P50,000.00) or imprisonment of not less than three (3) months or both, at the discretion of the court. If the offense is committed by a corporation, trust, firm, partnership or association or other entity, the penalty shall be imposed upon the guilty officer or officers of such corporation, trust, firm, partnership or association or entity.

SECTION 11. *Repealing Clause.* – All laws, decrees, orders, rules and regulations or other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 12. *Separability Clause.* – If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in force and effect.

SECTION 13. *Effectivity* – This Act shall take effect after fifteen (15) days following the completion of its publication either in the Official Gazette or in a newspaper of general circulation.

Approved,