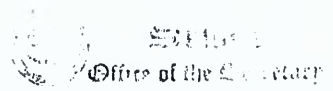
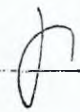


NINETEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*First Regular Session* )



'22 JUL 13 A10 :12

**SENATE**  
S. No. 464

RECEIVED BY 

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**Introduced by SENATOR JINGGOY EJERCITO ESTRADA**

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**AN ACT**  
**ENSURING THE OCCUPATIONAL HEALTH, SAFETY AND WELFARE OF**  
**BUSINESS PROCESS OUTSOURCING (BPO) WORKERS AND OTHER**  
**SIMILARLY SITUATED PROFESSIONALS**

**EXPLANATORY NOTE**

Article XIII, Section 3 of the 1987 Constitution provides that, "The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equal employment opportunities for all. It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law."

The Business Process Outsourcing (BPO) is one of the industries that provided substantial employment opportunities to our people. When the COVID-19 pandemic disrupted the economic activities of our people, the BPO industry remained steadfast, even generating a 1.4% increase in revenue in 2020 and hired 1.8% more employees during the same year according to the data from the IT and Business Process Association of the Philippines (IBPAP).

However, the work-related challenges faced by BPO workers remain. Unfair workload assignments, poor work environment, stressful nature of the job, and

graveyard shifts are among their common complaints. These conditions result to low employee morale, frequent absenteeism, and high attrition rate.

Republic Act No. 11058 or "An Act Strengthening Compliance with Occupational Safety and Health Standards and Providing Penalties for Violations Thereof" was enacted on August 17, 2018 to protect workers against injury, sickness or death through safe and healthful working conditions. This law applies to all workers in all industries in the country, except in public sector. While this law is instrumental in protecting the welfare of BPO workers, their distinct work schedule and conditions demand for an industry-specific occupational and health standards.

The Business Process Outsourcing – Industry Tripartite Council (BPO-ITC) of the National Capital Region adopted the "Voluntary Code of Good Practices in the BPO-ITC Industry" on September 8, 2016 to provide basic information on labor relations and labor standards, and more importantly, to ensure occupational safety and health. The enactment of a law for this purpose will undoubtedly be beneficial to all stakeholders.

The "*BPO Workers Health and Safety Act of 2022*" seeks to address these issues by ensuring a safe and healthy work environment for employees through the formulation of higher standards of occupational health and safety for the BPO industry. In relation to this, the Department of Labor and Employment (DOLE) is mandated to establish the Occupational Health and Safety Standards and Regulations for BPO workers which is in line with the recommendations of the International Labor Organization (ILO).

In view of the foregoing, the immediate passage of this measure is earnestly requested.

  
**JINGGOY EJERCITO ESTRADA**

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

1 Section 1. *Short Title.* – This Act shall be known and cited as the “*BPO Workers*  
2 *Health and Safety Act of 2022*”.

3 Sec. 2. *Declaration of Policy.* – It is hereby declared policy of the State to secure  
4 the health, safety and welfare of the BPO or call center workers and others similarly  
5 employed. The State must ensure safe and healthy work environment for call center  
6 employees that protects them from injury and illness and that is adapted to their  
7 physiological and psychological needs. The State shall formulate and mandate  
8 progressively higher standards of occupational health and safety to account for  
9 changes in technology and work practices. All call centers operation in the country  
10 must adhere to the following principles of health and safety protection for the mutual  
11 benefit of the employees and employers:

- 12 a.) The importance of health and safety requires that employees, other persons  
13 at work and members of the public be given the highest level of protection  
14 against risks to their health and safety that is reasonably practicable in the  
15 circumstances.
- 16 b.) Persons who Control or manage matters that give rise or may give rise to  
17 risks to health or safety are responsible for eliminating or reducing those  
18 risks so far as reasonably practicable.

1 c.) Employers have a duty to secure the health, safety and welfare of  
2 employees and third persons working at or near their workplace. This  
3 general duty requires employers to actively prevent risks arising out of their  
4 business activities and extends to protecting both employees and  
5 independent contractors.

6 d.) Employers and self-employed persons should be proactive, and take all  
7 reasonably practicable measures, to ensure health and safety at workplace  
8 and in the conduct of undertakings.

9 e.) Employers and employees should exchange information and ideas about  
10 risks to health and safety and measures that can be taken to eliminate or  
11 reduce those risks.

12 f.) Employees are entitled, and should be encouraged, to be represented in  
13 relation to health and safety issues.

14 *Sec. 3. Definition of Terms.* – For purposes of this Act, the following terms shall  
15 be understood as follows:

16 a.) *Business Process Outsourcing (BPO)* is defined as the delegation of service-  
17 type business processes to a third-party service provider. It is generally  
18 divided into the following sectors: contact centers, back office services, data  
19 transcription, animation, software development, engineering development  
20 and game development. Most BPO companies engage in shift work to  
21 complete their 24-hour work cycle.

22 b.) *Call Center* also known as contact center, refers to a central customer  
23 service operation where agents – customer care specialists or customer  
24 service representatives – handle business-related telephone calls and other  
25 IT-related non-voice activities in behalf of a client.

26 c.) *Employer* includes any person or enterprise acting directly or indirectly in  
27 the interest of an employer, in relation to an employee, and shall include  
28 government-owned or controlled corporations and institutions, as well as  
29 non-profit private institutions or organizations. Indirect employers or  
30 contractors shall be considered “employers” in this Act.

31 d.) *Employee* shall mean any person hired, permitted or suffered to work by an  
32 employer.

- 1 e.) *Health* shall connote a sound state of the body and mind of the worker,  
2 which enables him to perform his job normally, in a state of well-being.
- 3 f.) *Safe or Safety* shall refer to the physical or environmental conditions of work  
4 or employment, which substantially comply with the provisions of the  
5 Standards.
- 6 g.) *Work Accident* shall mean an unplanned or unexpected occurrence that may  
7 or may not result in personal injury, property damage, work stoppage or  
8 interference or any combination thereof, which arises out of and in the  
9 course of employment.
- 10 h.) *Work Injury* shall mean any tiny injury or occupational illness suffered by a  
11 person, which arises out of or in the course of his employment.
- 12 i.) *Occupational Illness* means any illness caused by environmental factors, the  
13 exposure to which is characterized or peculiar to a particular process, trade  
14 of occupation and to which an employee or worker is not ordinarily  
15 subjected to or exposed outside of or away from such employment.
- 16 j.) *Workplace* means the office premises or work site, where the workers are  
17 habitually employed and shall include the office or place where the workers,  
18 who have no fixed or definite work site, regularly report for assignment in  
19 the course of their employment.
- 20 k.) *Approved* shall mean acceptable to the Secretary in writing after proper  
21 examination showing compliance with prescribed Standards.
- 22 l.) *Code* shall mean the Labor Code of the Philippines promulgated by virtue of  
23 Presidential Decree No. 442, as amended.
- 24 m.) *Agencies* shall mean government agencies mandated to monitor,  
25 administer, promote, and ensure health and safety regulations and  
26 standards. These agencies are the Department of Labor and Employment,  
27 Bureau of Working Conditions, Employees Compensation Commission and  
28 Occupational Safety and Health Center.
- 29 n.) *Department* shall mean the Department of Labor and Employment.
- 30 o.) *Secretary* shall mean the Secretary of Labor and Employment.
- 31 p.) *Bureau* shall mean the Bureau of Working Conditions
- 32 q.) *Director* shall mean the Director of the Bureau of Working Conditions

1 r.) *Standards* shall mean the Occupational Safety and Health Standards and  
2 regulations.

3 s.) *Enforcement Officer* shall mean the industrial safety engineer, the labor  
4 regulation officer, or any duly authorized representatives of the Secretary  
5 to enforce these standards.

6 t.) *Authorized Representative* shall mean and include chartered cities,  
7 municipalities, employees or officials of other government agencies  
8 empowered by the Secretary of Labor and Employment to enforce the  
9 provisions of the Standards.

10 u.) *Workplace Occupational Health and Safety Representative* as defined in  
11 Section 7 of this Act.

12 v.) *Registered Interested Party* shall mean any duly registered non-stock non-  
13 profit organization advocating occupational health and safety (OHS).

14 w.) *Shift Work* shall mean the employment practice designed to make use of  
15 the 24 hours of the clock. Employees are given schedules which correspond  
16 to a 24-hour work cycle. The term shift work includes both long-term night  
17 shifts and work schedules in which employees change or rotate shifts.

18 *Sec. 4. Occupational Health and Safety Standards and Regulations for BPO*  
19 *Workers.* – Pursuant to its mandate, the Department of Labor and Employment is  
20 tasked to establish Occupational Health and Safety Standards for BPO work.

21 The Standards shall adhere to the prevailing standards of health and safety for  
22 BPO work and other similar employment. It is imperative that the minimum provisions  
23 in the Standards meet the International Labor Organization's recommendations.  
24 Further provisions which the Agencies and the concerned parties deem appropriate  
25 for the protection of the workers in the local setting should be included. The Standards  
26 should be reviewed annually by the agencies, workplace OHS representatives and  
27 registered interested parties.

28 *Sec. 5. The Nature of BPO Night-Shift Work.* – Establishments engaged in shift  
29 work to complete their 24-hour work cycle expose their employees to health and  
30 security risks, thus night-shift work is considered hazardous in this Act. The erratic  
31 schedule, repetitive work, and artificial daytime environment which the employees are  
32 subjected to cause undue physical and psychological stress on BPO workers.

1            *Sec. 6. Compliance of the Standards.* –The Standards shall be strictly enforced  
2 in all establishments operating in the country. Compliance to the provisions of the  
3 Standards shall be mandatory.

4            *Sec. 7. Guidelines for the implementation of Standards.* –The agencies and the  
5 workplace OHS representatives shall regularly monitor the implementation of the  
6 Standards.

7            a.) The Department through its enforcement officers shall administer and  
8 enforce the provisions of the Standards.

9            b.) Every employer shall give to the Secretary or his duly authorized  
10 representative access to its premises and records for the purpose of  
11 determining compliance with the provisions of the Standards.

12           c.) Every establishment or place of employment shall be inspected at least once  
13 a year to determine compliance with the provisions of the Standards. Special  
14 inspection visits however, may be authorized by the Regional Labor Office  
15 or as authorized under Rule 1980 of the Labor Code, to investigate  
16 accidents, occupational illnesses or dangerous occurrences, especially those  
17 resulting in permanent total disability or death, to conduct surveys of  
18 working conditions requested by the Bureau for the purpose of evaluating  
19 and assessing environment contaminants and physical conditions or to  
20 conduct investigations, inspections or follow-up inspections upon request of  
21 an employer, worker or a labor union of the establishment.

22           d.) The enforcement officer shall determine reasonable periods of compliance  
23 with recommendations depending on the gravity of the hazards needing  
24 corrections or the period needed to come into compliance with the order.

25           e.) In case the establishment fails to comply with the Standards to the imminent  
26 danger of the workers, the enforcement officer can immediately suspend  
27 operations in order to prevent injuries, pending compliance by the  
28 establishment.

29           f.) The workplace occupational health and safety committee shall have  
30 monitoring rights and can also recommend and declare suspension of  
31 operations in the event that the safety and welfare of workers are deemed  
32 compromised as stated in Section 7, B, of the Act.

1           Sec. 8. *Workplace Occupational Health and Safety Officer.* – An OHS  
2 representation is to be elected for the purposes of consultation and monitoring of the  
3 Standards if at least one of the persons employed by the employer requests the  
4 election of the representative. The employees may elect more than one OHS  
5 representative upon approval by the Department.

6           A. Election of workplace OHS representative.

7           (1) A workplace OHS representative is to be elected by the workers.

8           (2) A person is –

9           (a) Only eligible to be elected as a workplace representative if he or she  
10           is an employee; and

11           (b) Not eligible to be elected as a health and safety representative if he  
12           or she is disqualified under section 56 from acting as a health and  
13           safety representative.

14           (3) All employees are entitled to vote in an election.

15           (4) The employees and the employers may determine how an election is to  
16           be conducted but, if they do not reach agreement within a reasonable  
17           time, any employee may ask the Department to arrange for an  
18           enforcement officer to-

19           (a) Conduct the election; or

20           (b) If the inspector considers it appropriate, appoint another person to  
21           conduct the election.

22           (5) An election must be conducted in accordance with the procedures (if  
23           any) prescribed by the regulations.

24           (6) If the number of candidates for election as a health and safety  
25           representative equals the number of vacancies, the election need not be  
26           conducted and each candidate is to be taken to have been elected as a  
27           health and safety representative for the designated work group.

28           B. Functions of workplace OHS representative. An OHS committee or an OHS  
29           representative has the following functions:

30           (1) To keep under review the measures taken to ensure the health, safety  
31           and welfare of persons at the place of work,



1 (2) To investigate any matter that may be a risk to health and safety at the  
2 place of work,

3 (3) To attempt to resolve the matter but, if unable to do so, to request an  
4 investigation by an inspector for that purpose, and

5 (4) Such other functions as are prescribed by the regulations

6 The workplace OHS representative may file a petition for a time off pay to the  
7 enforcement officer. The time off may be for attending courses as required by  
8 appropriate agencies and for conducting investigations on matters relating to his  
9 duties as a workplace OHS representative. The enforcement officer shall determine  
10 the amount of time off commensurate to the task being performed.

11 C. Powers of the workplace OHS representative. A health and safety  
12 representative may do any of the following:

13 (1) Inspect any part of a workplace

14 (a) At any time after giving reasonable notice to the employer concerned  
15 or its representative; and

16 (b) Immediately in the event of an incident or any situation involving an  
17 immediate risk to the health or safety of any person;

18 (2) Accompany an inspector during inspection of a workplace at which a  
19 member of the designated work group works;

20 (3) Require the establishment of a health and safety committee to assist in  
21 the monitoring if a situation is necessitated;

22 (4) Under extra ordinary circumstances, the representative may give notice  
23 to the employer and the enforcement officer for the suspension of  
24 workplace operation if the welfare and safety of the employees are at  
25 risk. The notice must be acted upon by the employer and the  
26 enforcement within 24 hours so as to prevent endangering the lives of  
27 the workers; and,

28 (5) Assist or submit in behalf of the injured and ill employee, or his  
29 beneficiaries in case of death, compensation claims to the Employees  
30 Compensation Commission (ECC).

31 Sec. 9. *Workplace Policy on Occupational Health and Safety.* – Each  
32 establishment shall formulate their own occupational health and safety policy which

1 adheres to the Standards as defined in Section 4 of this Act. Any additional safety  
2 measure deemed appropriate to the nature of the localized work environment may  
3 also be included pending approval by the Bureau. The policy must be reviewed  
4 annually by the employers, the workplace OHS representatives and the authorized  
5 representative.

6 All employees shall be informed of the OHS policy. Informational materials such  
7 as posters, brochures and similar devices shall be distributed to the employees free of  
8 charge.

9 *Sec. 10. Health Program.* – The company physician shall, in addition to his  
10 duties stated in the Labor Code, develop and implement a comprehensive occupational  
11 health program for the benefit of the employees of his employer.

12 *Sec. 11. Health Insurance.* – All employees are entitled to free medical  
13 examination upon entry and annually during his tenure of employment. The  
14 establishment shall provide full health insurance to the employees, the coverage of  
15 which shall be agreed upon by the company and its employees.

16 *Sec. 12. Work-Related Injuries, Sickness and Death Compensation.* – All  
17 employees and their dependents shall also be compensated for injuries, medical  
18 complications, illness, disability and death arising from and related to their work in  
19 accordance to existing laws, labor policies, guidelines or circular as the case may be.  
20 The Employees Compensation Commission shall promptly process any claims for/by  
21 injured, disabled, deceased employees or their dependents.

22 *Sec. 13. Independent Contractors.* – Articles 106 of the Labor expressly  
23 prohibits the “labor only” contracting. Employers engaging independent contractors to  
24 perform work on their behalf have a duty to minimize the health and safety risks to  
25 the contractor’s employees. This is because they are deemed to be employees for the  
26 purposes of the Act; and because employers have a duty to protect third parties at or  
27 near their workplace. A failure to maintain a safe workplace for contractors’ employees  
28 may constitute a contravention of the employer’s general duty under the Act.

29 *Sec. 14. Penal Provision.*

30 (a) Unless otherwise provided in any Chapter or section in the Code, any  
31 person or establishment who shall violate, disobey, refuse, omit or  
32 neglect to comply with any of the rules and regulations promulgated

1 under this Act shall have a criminal liability and upon conviction shall  
2 be punished by imprisonment for a period no exceeding six (6) years  
3 and a fine not less than One Hundred Fifty Thousand Pesos (Php  
4 150,000.00) depending upon the discretion of the court.

5 (b) Any person who shall interfere with or hinder, or oppose any officer,  
6 agent or member of the Department or of the Bureaus and offices  
7 under it, in the performance of his duty as such under this Code, or  
8 shall tear down, mutilate, deface or alter any placard, or notice,  
9 affixed to the punishable upon conviction by imprisonment for an  
10 exceeding six (6) months and a fine not less than Fifty Thousand  
11 Pesos (Php 150,000.00) and not more than One Hundred Thousand  
12 Pesos (Php 100,000.00) per day for each violation depending upon  
13 the discretion of the court.

14 (c) In case of injury, illness or death due to violation, disobedience,  
15 refusal, omission or neglect to comply with the Standards and  
16 regulations in this Act, the employers and/or establishment shall have  
17 a criminal liability and shall be punished by imprisonment and  
18 penalties applicable under the Republic Act 3815 also known as the  
19 Revised Penal Code.

20 *Sec. 15. Separability Clause.* – If any portion or provision of this Act is declared  
21 unconstitutional, the remainder of this Act or any provisions not affected thereby shall  
22 remain in force and effect.

23 *Sec. 16. Repealing Clause.* – Any law, presidential decree or issuance, executive  
24 order, letter of instruction, rule or regulation inconsistent with the provisions of this  
25 Act is hereby repealed or modified accordingly.

26 *Sec. 17. Effectivity.* – This Act shall take effect after fifteen (15) days following  
27 its complete publication in the Official Gazette or a newspaper of general circulation.

*Approved,*