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SENATE

Senate Bill No. 136

INTROD BY: *Ji*

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Youth unemployment has been one of the major concerns of the government. In 2009, half (50.8%) of the 2.83 million unemployed persons were young people, indicating that the face of unemployment in the Philippines is getting younger. Due to inadequate employment opportunities in the formal economy, limited labor market information and inadequate academic preparation, the mismatch between jobs and skills compounds the problem of high unemployment level among the youth and educated.

The government recognizes the importance of the apprenticeship programs in providing the youth with skills and access to employment. On the other hand, industry associations see the apprenticeship program as a mechanism that would ensure a continuous supply of skilled workers. The number of enterprises participating in the program and the number of enrolled apprentices, however, remains to be relatively small and has been increasing at a very slow pace.

There is thus a need to institute further reforms and conduct massive advocacy on the apprenticeship program to make them more attractive to both the enterprises and the prospective apprentices, in a fervent bid to promote skills acquisition and youth employment. Hence, passage of this important measure as a special law is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator



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AN ACT
REFORMING THE NATIONAL APPRENTICESHIP PROGRAM AND
PROVIDING STANDARDS FOR THE TRAINING AND EMPLOYMENT OF
APPRENTICES, AND REGULATORY STANDARDS FOR ACCREDITATION
OF APPRENTICESHIP PROGRAMS

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

1 **SECTION 1. Short Title.** – This Act shall be known as the “Apprenticeship
2 *Training Act of 2013*”.

3
4
5 **SEC. 2. Declaration of Policy.** – It is hereby declared the policy of the state to
6 establish a reformed apprenticeship program that will ensure the availability of
7 qualified manpower in critical and in-demand skills through the participation of
8 employers, workers and government and non-government agencies.

9
10
11 **SEC. 3. Statement of Objectives.** – The aims of this Act include:

- 12
13 a. To help meet the demand of the economy for trained human resource;
- 14
15 b. To have a national apprenticeship program that includes on and off
16 the-job training components with tripartite involvement;
- 17
18 c. To promote full employment of youth and young workers through
19 training and development;
- 20
21 d. To enhance existing standards for the training, development and
22 employment of apprentices;
- 23
24 e. To recognize indispensable role of private enterprises in training and
25 development;
- 26
27 f. To strengthen advocacy of the apprenticeship training program to
28 encourage enterprise and young workers’ participation;
- 29
30 g. To increase productivity and competitiveness of enterprises by
31 ensuring availability of skilled human resource; and,

- 1
2 h. To harness Corporate Social Responsibility (CSR) towards the
3 development of skilled manpower to meet the requirements of the
4 industries.
5
6

7 **SEC. 4. Definition of Terms.** = For purposes of this Act, the following terms
8 shall mean:
9

- 10 1. **Apprenticeship** – is training within employment with compulsory
11 related theoretical instructions involving a contract between an
12 apprentice and an employer on an approved apprenticeable
13 occupation;
14
15 2. **Apprentice** – is a person undergoing training for an approved
16 apprenticeable occupation during an established period assured by
17 an apprenticeship contract;
18
19 3. **Apprenticeship Contract**– is an agreement wherein a prospective
20 employer binds itself to train the apprentice who in turn accepts the
21 terms of training for the recognized apprenticeable occupation and
22 emphasizing the rights, duties and responsibilities of each party;
23
24 4. **Apprenticeable Occupation** – is an occupation officially endorsed
25 by a tripartite body and approved for apprenticeship by TESDA;
26
27 5. **Authority** – refers to the Technical Education and Skills
28 Development Authority (TESDA);
29
30 6. **Board** – shall refer to the TESDA Board;
31
32 7. **Certificate of TVET Program Registration** – a document issued by
33 TESDA granting an authority to an enterprise to offer a program in an
34 apprenticeable occupation;
35
36 8. **Competency Assessment** – the process of gathering and judging
37 evidence in order to decide whether a person has achieved a
38 standard of competency or competence;
39
40 9. **Training Plan** – the specification for the apprenticeship program for
41 the specific enterprise which describes all the learning experience a
42 student undergoes, generally including the competencies to be
43 acquired within the program, the underpinning knowledge, theories
44 and principles and the assessment arrangement;
45
46 10. **Competency Standard** – a written specification of the knowledge,
47 skills, attitude and values required for the performance of a job,
48 occupation or trade and the corresponding standard of performance
49 required for these in the workplace;
50
51 11. **Enterprise** – a participating establishment that directly engages an
52 apprentice based on an approved Apprenticeship Program;
53
54 12. **Unit(s) of Competency** – are units of competency from competency
55 standard. Each unit has elements, performance criteria, range of
56 variables and evidence guides;
57

1 **13. Cluster of Competencies** – groupings of competencies leading to
2 Certificate of Competency; and,
3

4 **14. Qualification** – a group of competencies packaged from the
5 supermarket of competency. It represents a clear meaningful set-up
6 in the workplace and is aligned with the Philippine TVET
7 Qualifications Framework descriptor. Depending on the breadth,
8 depth and scope of competency, a qualification may fall under
9 National Certificate Level I, II, III, IV or V.
10

11
12 **SEC. 5. Qualifications of an Apprentice.** – To qualify as an apprentice, a person
13 shall:
14

- 15 a) Be at least fifteen (15) years of age;
16 b) Possess good moral character, vocational aptitude and capacity for
17 apprenticeship as determined by the enterprise; and
18 c) Possess the ability to comprehend and follow oral and written
19 instructions.
20

21 Trade, industry and labor organizations may recommend to TESDA appropriate
22 educational requirements for different occupations.
23

24
25 **SEC. 6. Aptitude Testing of Applicants.** – Consonant with the minimum
26 qualifications of apprentice-applicants required under this Chapter, the bipartite
27 plant apprenticeship committees shall have primarily responsibility for providing
28 appropriate aptitude examinations in the selection of apprentices.
29

30
31 **SEC. 7. Training of Apprentices.** – Only enterprises with programs registered
32 with TESDA may enter into apprenticeship contracts and train apprentices in
33 approved apprenticeable occupations.
34

35
36 **SEC. 8. Apprenticeship Training Program Content and Delivery.** – All
37 qualifications with Training Regulations (TRs) promulgated by the TESDA
38 Board are automatically classified as apprenticeable. To meet the immediate
39 requirements of enterprises for skilled workers, the TESDA Board shall approve
40 new apprenticeable occupations endorsed by the appropriate Regional Technical
41 Education and Skills Development Committee (RTESDC) upon consultation with
42 workers' groups and industry representatives.
43

44 The apprenticeship program shall emphasize the need for theoretical instruction.
45 The enterprise may seek partnership with a TVET institution in the design and
46 delivery of the theoretical instruction.
47

48
49 **SEC. 9. Apprenticeship Period.** – The apprenticeship period shall be based on
50 the duration of training required in the Training Regulation and on the complexity
51 of the skills to be learned by the apprentices.
52

53
54 **SEC. 10. Apprenticeship Program Registration.** – Registration of program can
55 be for a qualification, for cluster of competencies or for a bundled qualifications
56 as contained in the Training Regulations. A Letter of Application stating the
57 intention and the Certificate of Undertaking and the Training Plan shall be

1 submitted to TESDA for approval. A Certificate of TVET Program Registration
2 shall be issued to the enterprise to signify authorization for specific qualification
3 or competency clusters.
4

5 An apprenticeship program maybe approved on a No-Training Regulations basis
6 provided that the applicant enterprise can show proof of the demand for such
7 skill.
8

9 TESDA shall provide technical assistance to the applying and implementing
10 enterprises to be able to comply with the provisions of this section.
11

12 Enterprises found offering Apprenticeship programs which are not registered with
13 TESDA shall be subjected to program closure proceedings without prejudice to
14 the filing of administrative, criminal or civil liabilities.
15

16
17 **SEC. 11. Contents of Apprenticeship Contract.** – Apprenticeship contract shall
18 conform with the rules issued by TESDA and shall include:
19

- 20 A. The nature, syllabus, timetable and purpose of training;
- 21 B. The period of training depending on the approved training
22 regulations;
- 23 C. Training allowances prescribed by industry subsectors through
24 tripartite consultations which in no case shall start below seventy-
25 five percent (75%) of the applicable minimum wage;
- 26 D. A schedule of training allowance payment;
- 27 E. Training hours;
- 28 F. The process for the termination of apprenticeship; and,
- 29 G. The general rights and obligations of both parties.
30

31
32 **SEC. 12. Signing of apprenticeship contract.** – Every apprenticeship contract
33 shall be signed by the enterprise owner or his/her authorized representative, or
34 the authorized representative of any of the recognized organizations,
35 associations or groups and the apprentice.
36

37 An apprenticeship contract with a minor shall be signed in his/her behalf by
38 his/her parent or guardian or, if the latter is not available by an authorized
39 representative of the TESDA, and the same shall be binding during its lifetime,
40 subject to the right of the apprentice to terminate the same after a month's notice.
41

42 Every apprenticeship contract entered into under this Title shall be approved by
43 the bipartite plant apprenticeship committee involving the firm owner and
44 representatives of the firm workers, and copies thereof shall be furnished the firm
45 owner and the apprentice.
46

47
48 **SEC. 13. Apprenticeship Schemes.** – Enterprises with approved apprenticeship
49 program may choose from any of the following apprenticeship scheme which
50 may use the Dual Training System approach:
51

- 52 a) Apprenticeship involving a company and an identified training
53 institution;
- 54 b) Apprenticeship involving a group of companies and a training
55 institution;
- 56 c) Apprenticeship involving an industry training center and a company or
57 a group of companies; or

- 1 d) Other schemes to be established by the TESDA in consultation with
2 enterprise owners, labor and training institutions and subject to the
3 approval of the TESDA Board.
4

5
6 **SEC. 14. Apprenticeship Administration.** – The TESDA Board shall be
7 responsible for setting up the overall apprenticeship policy and standards. The
8 TESDA Secretariat shall be responsible for apprenticeship administration,
9 monitoring and evaluation of on and off-the-job training.
10

11
12 **SEC. 15. Investigation of violation of apprenticeship contract.** – The bipartite
13 plant apprenticeship committee, upon complaint of any interested party or *motu*
14 *proprio*, shall have initial responsibility for settling differences arising out of
15 apprenticeship contracts. In case it is not able to settle such differences, the
16 TESDA Secretariat or its authorized representative shall investigate and render a
17 decision pursuant to pertinent rules and regulations as may be prescribed by the
18 TESDA Board.
19

20
21 **SEC. 16. Appeal to the TESDA Board.** – The decision of the TESDA Secretariat
22 may be appealed by any aggrieved person to the TESDA Board within five (5)
23 days from receipt of the decision. The decision of the TESDA Board shall be final
24 and executory.
25

26
27 **SEC. 17. Termination of Apprenticeship.** –
28

29 I. Valid cause to terminate the Apprenticeship contract:
30

31 1. *By the employer:*
32

- 33 a) Habitual absenteeism in on-the-job training and related theoretical
34 instructions;
35 b) Willful disobedience to company rules or insubordination to lawful
36 order of a superior;
37 c) Poor physical condition, permanent disability or prolonged illness
38 which incapacitates the apprentices from working;
39 d) Theft or malicious destruction of company property and/or equipment;
40 e) Poor efficiency or performance on the job or in the classroom for a
41 prolonged period despite warnings duly given to the apprentices; and
42 f) Engaging in violence or other forms of group misconduct inside the
43 employer's premises.
44

45 2. *By the apprentice:*
46

- 47 a) Substandard or deleterious working condition within the employer's
48 premises;
49 b) Repeated violations by the employer of the terms of the apprenticeship
50 agreement;
51 c) Cruel and inhuman treatment by the employer or his subordinates;
52 d) Personal problem which in the opinion of the apprentice shall prevent
53 him from a satisfactory performance of his job; and
54 e) Bad health and continuing illness.
55

56 II. Procedures of termination of apprenticeship:
57

1 1. *Apprenticeship Committee Level*

- 2
3 a) The party (employer or apprentice) interested in terminating the
4 contract may do so, first, by notifying the Apprenticeship Committee;
5 b) The Committee confers with both parties and mediates and/or settles
6 the differences between them;
7 c) If mediation and/or settlement is not possible, the Committee advises
8 the complainants to apply for said termination with the Apprenticeship
9 Division of the Regional Office concerned.

10
11 2. *Regional Level*

12
13 a) The complainant verbally presents his/her case to the Apprenticeship
14 Division. If to the judgment of the Division the complaint merits
15 consideration, he/she is made to duly accomplish an "Application for
16 Termination of Apprenticeship" form.

17
18 b) The Division verifies as to the veracity and validity of the claim within
19 five (5) days from receipt thereof –

20
21 1) By calling both parties (employer and apprentice) for
22 conference; or

23 2) By sending a representative to the employer's concern for the
24 purpose.

25 3) In case grounds for approval exist –

26
27 1) The investigating officer (field representative) initiate
28 the application; and

29 2) The Chief of the Apprenticeship Division verified the
30 same.

31 3) The application is then immediately forwarded to the
32 Regional Director for appropriate action; after which a
33 copy of the acted application is furnished each the
34 applicant and the second party; these processes to be
35 completed within three (3) days from receipt of the
36 document by the Office of said Regional Director.

37 4) A copy of each approved application is furnished the
38 Bureau of Apprenticeship to be forwarded to the said
39 Office together with the Monthly Performance Report of
40 the Apprenticeship Division.

41
42 3. *Agency Level*

43
44 If either of the Parties is not satisfied with the decision of the Regional
45 Director, he/she may, within the reglamentary period of five (5) days from
46 receipt of the document, appeal the case to the TESDA Director General
47 whose decision shall be final and unappealable.

48
49
50 **SEC. 18. *Competency Assessment and Certification.*** – The apprentices shall,
51 within the apprenticeship period, undergo competency assessment for
52 qualifications with Training Regulations. A National Certificate shall be issued to
53 all those who demonstrated achievement of the competency standards,

54
55
56 **SEC. 19. *Training Certificate.*** – A Training Certificate shall be issued by the
57 authorized enterprise to signify completion of the apprenticeship program in

1 accordance with the approved training design. The Certificate shall contain a list
2 of the units of competency acquired and shall be comparable to completion of a
3 training program in a TVET institution.
4

5
6 **SEC. 20. Compulsory Apprenticeship.** – When the national security or particular
7 requirements of economic development so demand, the President of the
8 Republic of the Philippines shall require compulsory training of apprentices in
9 certain trades, occupations, jobs or employment levels where shortage of trained
10 manpower is deemed critical as determined by the TESDA Board.
11

12
13 **SEC. 21. Apprenticeship Training Fund.** – There shall be an apprenticeship
14 training fund which shall be derived from the apprenticeship fee paid by every
15 firm owner in industries employing workers in apprenticeable trades. Workers
16 who are graduates of apprenticeship programs shall likewise pay a one-time
17 apprenticeship fee upon employment as contribution to the apprenticeship
18 training fund.
19

20 The apprenticeship fee rates and guidelines to be applied shall be approved by
21 the TESDA Board after a public hearing with the management and labor sectors.
22 The fee shall be collected and paid through the Social Security System (SSS)
23 and transferred to the Apprenticeship Training Fund to be administered by
24 TESDA. The apprenticeship fee rate may be increased by the TESDA Board
25 subject to the requirements of public hearing.
26

27 The Apprenticeship Training Fund shall be deemed distinct and separate from
28 the TESDA Development Fund under Section 31 of RA 7796 or the TESDA Law,
29 and as such, shall not be subject to its Implementing Rules and Regulations.
30 Such apprenticeship fund may be used to defray expenses of the trainees in the
31 institution or training center as well as other expenses to be approved by the
32 TESDA Board to improve implementation of the program.
33

34
35 **SEC. 22. Incentives.** – An additional deduction from the taxable income
36 equivalent to one-half (1/2) of the value of labor training expenses incurred for
37 developing the productivity and efficiency of apprentices shall be granted to the
38 person or enterprise organizing an apprenticeable program and shall be exempt
39 from the payment of apprenticeship fee. *Provided,* That such program is duly
40 recognized by TESDA. *Provided,* further, That such deduction shall not exceed
41 ten percent (10%) of direct labor wage; and, *Provided,* finally, That the person or
42 enterprise who wishes to avail himself or itself of this incentive should pay his
43 apprentices the minimum wage. Micro-cottage and small enterprises or those
44 with less than 100 employees shall also be exempt from the payment of the
45 apprenticeable fee.
46

47
48 **SEC. 23. Exemption from Probationary Employment: System of Equivalency.** –
49 Certified apprenticeship graduates shall be exempted from probationary
50 employment. They shall be employed as regular workers if chosen to be retained
51 by the enterprise.
52

53 *Apprenticeship graduates shall likewise be awarded equivalent unit credits in the*
54 *formal system of education that can be used in pursuing tertiary degree courses*
55 *subject to the integrated policies and guidelines on equivalency and adult*
56 *education acceleration program of the TESDA, CHED and DepEd.*
57

1 **SEC. 24. *Implementing Rules and Regulations.*** – The TESDA Board shall issue
2 the Implementing Rules and Regulations within ninety (90) days after the
3 effectivity of this Act.
4

5
6 **SEC. 25. *Transitory Provision.*** – All existing apprenticeship programs and
7 Training Regulations shall be valid until after the TESDA has conducted an
8 assessment and revalidation for consistency with the provisions of this Act and
9 its Implementing Rules and Regulations.
10

11
12 **SEC. 25. *Repealing Clause.*** – Pertinent provisions of Presidential Decree 442 or
13 the Labor Code of the Philippines as amended, Executive Order No. 111 series
14 of 1986, RA 7796 or the TESDA Act of 1994 and all other laws, decrees,
15 executive orders and rules and regulations contrary to or inconsistent with the
16 provisions of this Act are hereby repealed or modified accordingly. Any law,
17 Presidential Decree or issuance, Executive Order, Letter of Instruction, rule or
18 regulation inconsistent with the provisions of this Act is hereby repealed or
19 modified accordingly.
20

21
22 **SEC. 26. *Separability Clause.*** – If any provision of this Act is held invalid or
23 unconstitutional, the same shall not affect the validity and effectivity of the other
24 provisions hereof.
25

26
27 **SEC. 27. *Effectivity.*** – This Act shall take effect after fifteen (15) days from the
28 date of its full and complete publication in the Official Gazette or in two (2)
29 newspapers of general circulation.
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35 *Approved,*