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Senate Bill No. 1392

RECEIVED BY: 

Prepared and submitted by the Committee on Labor, Employment and Human Resources Development with Sen. Joel Villanueva as author

AN ACT PROVIDING FOR A REVISED NATIONAL APPRENTICESHIP PROGRAM, CLARIFYING THE STANDARDS FOR TRAINING AND ENGAGEMENT OF APPRENTICES AND ACCREDITATION OF APPRENTICESHIP PROGRAMS, REPEALING FOR THE PURPOSE CHAPTERS I AND II OF TITLE II, BOOK II OF PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AND FOR OTHER PURPOSES

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 as the “Apprenticeship 2 Training System Act of 2017”.

3 **SEC. 2.** *Declaration of Policy.* – It is hereby declared the policy of the 4 State to establish an apprenticeship program that will ensure the availability of 5 qualified human resource in critical, in-demand and hard-to-fill occupations through 6 the participation of employers, workers and government agencies and non- 7 government agencies.

9 **SEC. 3. Statement of Objectives.** – This Act aims to:

- 10 (a) Help meet the demand of the economy for best-fit, competitive and trained 11 human resource;
- 12 (b) Have a national apprenticeship program that includes on- and off-the-job 13 training components with tripartite involvement;
- 14 (c) Promote full employment of youth and young workers through training and 15 development;
- 16 (d) Enhance existing standards for the training, development and employability of 17 apprentices;
- 18 (e) Recognize the indispensable role of private enterprises in training and 19 development;
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- 1 (f) Strengthen advocacy of the apprenticeship training program to encourage
2 enterprise and young workers' participation;
3
4 (g) Increase productivity and competitiveness of enterprises by ensuring availability
5 of skilled human resource; and
6
7 (h) Harness Corporate Social Responsibility (CSR) towards the development of
8 skilled human resource to meet the requirements of the industries.

9
10 **SEC. 4. Definition of Terms.** – For purposes of this Act, the following terms are
11 hereby defined:

- 12 (a) **Apprentice** refers to a person undergoing training for an approved
13 apprenticeable occupation during an established period assured by an
14 apprenticeship contract.
15
16 (b) **Apprenticeable Occupation** refers to an occupation specified by an industry
17 and approved for apprenticeship by TESDA subject to the criteria set under
18 Section 9 hereof.
19
20 (c) **Apprenticeship** means a training within an enterprise with compulsory
21 related theoretical instructions involving a contract between an apprentice and
22 an enterprise on an approved apprenticeable occupation.
23
24 (d) **Apprenticeship Contract** means an agreement wherein an enterprise binds
25 itself to train the apprentice who in turn accepts the terms of training for the
26 recognized apprenticeable occupation. The Apprenticeship Contract also
27 contains the rights, duties and responsibilities of each party.
28
29 (e) **Authority** refers to the Technical Education and Skills Development Authority
30 or TESDA.
31
32 (f) **Bipartite Enterprise Apprenticeship Committee** refers to a group within the
33 enterprise composed of the labor and the management responsible for
34 monitoring the program implementation, settling differences between
35 management and apprentices and recommending measures for effective
36 implementation.
37
38 (g) **Board** refers to the TESDA Board.
39
40 (h) **Certificate of Competency** means a document issued by the Authority to
41 individuals who were assessed as competent in a single unit or cluster of
42 related units of competency.
43
44 (i) **Certificate of Apprenticeship Program Registration** refers to a document
45 issued by TESDA granting an authority to an enterprise to offer a program in
46 an apprenticeable occupation.
47
48 (j) **Cluster of Competencies** refers to a group of competencies as defined in the
49 Training Regulations that corresponds to a Certificate of Competency. A

cluster of units of competency includes the basic, common, and core competency that can be offered as a registered program.

- (k) **Competency Assessment** refers to the process of determining the competency of a person undergoing apprenticeship based on established standards of competency.
- (l) **Competency Standard** refers to a written specification of the knowledge, skills, attitude and values required for the performance of a job, occupation or trade and the corresponding standard of performance required for those in the workplace.
- (m) **Enterprise** refers to a participating establishment or organization or the Government that directly engages an apprentice based on an approved Enterprise Apprenticeship Program.
- (n) **Industry Board/Body** refers to industry organizations recognized by the Authority according to set guidelines.
- (o) **Methods of Competency Assessment** refers to the different means/ways of gathering the required evidences and making judgment whether the competency has been achieved.
- (p) **National Certificate** refers to a document issued to individuals who have demonstrated achievement of all the required units of competency of national qualification defined under the promulgated Training Regulations.
- (q) **On-the-Job Training** refers to a course of study designed to provide practical experiences applying previously studied theories and aims to provide students an opportunity to understand economic, social and cultural realities by allowing them to interact and relate with the community.
- (r) **Qualification** refers to a formal certification that a person has successfully achieved learning outcomes relevant to the identified academic, industry or community requirements. A qualification confers official recognition of value in the labor market and in further education and training.
- (s) **Training Plan** refers to an Enterprise Apprenticeship Program which describes all the learning experience an apprentice must undergo, generally including the competencies to be acquired within the program, the underpinning knowledge and skills, theories and principles and the methods of competency assessment.
- (t) **Training Regulation** refers to the package of competency standard, national qualification, training standards, and assessment and certification arrangements. These spell out the parameters for ensuring the quality in delivery of a Technical-Vocational Education and Training (TVET) program. They also serve as the bases for competency assessment and certification, registration and delivery of TVET programs, and development of curriculum and assessment instruments.

1 (u) **Unit of Competency** refers to an activity that comprises a manageable
2 component of work. In competency standards, each unit of competency is
3 described in terms of elements, performance criteria, range of variables and
4 evidence guide.

5 **SEC. 5. Apprenticeable Occupation.** – An apprenticeable occupation is one
6 which is specified by the Industry Board/ Body, approved by the TESDA Board and
7 which must:

- 8 (a) Involve skills that are customarily learned through a structured, systematic
9 program of on-the-job supervised learning and involves the progressive
10 attainment of manual, mechanical or technical skills and knowledge which in
11 accordance with the industry standard for the occupation, would require the
12 completion of at least six (6) months of on-the-job and off-the-job learning;
13
14 (b) Be clearly identified and commonly recognized throughout an industry;
15
16 (c) Require related theoretical instruction to supplement the on-the-job learning.

17 *Provided*, however, that apprenticeship does not include On-The-Job Training (OJT)
18 required by education and training institutions as part of their curriculum.

19 **SEC. 6. Apprenticeship Period.** – The apprenticeship period shall be based
20 on the duration of training required in the Training Plan and on the complexity of the
21 skills to be learned by the apprentices, *provided*, that the period shall not be less
22 than six months.

23 **SEC. 7. Apprenticeship Program Registration.** – The Apprenticeship Program
24 shall be submitted for approval to, and registered with, TESDA. It may be:

- 25 (a) For a qualification;
26
27 (b) For cluster of competencies; or
28
29 (c) For a bundled set of qualifications as contained in the Training Regulations as
30 applicable, or based on industry specific standards.

31 The application for registration shall include, among others, the Certificate of
32 Undertaking, the Training Plan and the creation of the Bipartite Enterprise
33 Apprenticeship Committee.

34 A Certificate of Apprenticeship Program Registration shall be issued to the
35 enterprise to signify authorization for specific qualification or competency clusters.

36 Prior to registration, an enterprise shall execute an undertaking to:

- 37 (a) Implement the Apprenticeship Program with fairness, honesty and good faith;
38
39 (b) Ensure that it will not employ any practice that will violate, impair, or abuse the
40 rights of apprentices; and

- 1 (c) Submit material information on its Apprenticeship Program, including regulatory
2 compliance and apprenticeship contracts, to an industry association which shall
3 make such information available to the public.

4
5 TESDA shall provide technical assistance to the applying and implementing
6 enterprises to be able to comply with the provisions of this Section.
7

8 **SEC. 8. Bipartite Enterprise Apprenticeship Committee.** – There shall be established
9 in every enterprise applying for an Apprenticeship Program, a Bipartite Enterprise
10 Apprenticeship Committee composed of labor and management. The Committee
11 shall be responsible for monitoring the program implementation, settling differences
12 between management and apprentices and recommending measures for effective
13 program implementation.
14

15 For unionized enterprises, the employees' representative shall come from the
16 existing labor unions, while employees' representatives in non-unionized enterprises
17 shall be elected by the employees of the enterprise.
18

19 **SEC. 9. Apprenticeship Training Program Content and Delivery.** – All existing
20 qualifications with Training Regulations (TRs) shall undergo mandatory review by the
21 TESDA Board before they are reclassified as apprenticeable. All Training
22 Regulations shall be based on set criteria, which must include, but not be limited to
23 (a) priority needs of the industry/sector; (b) nationwide application in terms of public
24 interest/welfare; (c) employment generation and investment opportunities; and (d)
25 need for standardization and certification.
26

27 To meet the immediate requirements of enterprises for skilled workers, the
28 TESDA Board may approve apprenticeable occupations endorsed by the industry
29 board/body upon consultation with workers' groups and industry representatives.
30

31 The apprenticeship program shall emphasize the need for theoretical
32 instruction. The enterprise may seek partnership with a recognized education and
33 training institution in the design and delivery of theoretical instruction.
34

35 **SEC. 10. Training of Apprentices.** – Only enterprises with Apprenticeship
36 Programs registered with TESDA can enter into apprenticeship contracts and train
37 apprentices in approved apprenticeable occupations.
38

39 The enterprises shall be responsible for the following:
40

- 41 (a) Ensure that the necessary abilities and knowledge for the apprentice to achieve
42 the purpose of the training are imparted to the apprentice and shall provide
43 such training systematically in accordance with an approved Training Plan;
44
- 45 (b) Appoint the training officer to implement the Training Plan;
46
- 47 (c) Make available, free of charge, the consumable materials and basic hand tools
48 and equipment necessary for the training;
49
- 50 (d) Allow the apprentice to attend in-school training and to sit for the competency
51 assessment;

- 1
2 (e) Require the apprentice to keep an updated report book and inspect such
3 books;
4
5 (f) Ensure that the apprentice is encouraged to develop personality;
6
7 (g) Ensure that the apprentice is protected from physical or moral danger; and
8
9 (h) Entrust to the apprentice such jobs as are related to the purpose of the training
10 and are commensurate with the apprentice's capabilities.

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

- 14
15 (a) Be at least fifteen (15) years of age, *provided*, that an apprentice below
16 eighteen (18) years of age shall not be exposed to dangerous or hazardous
17 occupations;
18
19 (b) Possess good moral character, vocational aptitude and capacity for
20 apprenticeship as determined by the enterprise; and
21
22 (c) Possess the ability to comprehend and follow oral and written instructions.

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

26
27 **SEC. 12. Aptitude Testing of Applicants.** – Any person to be engaged as
28 apprentice shall undergo the appropriate aptitude examinations which shall be
29 administered by the Bipartite Enterprise Apprenticeship Committee.

30
31 **SEC. 13. Signing of Apprenticeship Contract.** – Every apprenticeship contract
32 shall be signed by the enterprise owner or his/her authorized representative and the
33 apprentice.

34
35 An apprenticeship contract with an apprentice of below eighteen (18) years
36 old shall be signed in his/her behalf by his/her parent or guardian, subject to the right
37 of the apprentice to terminate the same after thirty (30) days' prior notice.

38
39 Every apprenticeship contract entered into under this Section shall be
40 approved by the Bipartite Enterprise Apprenticeship Committee and copies thereof
41 shall be furnished the management and the apprentice.

42
43 No enterprise shall be allowed to engage apprentices more than twenty
44 percent (20%) of the total number of its regular employees, *provided*, that the
45 TESDA Board may, upon recommendation of the Industry Board/Body may increase
46 the cap, if necessary; *provided further*, that any person who shall be engaged as an
47 apprentice in excess of the threshold herein provided shall be considered as a
48 regular employee of the enterprise concerned.

49
50 **SEC. 14. Contents of Apprenticeship Contract.** – The Apprenticeship Contract
51 shall conform with the rules issued by TESDA and shall include:

- (a) Competencies that will be acquired within the apprenticeship program based on the Training Plan and the method of competency assessment;
 - (b) The period of training depending on the approved Training Plan;
 - (c) Training allowance, which in no case shall be below seventy-five percent (75%) of the applicable minimum wage, *provided*, that the allowance shall be increased in an amount to be set by the TESDA Board upon recommendation of the recognized Industry Board/Body based on acquired competency of the apprentice; *provided further*, that contributions to the training allowance by government agencies and/or non-governmental organizations shall be considered in computing the said seventy-five percent (75%);
 - (d) A schedule of training allowance payment; and
 - (e) An undertaking from the enterprise that it shall provide a disability and/or accident insurance policy in favor of the apprentice during the apprenticeship period; and
 - (f) The general rights and obligations of both parties, grounds for termination of the contract and the process for the termination of the apprenticeship contract.

The approved training plan shall be attached in the contract.

SEC. 15. Apprenticeship Schemes. – Enterprises with approved apprenticeship program may choose from any of the following apprenticeship schemes:

- (a) Involving a company or group of companies and an identified education and training institution;
 - (b) Conducted entirely by a company with demonstrated capacity to conduct theoretical instruction;
 - (c) Other schemes to be established by the TESDA in consultation with enterprise management, labor and training institutions and subject to the approval of the TESDA Board.

SEC. 16. Competency Assessment and Certification. – The apprentice shall undergo competency assessment for qualifications within the apprenticeship period and shall be issued the appropriate competency certificate after he/she has demonstrated achievement of the competency standards.

SEC. 17. Training Certificate and System of Equivalency. – A Training Certificate shall be issued by the authorized enterprise to signify completion of the apprenticeship program in accordance with the approved training program. The Certificate shall contain a list of the units of competency acquired and shall be comparable to completion of a training program in a Technical-Vocational Education and training institution.

1 Apprenticeship graduates shall likewise be awarded equivalent unit credits in the
2 formal system of education that can be used in pursuing tertiary degree courses
3 subject to the integrated policies, standards and guidelines on equivalency and adult
4 education acceleration program of the TESDA, Commission on Higher Education
5 (CHED) and the Department of Education (DepEd).

6
7 **SEC. 18. Apprenticeship Administration.** – TESDA shall be responsible for
8 the implementation of the apprenticeship program as provided for in this Act. For this
9 purpose, TESDA shall conduct a regular compliance audit of enterprises with
10 registered apprenticeship program.

11
12 The TESDA Board shall set up the overall apprenticeship policy and
13 standards.

14
15 The TESDA Secretariat shall be responsible for apprenticeship administration,
16 monitoring and evaluation of the training.

16
17 There shall be TESDA recognized Industry Boards/Bodies which shall
18 determine and recommend to the TESDA Board whether an occupation is
19 apprenticeable and perform such other function as may be necessary.

20
21 **SEC. 19. Violation and Termination of Apprenticeship Contract.** – The
22 Bipartite Enterprise Apprenticeship Committee shall have authority to settle
23 differences arising out of apprenticeship contracts upon complaints of any interested
24 person or upon its own initiative. In the event that the Bipartite Enterprise
25 Apprenticeship Committee shall be unable to settle such differences, the TESDA
26 Secretariat or its authorized representative shall investigate and render a decision
27 pursuant to pertinent rules and regulations as may be prescribed by the TESDA
28 Board.

29
30 The decision of the TESDA Secretariat or its authorized representative may
31 be appealed by any aggrieved person to the TESDA Director General within five (5)
32 days from the receipt of the decision. The decision of the TESDA Director General
33 shall be final and executory.

34
35 The rules and procedures on the termination of Apprenticeship Contract shall
36 be promulgated by the TESDA Board.

37
38 The Apprenticeship Contract shall be terminated on any of the grounds
39 stipulated thereunder, subject to the rules on due process. The Notice of Termination
40 shall be filed with the Bipartite Enterprise Apprenticeship Committee for conciliation
41 and settlement of issues. In the absence of settlement or agreement, the same shall
42 be elevated to the TESDA Secretariat or its authorized representative pursuant to
43 the pertinent rules and regulations of the TESDA Board.

44
45 **SEC. 20. Violation of this Act.** – Any violation of the provisions of this Act
46 shall be under the jurisdiction of TESDA through its regional offices. If the violation
47 constitutes deficiency of labor standards and other labor laws, TESDA, through its
48 regional offices, shall endorse the same to the appropriate regional offices of the
49 Department of Labor and Employment (DOLE).

50
51

1 **SEC. 21. Violation of Labor Standards and Other Labor-Related Laws.**— Any
2 violation of general labor standards, occupational safety and health standards and
3 other labor-related laws shall be under the jurisdiction of the DOLE through its
4 regional offices, pursuant to Article 128 of the Labor Code of the Philippines, as
5 amended.

6
7 **SEC. 22. Compulsory Apprenticeship.** — When the national security or
8 particular requirements of economic development so demand, the President of the
9 Republic of the Philippines shall require compulsory training of apprentices in certain
10 trades, occupations, jobs or employment levels where shortage of trained human
11 resources deemed critical as recommended by the TESDA Board.

12
13 **SEC. 23. Incentives.** — An additional deduction from the taxable income
14 equivalent to one-half (1/2) of the value of training expenses incurred for developing
15 the productivity and efficiency of apprentices program shall be granted to the person
16 or enterprise organizing an apprenticeship program; *provided*, that such program is
17 duly recognized by TESDA; *provided further*, that such deduction shall not exceed
18 ten percent (10%) of direct labor wage; *and provided finally*, that the person or
19 enterprise who wishes to avail of this incentive shall pay the apprentices Training
20 Allowance equivalent to the applicable minimum wage.

21
22 **SEC. 24. Exemption from Probationary Employment.** — Certified apprentices
23 shall be exempted from probationary employment in the event that they are
24 employed in occupations requiring the same skills and qualifications standards which
25 they shall have obtained upon passing the competency assessment as provided
26 under Section 16 of this Act.

27
28 **SEC. 25. Penalty clause.** — The TESDA Secretariat shall have the power to
29 initiate program closure proceedings of enterprises found offering unregistered
30 apprenticeship programs without prejudice to the filing of administrative, criminal or
31 civil liabilities, which may include any of the following causes:

- 32
33 (a) Fraud or deceit committed in connection with the application for the opening of
34 apprenticeship programs; and
35
36 (b) Failure to comply with conditions or obligations prescribed under this Act or its
37 implementing rules and regulations.

38
39 **SEC. 26. Implementing Rules and Regulations.** — The TESDA Board shall,
40 after consultation with the National Tripartite Industrial Peace Council (NTIPC) and
41 other relevant stakeholders, issue the implementing rules and regulations within
42 ninety (90) days after the effectivity of this Act.

43
44 **SEC. 27. Transitory Provision.** — All existing apprenticeship programs and
45 Training Regulations shall be valid until after the TESDA has conducted an
46 assessment and revalidation for consistency with the provisions of this Act and its
47 implementing rules and regulations.

48
49 **SEC. 28. Sunset Provision.** — Four (4) years after the effectivity of this Act, the
50 TESDA Board shall conduct a review of its implementation and submit a report to
51 Congress within thirty (30) days after the conclusion of the review.

1
2 **SEC. 29. Separability Clause.** – If any provision of this Act is held invalid or
3 unconstitutional, the same shall not affect the validity and effectivity of the other
4 provisions hereof.

5
6 **SEC. 30. Repealing Clause.** – Chapter I (Apprentices) and Chapter II
7 (Learners), Title II, Book II and other pertinent provisions of Presidential Decree 442,
8 or the Labor Code of the Philippines, as amended, Executive Order No. 111, series
9 of 1986, RA 7796 or the TESDA Act of 1994, and all other laws, decrees, executive
10 orders and rules and regulations contrary to or inconsistent with the provisions of this
11 Act are hereby repealed or modified accordingly.

12
13 **SEC. 31. Effectivity.** – This Act shall take effect after fifteen (15) days from the
14 date of its full and complete publication in the Official Gazette or in two (2)
15 newspapers of general circulation.
16

17
18 Approved.