

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Thirteenth Congress
First Regular Session

HOUSE BILL NO. **4397**



Introduced by **BENIGNO S. AQUINO III**

Explanatory Note

The Department of Trade and Industry (DTI) is the primary coordinative, promotive, facilitative and regulatory arm of the Executive Branch of government in the area of trade, industry and investments.

Its powers and functions include, among others, the protection of consumers from trade malpractices and from substandard or hazardous products, reechoing Section 9, Article XVI of the 1987 Constitution, viz:

"The State shall protect consumers from trade malpractices and from substandard or hazardous products."

Under the Office of the Undersecretary for Domestic Trade are four (4) offices namely, the Bureau of Trade Regulations and Consumer Protection (BTRCP), Bureau of Domestic Trade Promotion (BDTP), Bureau of Patents, Trademarks and Technology Transfer (BPTTT) and the Bureau of Product Standards (BPS), three of which (3) perform functions to ensure the quality and safety of products distributed in the market for the protection of the consumers.

In 1992, the "Consumer Act of the Philippines" was passed, reiterating these mandates and paving the way for a more comprehensive framework for consumer product safety and standards. It designated the Department of Health (DOH) with respect to food, drugs, cosmetics, devices and substances; Department of Agriculture (DA) with respect to products related to agriculture; and the DTI with respect to other consumer products not specified above.

Despite the immense power of the State to implement these mandates, there is still much to be desired in the enforcement of laws pertaining to consumer products safety and standards.

Moreover, there is a necessity to add more teeth to the present law governing consumer rights and to beef up the existing surveillance and monitoring personnel of the DTI and its competence in dealing with product standards such as conformity assessments.

Thus, there is a need to modernize existing testing and calibration laboratories of the BPS. This proposed initiative will help realize this goal by providing for a retention of its annual earnings derived from collected regulatory fees of the agency for

a period of ten (10) years. Admittedly, the amount that may be generated from this mechanism will not suffice to complete the desired modernization but it will effectively supplement the very meager budget of the agency for such purpose.

The agency must also shore up a needed information drive on consumer product standards which, among other things, must help acquaint the buying public of the existence of official marks of standards of consumer products.

For example, the Philippines uses the **Philippine Standards (PS) mark**. The European Union uses the mark **CE (Conformite Europeene)** while the United States uses the mark **UL (Underwriters Laboratories)**. Many countries also use the mark **ISO (International Organization for Standardization)** and some use a combination of **ISO and IEC (International Electrotechnical Commission)**.

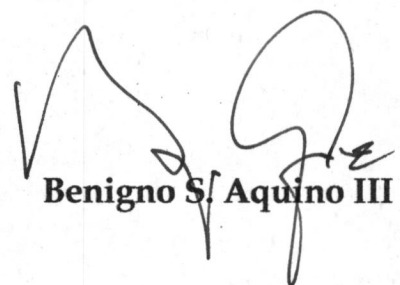
May it be stressed that a strong awareness of standards by the public will certainly raise levels of quality, safety, reliability, efficiency and interchangeability, as well as providing such benefits at an economical cost. This is especially important in items like light bulbs, wires and cables, construction materials like cement, plywood, nails and steel, and many others.

Furthermore, the consumers must be apprised of their legal rights and the remedies available to them, apart from improving the current prosecutorial processes of apprehended violators. At present, they are generally dissuaded from initiating a legal action because of the legal costs and the thought of facing a mighty adversary – the manufacturer or a big commercial establishment.

The drive must also address the current attitude of the Filipino consumers who mostly regard *caveat emptor* (Latin for "Buyer beware!") as the controlling rule in consumer transactions. It is a general notion that consumers must thoroughly examine the goods before buying them and thus, they must bear the loss arising from the failure to identify flaws, defects or deficiencies.

To help improve policy and departmental coordination, the composition of the present National Consumers Affairs Council is also expanded.

In view of the foregoing, support for the passage of this bill is earnestly sought.



Benigno S. Aquino III

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AN ACT

STRENGTHENING THE REGULATORY POWER OF THE DEPARTMENT OF TRADE AND INDUSTRY (DTI) TO EFFECTIVELY ENFORCE CONSUMER LAWS, ESTABLISHING ADDED MECHANISMS FOR ITS IMPLEMENTATION, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7394, ALSO KNOWN AS THE CONSUMER ACT OF THE PHILIPPINES, AND FOR OTHER PURPOSES

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

SECTION 1. Title.—This Act shall be known as "DTI Regulatory Act of 2005."

SEC. 2. Statement of Policy.—Pursuant to the principles laid down by the Constitution, the Consumer Act of the Philippines and other existing laws and regulations, it is the policy of the State to continuously undertake measures to empower the consumers, protect and advance their general welfare and establish national standards of quality and safety for both business and industry.

SEC. 3. Standardization of Philippine products.—The Bureau of Product Standards (BPS) shall immediately establish standards for all products of the Philippines for which no standards have as yet been fixed by law, executive order, rules and regulations and which products are not yet covered by the standardization activities of other government agencies within (1) one year from the promulgation of this Act.

SEC. 4. Inventory of stocks of goods and services.—(a) All factories, shopping malls, department stores and retail shops/outlets shall immediately prepare a complete inventory of their stocks of goods and services which shall be submitted to the nearest BPS office for inspection and mandatory product certification. It shall be submitted within ten (10) days after notice by the BPS.

SEC. 5. Removal of goods and items without the PS mark and similar marks indicating an acceptable quality standard.— (a) All shopping malls, department stores and retail shops/outlets shall purge or discard from their stocks any item, product or service that does not bear any PS mark or any similar marks indicating that they have complied with an equally applicable consumer product

quality and safety such as but not limited to CE (Conformite Europene), UL (Underwriters Laboratories), ISO (International Organization for Standardization) and IEC (International Electrotechnical Commission). This shall not apply to products for which no standards have as yet been fixed by law, executive order, rules and regulations and which products are not yet covered by the standardization activities of their country of origin.

(b) **Posting of Product warranties.**—They shall also make available to the buying public a clear listing of warranties for every item or product sold under their premises in at least two (2) strategic and accessible areas. At least one (1) employee trained to attend to any warranty inquiry concerning the product being sold thereat shall be provided for by the establishment except in retail shops/outlets and similar establishments employing not more than ten (10) workers.

Failure to comply with this requirement and of the preceding section shall be grounds for the summary revocation of the owner's license to engage in business in the Philippines plus a fine of not less than fifty thousand pesos (P 50,000.00) but not more than one hundred thousand pesos (P 100,000.00), without prejudice to other penalties as provided for by existing laws.

SEC. 6. Recall of unstandardized products.—Supplier and distributors of standardized products shall pay all the fees for the recall of unstandardized products it distributed in the course of business or trade to retail outlets and other business enterprises. In case of non-payment, the penalty as abovementioned shall be applied.

SEC. 7. Retention of annual revenues of BPS.—The annual revenues of the BPS shall be retained for a period of ten (10) years for the sole purpose of modernizing the existing laboratories and equipment of the BPS.

SEC. 8. Impoundment of unstandardized imported products.—Imported products not bearing any internationally acceptable product standard shall be automatically seized and impounded by customs personnel under the direction of the BPS. All expenses incurred in the hauling, storage and inspection of such goods or items shall be paid by the owner or consignee, and also in cases where the same is condemned for immediate destruction.

SEC. 9. Information Campaigns.—The Bureau of Trade Regulation and Consumer Protection (BTRCP) is tasked to conduct a nationwide campaign through the Philippine Information Agency (PIA) and government-owned television regarding the implementation of all programs for the effective enforcement of consumer laws and advisories to protect and safeguard the interest of consumers and the public, with utmost particularity to the health and safety implications of intrinsic features of a particular product, the steps in filing consumer complaints and the different aspects of liability for product and service as provided for in Chapter V, Title III of R.A. 7394.

SEC. 10. **Free legal assistance to consumer complaints.**—The Legal Division of the DTI should establish a program to encourage the filing and prosecution of consumer complaints in meritorious cases and to provide legal and referral assistance for free for the entire duration of the resolution of the complaint.

SEC. 11. Articles 107, 149 and 150, Chapter I, Title V of Republic Act No. 7394 are hereby amended to read as follows:

“Art. 107. Penalties.—Any person who shall violate any provision of this Chapter or its implementing rules and regulations with respect to any consumer product [which is not food, cosmetic or hazardous substance] shall upon conviction, be the subject to a fine of not less than **one hundred thousand pesos (P100,000.00)** but not more than **three hundred thousand pesos (P 300,000.00)** [Five thousand pesos (P 5,000.00)] and by imprisonment of not more than one (1) year [or both upon the discretion of the court], **without prejudice to penalties that may be applied based on other applicable laws.**

“Art. 149 Composition.—The Council (referring to the National Consumers Affairs Council) shall be composed of representatives from the following government agencies:

- (a) Department of Trade and Industry;
- (b) Department of [Education, Culture and Sports] **Education;**
- (c) Department of Health;
- (d) Department of Agriculture;
- (e) four (4) representatives from consumer organizations of nationwide base to be chosen by the President from among the nominees submitted by the various consumer groups in the Philippines;
- (f) two (2) representatives from business/industry sector to be chosen by the President from among the nominees submitted by the various business organizations
- (g) one (1) representative from the Department of the Interior and Local Government;
- (h) one (1) representative each from the Leagues of Provinces, Cities and Municipalities to be chosen by the DILG Secretary from among the nominees submitted by the said leagues;
- (i) one (1) representative from the Bureau of Food and Drugs;
- (j) one (1) representative from the Optical Media Board;
- (k) one (1) representative from the National Bureau of Investigation;
- (l) one (1) representative from the Bureau of Customs;
- (m) one (1) representative from the Philippine Ports Authority;

(n) one (1) representative each from the Committee on Trade and Industry from both the Senate and House of Representatives;

"Art. 150. Chairman; Functions.—The Council shall be headed and presided by the Undersecretary for Domestic Trade who shall act as Chairman [a Chairman who shall be elected by the members from among themselves]. He shall establish, with the concurrence of the Council, the policies, procedures and standards to govern the implementation and interpretation of the functions and duties of the Council."

SEC. 12. **Saving Clause.**—The provisions of this Act shall not restrict, limit or affect any other rights or remedies that may be availed by a consumer under other existing laws.

SEC. 13. **Separability Clause.**—If any provision of this Act shall be declared unconstitutional, any other provision not affected thereby shall remain in full force and effect.

SEC. 14. **Repealing Clause.**—All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SEC. 15. **Effectivity.**—This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,