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Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 481

Introduced by AKBAYAN Party-List Representatives
Hon. Kaka Bag-ao and Hon. Walden Bello

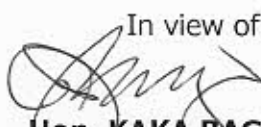
EXPLANATORY NOTE

Aerial Spraying of pesticides is a practice by the big banana plantations to kill insects and fungi considered pests to bananas. The practice of aerial spraying is resorted to by big banana plantations in order to cut costs in administering the pesticides. The recent campaign of farmers in Davao entitled "Stop deadly shower, Dili kami peste" shows the negative impacts to the life and property of the affected communities. Many studies have been conducted and the most recent one was that of the Department of Health which showed the negative health effects to the communities hit by the aerial spray. Among the significant findings were the trace of the pesticides in the blood of the affected population and the slow mental development of children which can be attributed to the continued exposure to pesticides being sprayed aerially. The mist from aerial spray cannot be controlled to just hit the bananas. The wind carries it beyond the banana plantation.

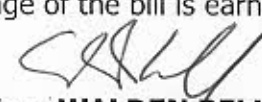
The communities in Davao appealed to the government to ban aerial spraying. The Department of Health and the Commission on Human Rights issued a position paper recommending the ban of Aerial Spraying due to the adverse health effects, a violation of the right to life and healthy environment. Aside from the health of the communities, the crops like Coconuts and Durian of some small farmers are affected by aerial spray because the fruit trees do not bear fruit anymore when hit by the pesticides. At present there is no rule or law regulating aerial spraying. Thus, this proposal is being filed to regulate the practice.

The proposal to ban aerial spraying as a method of administering pesticides and provide heavy penalties to the pilots and aircraft owners who do aerial spray will save the thousands of lives and properties of many communities in Davao, Davao del Norte, Compostela Valley among others. The precautionary principle is the main justification for banning aerial spray because it endangers public health and general welfare. The right to Life and Health is higher than the right to property as guaranteed by the Constitution which must be realized by the law.

In view of the foregoing, the immediate passage of the bill is earnestly sought.


Hon. KAKA BAG-AO

Representative, Akbayan Party-list


Hon. WALDEN BELLO

Representative, Akbayan Party-list

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53 HOUSE OF REPRESENTATIVES
54 Quezon City, Metro Manila

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67
68 AN ACT PROVIDING FOR THE BAN OF AERIAL SPRAYING OF PESTICIDES AND
69 OTHER HAZARDOUS SUBSTANCES AND FOR OTHER PURPOSES
70

71 *Be it enacted by the Senate and the House of Representatives of the Philippines in*
72 *Congress assembled:*
73

74
75 **SECTION 1. TITLE** - This law shall be known as "Aerial Spray Ban Act of 2010".
76

77 **SECTION 2. DECLARATION OF POLICY** - It is hereby declared the policy of the
78 state to uphold the constitutional rights to health and to a balanced and healthful ecology as
79 stated in the 1987 Constitution; and pursuant thereto and applying the precautionary principle,
80 eliminate the method of aerial spraying of substances, including pesticides, in all agricultural
81 activities.
82

83 **SECTION 3. DEFINITION OF TERMS** - The following terms are herein defined for purposes
84 of this Act:
85

86 **a. Aerial Spraying** - refers to application of substances, including, but not limited to
87 pesticides, through the use of any form of aircraft which dispenses the said substances in the
88 air.
89

90 **b. Agricultural Activity** - refers to the cultivation of the soil, planting of crops, growing of
91 fruit trees, including but not limited to land preparation, seeding, planting, cultivation,
92 harvesting, bagging and other activities and practices performed in conjunction with farming
93 operations.
94

95 **c. Agricultural Entity** - refers to any person, whether natural or juridical, who is
96 involved in agricultural activities.
97

98 **d. Pesticide** - means any substance or mixture of substances intended for preventing,
99 destroying or controlling any pest, including vectors of human or animal disease, unwanted
100 species of plants and animals causing harm during or otherwise interfering with the production,
101 processing, storage, transport or marketing of food, agricultural commodities, wood, and wood
102 products or animal feedstuffs, or substances which may be administered to animals for the
103 control of insects, arachnids or other pests in or on bodies. The term includes substances
104 intended for use as a plant growth regulator, defoliants, desiccant or agent for thinning fruit or
105 preventing the premature fall of fruit, and substances applied to crops either before or after
106 harvest to protect the commodity from deterioration during storage and transport.
107

108 **e. Toxicity** means a physiological or biological property which determines the capacity of a
109 chemical to do harm or produce injury to a living organism by other than mechanical means.

f. Hazardous substance refers to those substances which present either: (1) short-term acute hazards such as acute toxicity by ingestion, inhalation, or skin absorption, corrosivity or other skin or eye contact hazard or the risk of fire explosion; or (2) long-term toxicity upon repeated exposure, carcinogenicity (which in some cases result in acute exposure but with a long latent period), resistance to detoxification process such as biodegradation, the potential to pollute underground or surface waters.

g. Persistent Organic Pollutant (POPS) - refers to the organic compounds that persist in the environment, bioaccumulate through the food web, and pose a risk of causing adverse effects to human health and the environment. These compounds resist photolytic, chemical and biological degradation, which shall include but not be limited to dioxin, furan, Polychlorinated Biphenyls (PCBs), organochlorine pesticides, such as aldrin, dieldrin, DDT, hexachlorobenzene, lindane, toxaphene and chlordane.

SECTION 4. SCOPE AND PRESUMPTION - The provisions of this law shall apply to aerial spraying in all agricultural activities. It is presumed that any aircraft flying and spraying substance near or above agricultural plantation is presumed to be conducting aerial spraying and further presumed that pesticides are inherently harmful to human health and the environment.

SECTION 5. BAN ON AERIAL SPRAYING - The aerial spraying of pesticides and other hazardous substances or persistent organic pollutant, including, but not limited to, fungicides and pesticides shall be prohibited in all agricultural activities within the Philippines six months (6) from the effectivity of this Act.

SECTION 6. IMPLEMENTING AGENCY - The Environmental Management Bureau (EMB) of the Department of Environment and Natural Resources (DENR) shall be the primary government agency responsible for the implementation and enforcement of this Act.

The EMB shall promulgate the implementing rules and regulations for this Act within sixty (60) days from the effectivity of this Act.

SECTION 7. PENAL PROVISION - Any natural or juridical person who violates any provision of this Act, shall be penalized as follows:

- a. First offense: Fine of 50,000 and imprisonment of not less than (1) month but not more than three (3) months;
- b. Second offense: Fine of 100,000 and imprisonment of not less than three (3) months but not more than six (6) months;
- c. Third offense: Fine of 150,000 and imprisonment of not less than (6) months but not more than one year.

Provided that, the above penalty shall be imposed on the person who commissioned the aerial spraying.

If the person who commissioned the aerial spraying is a corporation, partnership or association, the members, officers and directors or trustees who have actually participated in, authorized or ratified the prohibited act shall be criminally liable.

Provided finally, the pilot and aircraft owner or operator shall be penalized as follows:

- a. First offense: Fine of 10,000 pesos and the suspension of the pilot's license and/or permit of the aircraft operator/owner;
- b. Second offense: Fine of 20,000 pesos and revocation of the pilot's license and/or the permit of the aircraft operator/owner;

167 c. Third offense: Fine of 100,000 pesos and imprisonment of not less than (6) months but not
168 more than one year of the aircraft pilot, operator and owner.
169 The filing of an action under this act shall be without prejudice to the filing of civil,
170 administrative and criminal cases by the persons or community affected by the aerial spray.
171

172 **SECTION 8. *REPEALING CLAUSE*** - Any law, presidential decree or issuance, executive order,
173 letter of instruction, administrative rule or regulation contrary to or inconsistent with the
174 provisions of this Act is hereby repealed, modified or amended
175 accordingly.
176

177 **SECTION 9. *SEPARABILITY CLAUSE*** - If, for any reason or reasons, any part or provision of
178 this Statute shall be held to be unconstitutional or invalid, other parts or provisions hereof
179 which are not affected thereby shall continue to be in full force and effect.
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181 **SECTION 10. *EFFECTIVITY*** - This Act shall take effect fifteen (15) days after its publication in
182 at least two (2) newspapers of general circulation.
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185 **Approved,**
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