

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

First Regular Session
FIFTEENTH CONGRESS

House Bill No. 2515

Introduced by Representative Jonathan Cabilao Yambao

In 2006, the Department of Health has commissioned a study on ill effects of aerial spraying of the pesticides on a community near a banana plantation practicing fungicide aerial spraying. Specifically, as the subject of the study, the Philippine Society of Clinical and Occupational Toxicology and the National Poison and Management and Control Center have chosen the community in Sitio Camocaaan, a community situated adjacent to Lapanday banana plantation in barangay Aplaya, Hagonoy, Davao del Sur.

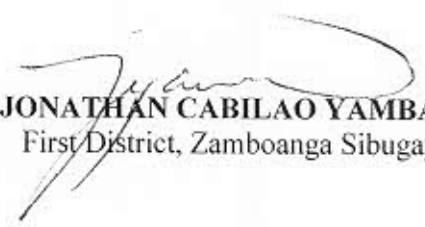
The subject community is believed to be indirectly exposed to aerially sprayed pesticides due to so-called "drift exposure".

Alarmingly, the study showed that 52% of respondents experienced eye pain, eye tearing, headache, eye redness, eye itchiness, dizziness, and skin itchiness. It also revealed that the respondents have developmental delays, skin disorders like chloracne and cutaneous lupus erythematosus, and thyroid gland disorders.

The Philippine Society of Clinical and Occupational Toxicology and the National Poison and Management and Control Center resolved to call on the government agencies to review the guidelines for protecting communities from pesticide contamination from large plantations.

Corollary thereto is an explicit assumption that the present Memorandum Circular No. 02 issued by the Fertilizer and Pesticides Authority of the Department of Agriculture, otherwise known as the Good Aerial Practices for Aerial Spraying of Fungicides in Banana Plantations is not effective.

This proposed measure entitled Aerial Spray Regulation Act of 2010 seeks to address the gaps, limitations and challenges in the present regulation of the State on pesticide aerial spraying. It provides for general but clearer and more stringent standards and guidelines that will ensure that adverse explicit and perceived effects on health and environment of said practice are effectively contained -- all with the end in view of adhering to a time-honored principle of sustainable development.


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AN ACT
REGULATING AERIAL SPRAY IN FARMLANDS AND FRUIT PLANTATIONS
AND PROVIDING PENALTIES FOR VIOLATION THEREOF

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

CHAPTER 1.- GENERAL PROVISIONS

SECTION 1. *Title* – This Act shall be known as the “*Aerial Spray Regulation Act of 2010.*”

Section 2. *Declaration of Policy.*- While it recognizes the indispensable need to strengthen and accelerate economic and social growth and development in the country, the State is obliged to maintain its policy to protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature and to promote the right to health of the people and instill health consciousness among them.

Accordingly, the State shall strictly regulate the agricultural aerial spraying of pesticides in order to uphold the principle of sustainable development and maintain a rational and balance of human health, environmental protection and socio-economic growth.

CHAPTER 2.- DEFINITION OF TERMS

Section 3. *Definition of Terms.* - For purposes of this Act, the following terms shall be understood as follows:

a) “Aerial spray” refers to application of crops with fertilizers, pesticides, and fungicides, and other similar chemicals or substances from an agricultural aircraft.

b) "Agricultural aircraft" refers to an aircraft that has been built or converted for aerial spraying; and

c) "Pesticide" as defined under P.D. no. 1144 refers to any substance or product, or mixture thereof, including active ingredients, adjuvants, and pesticide formulations, intended to control, prevent, destroy, repel or mitigate directly or indirectly, any pest. The term shall be understood to include insecticide, fungicide, bactericide, nematodice, herbicide, molluscicide, avicide, rodenticide, plant regulator, defoliant, desiccant and the like.

CHAPTER 3. - INSTITUTIONAL ARRANGEMENT

Section 4. *Lead Agency.* – The Fertilizer and Pesticide Authority of the Department of Agriculture or, for purposes of this Act, "the Authority", shall be the lead agency responsible for the implementation and enforcement of this Act.

It shall likewise make the evaluation and monitoring report made pursuant to Sections 6 and 7 available to the public.

Section 5. *Role of the Department of Health.* - The Department of Health (DOH), in coordination with the Authority and the Environmental Management Bureau of the Department of Environment and Natural Resources (EMB-DENR), shall regularly monitor the health of persons residing adjacent to, and workers, laborers or employees of agricultural farms or plantations using the aerial spray.

Section 6. *(Role of the Department of Environment and Natural Resources.* - The Environmental Management Bureau of the Department of Environment and Natural Resources (EMB-DENR), in coordination with the Authority, shall regularly evaluate and monitor the air and water qualities as well as the general ambient environmental condition of agricultural farms or plantations using the aerial spray.

Section 7. *Role of Local Government Units.* All local government units shall, pursuant to the pertinent provisions of the Local Government Code of 1991 and its implementing rules and regulations, actively assist in implementing and enforcing this Act within their territorial

jurisdictions. Provided, however, the Office of the Provincial Governor or City Mayor shall be also responsible for ensuring compliance with this Act, including the apprehension and prosecution of violators thereof.

To strengthen the enforcement of this Act, the Provincial Governor or the City Mayor shall form multi-sectoral monitoring team which shall be composed of representatives from farmers or laborers, non-government organizations each advocating environmental protection and human health, civil society and academe. The municipal or the city mayor, health officer, agriculturist and chief of police shall be members of the monitoring team, automatically.

CHAPTER 4. - REGULATION OF AGRICULTURAL AIRCRAFTS AND PILOTS

Section 8. Certification of Agricultural Aircraft and Licensing of Agricultural Pilots.

– The Air Transportation Office (ATO), shall annually issue certificates to agricultural aircraft, upon proper survey and flight test of said aircraft, to ensure that its engineering design, equipment or devices, airworthiness, efficiency and operation comply with the internationally-accepted standards.

The ATO shall likewise annually issue special licenses to pilots of agricultural aircraft warranting that said pilots possess appropriate trainings, skills and professionalism in ethical and safe standards operation of the aircraft.

For this purpose, within six (6) months following the effectivity of the Act, the ATO, in coordination with the Authority, shall establish agricultural aircraft and pilot standards and promulgate certification and licensing rules and regulations. Within the same period, the ATO, in coordination with the Authority, shall also develop programs for agricultural pilot designed to equip them on technical, safety, farm plantation or crop care products, human health and environmental concerns.

Section 9. Agricultural Aircraft Inventory. - To help the enforcing agency in monitoring and ensuring compliance with this Act, all persons, natural or juridical, practicing aerial spraying or have been engaged in the business of providing aerial spraying services

1 before the enactment of this Act, shall be required to submit to the office of the Provincial
2 Governor of the province or City Mayor of the city where they operate, an inventory of the
3 agricultural aircrafts they are using in their jurisdiction.

4 The inventory shall indicate therein a brief and distinctive description of each aircraft,
5 the company logo, and location of hangar and other relevant information for the easy
6 identification of the aircrafts when airborne.

7 **CHAPTER 5. - REGULATION OF AERIAL APPLICATION OF PESTICIDES**

8 Section 10. *Standards for Aerial Spraying Operation.* – Within six (6) months
9 following the effectivity of the Act, the Authority, in coordination with EMB-DENR, DOH,
10 and other concerned government agencies, after public consultation with stakeholders, shall
11 promulgate standards, and rules and regulations based on internationally-accepted practices
12 which will effectively implement aerial spraying measures, including, but not limited to:

13 a) Pesticides, chemicals and substances – Only pesticides, chemicals, substances or
14 mixture thereof which are properly labeled and approved by the Authority shall be used for
15 aerial spraying will be used: *Provided*, That the pesticide shall be used and handled under
16 proper procedures set by the Authority;

17 b) Signage and Relevant Forewarning. - Signages showing the schedules of aerial
18 spraying in a given area and other relevant information shall be posted in strategic and
19 conspicuous places in farms or plantations, provincial, municipal and barangay halls, and
20 government centers : *Provided*, That written notification and report of such schedules and
21 other relevant information are officially submitted to all offices of local government units
22 having jurisdiction on the subject farm or plantation and residents of adjoining property, at
23 least three (3) days prior to the first date of pesticides application: *Provided, further*, That
24 proper warning schemes, such as series of sirens or alarms, are employed within the thirty
25 (30) minutes prior to the actual aerial spraying;

1 c) Buffer Zones and Fences – a minimum of perimeter buffer areas of one hundred
2 (100) meters from the areas being used by general public or vulnerable groups, including but
3 not limited to residential areas, schools, parks, roads and railways, and from bodies of water
4 and surface and groundwater used for drinking water, or fifty (50) meters from the plant
5 outside boundary line, whichever is higher, shall be maintained as aerial spray-free zone:
6 *Provided*, That the same may be increased to ensure that adequate safeguard area is provided
7 for the actual drift of the aerial spray: *Provided, further*, That the provision of the buffer
8 fences, whether natural or otherwise, to further prevent aerial spray drift shall be the
9 responsibility of the owners of plantation or farm practicing aerial spray;

10 d) Aerial Application Level – agricultural aircraft spraying pesticides shall not fly
11 more than 4.5 meters above the crops being treated;

12 e) Farm Topographical, Atmospheric and Environmental Considerations – Following
13 the effectivity of this Act, the Authority shall annually issue a certificate showing that the
14 plantation or farm is safe and proper for aerial spraying pursuant to the geographic,
15 topographic, atmospheric and other environmental standards promulgated pursuant to this
16 Act: *Provided*, That no farm or plantation shall be allowed to undertake aerial spraying
17 without the said certificate: *Provided, further*, That topographical, atmospheric and
18 environmental standards, including wind and temperature direction or measurement
19 requirement, and aerial spraying schedule, shall be strictly imposed on farm or plantation:
20 *Provided, finally*, That no aerial spraying shall be allowed when wind speed is more than 4
21 miles per hour and/or barometric temperature is higher than 26° Celsius; and

22 f) Modern facilities and Best Available Advanced Technologies - The authority
23 shall ensure that agricultural aircrafts and subject farms or plantations are equipped with the
24 modern facilities and best available advanced technologies or systems which are
25 internationally-accepted in advanced aerial spraying of pesticides necessary for safe,

1 systematic and precise spraying, optimum dispersal and accurate monitoring of dispersal flow
2 rates.

3 *Provided.* That nothing in this Section shall prevent the Authority to adopt, in coordination
4 with the EMB-DENR and DOH, after proper public consultation with stakeholders, more
5 stringent standards or measures.

6 Section 11. *Record-keeping and Monitoring.* – The Authority shall, after proper
7 public consultation with stakeholders, require any person who is subject to any requirement
8 of this Act to:

9 a) Install and use equipment or device and adopt a system approved by the Authority
10 which will monitor and record the actual methods, procedures used, pesticides solutions or
11 mixtures applied, application intervals employed, drift incident and its extent, photograph
12 and other relevant information during and/or after an actual aerial spraying; and

13 b) maintain record book approved by the Authority which book contains entries, data
14 and documentation gathered in accordance to the immediately preceding paragraph;

15 c) submit said report.

16 The record book or copy thereof shall be made available to the public, unless the same
17 contains information entitled to protection under Intellectual Property Act.

18 Section 12. *Visitorial Right.* – The Authority shall have the right to:

19 a) enter or access any premises including documents and materials as referred to in
20 the herein preceding section;

21 b) Inspect any pesticide, solution or waste source, control device, monitoring
22 equipment or method required; and

23 c) Test any pesticides, substances, solution or mixture.

24 **CHAPTER 6. – PROHIBITED ACTS, FINES AND PENALTIES**

25 Section 13. *Penalty.* – (a) Any person found violating the standards set for agricultural
26 aircraft, agricultural pilot and owner of farm or plantation under Sections 8, 9, 10, 11 and 12

1 of this Act, including the standards and rules and regulations promulgated therefor, shall
2 suffer a penalty of imprisonment of not less than one (1) year but not more than five (5) years
3 and/or a fine of not less than Five Hundred Thousand Pesos (P500,000.00) but not more than
4 Ten (10) Million Pesos;

5 (b) Any person who use or allows the use of an agricultural aircraft for aerial spraying
6 without the certificates required under Section 8 of this Act shall suffer a penalty of
7 imprisonment of not less than six (6) months but not more than two (2) years and/or a fine of
8 not less than Two Hundred Thousand Pesos (P200,000.00) but not more than One (1) Million
9 Pesos;

10 (c) Any person who fly or allows to fly an agricultural aircraft without the license
11 required under Section 8 of this Act shall suffer the same penalty of imprisonment and/or fine
12 set under the immediately preceding paragraph; and

13 (d) Any person found violating the standards set for agricultural aircraft, agricultural
14 pilot and owner of farm or plantation under any other Sections of this Act, including the
15 standards and rules and regulations promulgated therefor, shall suffer a penalty of
16 imprisonment of not less than three (3) months but not more than one (1) year and/or a fine of
17 not less than One Hundred Thousand Pesos (P100,000.00) but not more than Five Hundred
18 Thousand Pesos (P500,000.00).

19 *Provided*, That if the offender is a corporation, partnership or association, whether domestic
20 or foreign, the chairman of the board of directors, president, general manager and the officer
21 or employee directly responsible shall be imposed with the penalty of imprisonment and the
22 juridical entity he is representing shall be jointly liable to the fine imposed herein. *Provided*,
23 *further*, That if the offender is a foreigner, he shall, in addition to the other penalties imposed
24 herein, be deported after service of sentence without need of any further proceedings.

25 Section 14. *Implementing Rules and Regulations*. – The Authority shall, in
26 coordination with the EMB-DENR, DOH, upon public consultation with stakeholders,

1 promulgate the implementing rules and regulations within six (6) months following the
2 effectivity of this Act.

3 Section 15. *Joint Congressional Oversight Committee.* - There is hereby created a
4 Joint Congressional Oversight Committee to monitor the implementation of this Act and to
5 review the implementing rules and regulations promulgated by the Authority. The Committee
6 shall be composed of five (5) Senators and five (5) Representatives to be appointed by the
7 Senate President and the Speaker of the House of Representatives, respectively. The
8 Oversight Committee shall be co-chaired by the Chairpersons of the Committee on
9 Environment of the Senate and the Committee on Ecology of the House of Representatives.

10 Section 16. *Suppletory Application.* - All previous or existing laws, decrees, executive
11 orders, rules and regulations, and other issuances not inconsistent with this Act shall have
12 suppletory effect.

13 Section 13. *Repealing Clause.* - All previous or existing laws, decrees, executive
14 orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or
15 amended accordingly.

16 Section 17. *Separability Clause.* - If, for any reason, any section or provision of this
17 Act is declared null and void, no other section, provision, or part thereof shall be affected and
18 the same shall remain in full force and effect.

19 Section 18. *Effectivity Clause.* - This Act shall take effect immediately after
20 completion of its publication in the Official Gazette or in at least two (2) newspapers of
21 general circulation.

Approved.