

Fifteenth Congress
First Regular Session

HOUSE BILL NO. 3786

Introduced by Honorable Edgar S. San Luis

EXPLANATORY NOTE

This bill seeks to provide for stronger anti-smuggling strategies, amending for the purpose Presidential Decree No. 1464, otherwise known as the "Tariff and Customs Code of 1978."

Smuggling or unlawful importation of goods into the country remains to be a scourge to the government and local manufacturers and traders today. Every year, the government is losing approximately \$4 billion in revenues because of smuggling activities. These foregone revenues could have been used for vital social and economic services. The amount is enough to cover the budget deficit of the government.

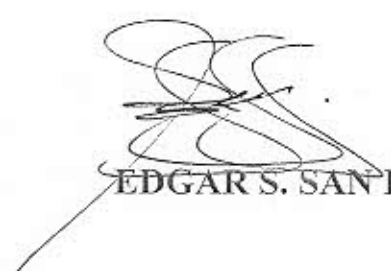
Smuggling affects the local industries negatively. The manufacturing companies lose profit and many small traders declare bankruptcy. It destroys the livelihood of farmers and wipes out jobs in the industrial sector. Further, it also endangers the health and welfare of the public since smuggled agricultural products or goods do not undergo the necessary quarantine procedures.

The enormous revenue loss due to uncollected taxes on smuggled goods and negative effects on local industries should not be ignored. Smuggling in the country must be stopped. Hence, this bill aims to eliminate smuggling by ensuring transparency in import transactions. This can be done by providing advance copies of cargo manifest to the Bureau of Customs (BOC) and the Philippine Ports Authority. The manifest shall also be made available to the Department of Agriculture for their own monitoring and inspection. The cargo manifest is also required to be posted in the bulletin board and website of the Bureau of Customs.

This proposed measure also seeks to establish a Valuation and Classification Review Committee in every Bureau of Customs District Office which shall include representatives from the private sector to minimize discretionary authority of BOC personnel when appraising dutiable items or articles.

Further, under this bill, the customs collector is mandated to conduct spot inspection and periodic audit to ensure that customs laws and regulations are followed by bonded warehouse facilities.

In view of the foregoing, approval of this bill is highly recommended.



EDGAR S. SAN LUIS

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AN ACT
PROVIDING FOR STRONGER ANTI-SMUGGLING
STRATEGIES, AMENDING FOR THE PURPOSE
PRESIDENTIAL DECREE NO. 1464, OTHERWISE KNOWN AS
"THE TARIFF AND CUSTOMS CODE OF 1978"

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

SECTION 1. Section 1005 of Presidential Decree No. 1464 is
hereby amended to read as follows:

"SEC. 1005. *Manifest Required [of Vessel from
Foreign Port]*. – Every vessel OR AIRCRAFT from a
foreign port OR AIRPORT must have on board a complete
manifest of all her cargo.

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A TRUE AND COMPLETE COPY OF THE CARGO
MANIFEST AND BILL OF LADING, TOGETHER WITH
THE STOWAGE PLAN OF THE OCEAN-GOING
VESSEL ENGAGED IN FOREIGN TRADE, SHALL BE
TRANSMITTED ELECTRONICALLY TO THE BUREAU
OF CUSTOMS AND THE PHILIPPINE PORTS
AUTHORITY AT LEAST TWELVE (12) HOURS PRIOR

TO ITS ARRIVAL IN THE PORT OF ENTRY. IN CASE OF AN AIRCRAFT, THE MANIFEST AND THE BILL OF LADING SHALL BE ELECTRONICALLY TRANSMITTED TO THE BUREAU OF CUSTOMS AT LEAST ONE (1) HOUR PRIOR TO ITS ARRIVAL IN THE AIRPORT OF ENTRY. IN CASE OF AGRICULTURAL IMPORTATION THE BUREAU OF CUSTOMS SHALL FURNISH THE DEPARTMENT OF AGRICULTURE WITH THE ELECTRONICALLY SENT CARGO MANIFEST AND BILL OF LADING UPON RECEIPT THEREOF.

A cargo manifest shall in no case be changed or altered after entry of the vessel, except by means of an amendment by the master, consignee or agent thereof, under oath, and attached to the original manifest: *Provided, however,* That after the invoice or entry covering an importation have been received and recorded [in the office of the appraiser] EITHER MANUALLY OR ELECTRONICALLY IN THE BUREAU OF CUSTOMS OR HAD BEEN LOGGED IN ITS COMPUTER SYSTEM, no amendment of the manifest shall be allowed, except when it is obvious that a clerical error or any discrepancy has been

committed in the preparation of the manifest, without any fraudulent intent, discovery of which would not have been made until after examination has been completed. PRIOR TO THE RELEASE OF THE CARGO, THE COMMISSIONER OF CUSTOMS SHALL EXAMINE THE VERACITY OF THE AMENDMENT AND IN CASE THERE IS PROOF OF FRAUD IN THE AMENDMENT OF THE MANIFEST, THE COMMISSIONER SHALL APPLY THE PENAL PROVISIONS UNDER SECTIONS 2503 AND 3602 OF THE TARIFF AND CUSTOMS CODE."

SEC. 2. Section 1007 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 1007. *Manifest for Commission on Audit and Collector.* — Papers to be deposited with Consul. — Immediately after the arrival of a vessel from a foreign port, the master shall deliver or mail to the Chairman, Commission on Audit, Manila, a copy of the cargo manifest properly indorsed by the boarding officer, and WITHIN TWENTY-FOUR (24) HOURS AFTER ARRIVAL, he shall present to the Collector the original copy of the cargo manifest and, for inspection, the ship's register or other

document in lieu thereof, together with the clearance and other papers granted to the vessel at the port of departure for the Philippines.

WITHIN THREE (3) DAYS FROM RECEIPT THEREOF, THE COLLECTOR SHALL PUBLISH THE CARGO MANIFEST FOR TWO (2) CONSECUTIVE WEEKS IN THE WEBSITE OF THE BUREAU OF CUSTOMS.

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SEC. 3. A new section to be known as Section 1214 is hereby inserted in the same Act, as amended, to read as follows:

“SEC. 1214. *IMPORT OR QUARANTINE PERMIT FOR AGRICULTURAL PRODUCTS.* – IMPORTED AGRICULTURAL PRODUCTS MUST BE COVERED BY A VALID IMPORT OR QUARANTINE PERMIT ISSUED BY THE DEPARTMENT OF AGRICULTURE PRIOR TO IMPORTATION TO THE PHILIPPINES. NO AGRICULTURAL PRODUCTS MUST BE ACCEPTED FOR LOADING OR TRANSPORT BY A VESSEL OR AIRCRAFT INTO THE COUNTRY IF THESE AGRICULTURAL PRODUCTS HAVE NOT BEEN

AUTHORIZED THROUGH AN IMPORT OR QUARANTINE PERMIT ISSUED BY THE DEPARTMENT OF AGRICULTURE PRIOR TO SHIPMENT. IF AND WHEN AGRICULTURAL PRODUCTS WERE LOADED, TRANSPORTED AND BROUGHT INTO THE COUNTRY WITHOUT THE PRIOR ISSUANCE OF IMPORT OR QUARANTINE PERMIT, THE AGRICULTURAL PRODUCTS MUST NOT BE UNLOADED FROM THE VESSEL OR AIRCRAFT TO ANY PHILIPPINE PORT OR AIRPORT OF ENTRY AND MUST BE SHIPPED BACK TO THE COUNTRY OF ORIGIN BY THE CONSIGNEE THROUGH THE SAME CARRIER THAT TRANSPORTED OR BROUGHT IN THE PRODUCTS. ANY IMPORTER WHO CAUSES THE ENTRY OF ANY AGRICULTURAL PRODUCT WITHOUT PRIOR IMPORT OR QUARANTINE PERMIT FOR THE PURPOSE SHALL BE HELD LIABLE UNDER SECTION 3601 OF THIS CODE."

SEC. 4. Section 1409 of the same Act, as amended, is hereby further amended to read as follows:

“SEC. 1409. [*Employment and Compensation of Persons to Assist in Appraisal or Classification of Articles.* –

When necessary, the collector may request two disinterested persons versed in the matter to assist the appraiser in appraising or ascertaining the dutiable value of any article.]

VALUATION AND CLASSIFICATION REVIEW COMMITTEE. – A VALUATION AND CLASSIFICATION REVIEW COMMITTEE IS HEREBY ESTABLISHED IN EVERY BUREAU OF CUSTOMS DISTRICT OFFICE TO APPRAISE OR ASCERTAIN THE DUTIABLE VALUE OF ANY ARTICLE. IT SHALL BE COMPOSED OF THE DISTRICT COLLECTOR OF CUSTOMS, AS CHAIRMAN, TWO (2) MEMBERS FROM THE DISTRICT OFFICE AND TWO (2) MEMBERS FROM THE PRIVATE SECTOR, AS MEMBERS.

Persons so employed shall be paid compensation in an amount to be determined by the Commissioner, not exceeding [Fifty pesos (P50.00)] TWO THOUSAND PESOS (P2,000.00) for each day of such service.”

SEC. 5. A new section to be designated as Section 1410 is hereby inserted in the same Act, as amended, to read as follows:

"SEC. 1410. *AUTHORITY OF THE BUREAU OF CUSTOMS TO EXAMINE THE ENTRY AND EXIT OF IMPORTED ARTICLES IN THE FREEPORTS.* - THE BUREAU OF CUSTOMS, IN COORDINATION WITH THE APPROPRIATE GOVERNMENT AGENCIES SUCH AS, BUT NOT LIMITED TO, THE DEPARTMENTS OF TRADE AND INDUSTRY, TRANSPORTATION AND COMMUNICATIONS, AGRICULTURE AND HEALTH SHALL HAVE THE AUTHORITY TO EXAMINE THE ENTRY AND EXIT OF IMPORTED ARTICLES IN THE FREEPORTS FOR THE PURPOSE OF DETERMINING: (A) THE QUANTITY AND DESCRIPTION OF SUBJECT IMPORTED ARTICLES, AND (B) THE COMPLIANCE WITH THE SANITARY AND AGRICULTURAL REQUIREMENTS."

SEC. 6. Section 1901 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 1901. *Establishment and Supervision of Warehouses.* - When the business of the port requires such facilities, the collector subject to the approval of the Commissioner shall designate and establish warehouses for

use as public and private bonded warehouses, sheds or yards, or for other special purposes.

All such warehouses and premises shall be subject to the supervision of the collector, who shall impose such conditions as may be deemed necessary for the protection of the revenue and of the articles stored therein. THE COLLECTOR SHALL CONDUCT SPOT CHECK OR INSPECTION AND PERIODIC AUDIT TO ENSURE THAT APPLICABLE CUSTOMS LAWS AND REGULATIONS ARE FOLLOWED BY THE BONDED FACILITIES.”

SEC. 7. Section 3601 of the same Act, as amended, is hereby further amended to read as follows:

“SEC. 3601. *Unlawful Importation.* – Any person who shall fraudulently import or bring into the Philippines, or assist in so doing, any article, contrary to law or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such article after importation, knowing the same to have been imported contrary to law, shall be guilty of smuggling and shall be punished with:

1. A fine of not less than [fifty] TWENTY THOUSAND pesos (P20,000.00) nor more than [two hundred] ONE HUNDRED THOUSAND pesos (P100,000.00) and imprisonment of not less than [five days] TWO (2) YEARS nor more than [twenty days] SIX (6) YEARS, if the appraised value, to be determined in the manner prescribed under this Code, including duties and taxes, of the article unlawfully imported does not exceed [twenty-five] TWO HUNDRED THOUSAND pesos (P200,000.00);

2. A fine of not less than [eight hundred] ONE HUNDRED THOUSAND pesos (P100,000.00) nor more than [five thousand] TWO HUNDRED THOUSAND pesos (P200,000.00) and imprisonment of not less than [six months and one day] SIX (6) YEARS nor more than [four] TEN (10) YEARS, if the appraised value, to be determined in the manner prescribed under this Code, including duties and taxes, of the article unlawfully imported exceeds [twenty-five] TWO HUNDRED THOUSAND pesos (P200,000.00) but does not exceed [fifty] SIX HUNDRED thousand pesos (P600,000.00);

3. A fine of not less than [six] TWO HUNDRED thousand pesos (P200,000.00) nor more than [eight] SIX HUNDRED thousand pesos (P600,000.00) and imprisonment of not less than [five] TEN (10) years [and one day] nor more than [eight] FIFTEEN (15) YEARS, if the appraised value, to be determined in the manner prescribed under this Code, including duties and taxes, of the article unlawfully imported is more than [fifty] SIX HUNDRED thousand pesos (P600,000.00) but does not exceed [one hundred fifty thousand] ONE MILLION PESOS (P1,000,000.00);

4. A fine of not less than [eight] SIX HUNDRED thousand pesos (P600,000.00) nor more than [ten thousand] TEN MILLION pesos (P10,000,000.00) and imprisonment of not less than [eight] FIFTEEN (15) years [and one day] nor more than [twelve] TWENTY (20) years, if the appraised value, to be determined in the manner prescribed under this Code, including duties and taxes, of the article unlawfully imported, exceeds [one hundred fifty thousand] ONE MILLION pesos (P1,000,000.00) BUT NOT MORE THAN FIFTY MILLION PESOS (P50,000,000.00);

5. IF THE APPRAISED VALUE OF THE UNLAWFULLY IMPORTED ARTICLE INCLUDING ITS DUTIES AND TAXES, EXCEEDS FIFTY MILLION PESOS (P50,000,000.00) OR IF THE AGGREGATE AMOUNT OF THE APPRAISED VALUE OF THE UNLAWFULLY IMPORTED ARTICLE INCLUDING DUTIES AND TAXES, RESULTING FROM REPEATED UNLAWFUL IMPORTATION EXCEEDS FIFTY MILLION PESOS (P50,000,000.00), THE SAME SHALL BE CONSIDERED AN OFFENSE INVOLVING ECONOMIC SABOTAGE AND SHALL BE PUNISHED WITH AN IMPRISONMENT OF NOT LESS THAN TWENTY (20) YEARS BUT NOT MORE THAN THIRTY (30) YEARS AND A FINE OF NOT LESS THAN TWELVE MILLION PESOS (P12,000,000.00) BUT NOT MORE THAN FIFTY MILLION PESOS (P50,000,000.00); AND

[5] 6. [The penalty of *prision mayor*] IMPRISONMENT OF NOT LESS THAN SIX (6) YEARS BUT NOT MORE THAN TWELVE (12) YEARS shall be imposed when the crime of serious physical injuries shall have been committed and the penalty of [*reclusion perpetua*]

to death] IMPRISONMENT OF NOT LESS THAN TWENTY (20) YEARS BUT NOT MORE THAN THIRTY (30) YEARS shall be imposed when the crime of homicide shall have been committed by reason or on the occasion of the unlawful importation.

In applying the above scale of penalties, if the offender is an alien [and the prescribed penalty is not death], he shall be deported after serving the sentence without further proceedings for deportation. If the offender is a government official or employee, the penalty shall be the maximum as hereinabove prescribed and the offender shall suffer an additional penalty of perpetual disqualification from public office, to vote and to participate in any public election.

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SEC. 8. This Act shall take effect fifteen (15) days after publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved,