

Republic of the Philippines
House of Representatives
Quezon City

Fifteenth Congress
Second Regular Session

HOUSE BILL NO. 5550



Introduced by TUCP Party-List Representative
Honorable RAYMOND DEMOCRITO C. MENDOZA

EXPLANATORY NOTE

Section 15, Article II of the Constitution provides that *"The State shall protect and promote the right to health of the people and instill health consciousness among them."*

The Department of Health, in consultation with the World Health Organization, recommends that aerial spraying must be banned until proof of its safety is clearly established. Residential areas and schools near the farms and plantations are exposed to considerable risks of spray drift and post-application drift. During aerial spraying, pesticide drift is unavoidable.

In Mindanao, where most of the farms and plantations are found, local ordinances on aerial spraying do not provide for the protection of the communities living in and around the plantations against exposure to fungicide drift. Advocates against aerial spraying are calling for the enactment of a law that will *"promote health and safety, and enhance the right of the people to a balanced ecology."*

The protection of communities must however go hand-in-hand with a delicate balancing of interest that also takes into account the contributions of the high-value crop industry to the livelihoods of poor people, the economic vibrancy of rural communities, the struggle to overcome rural poverty and the tax revenues contributed to both the national and local governments.

Further, we have to consider the situation on the farm sites, where there is now a dangerous fungal disease, more popularly known as Panama Disease (*Fusarium wilt*) which essentially can be ground-borne from one site to another by the movement of feet or vehicles over an infected site to another. Aerial spraying however does not increase the risk of spreading Panama Disease because no ground movement is involved.

This bill seeks to address the problems of aerial spraying of fungicides by providing for the standards and guidelines that will curve the ill-effects of aerial spraying on health and environment.

In view of the foregoing, approval hereof is highly recommended.


HON. RAYMOND DEMOCRITO C. MENDOZA

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AN ACT
REGULATING THE AERIAL SPRAYING OF PESTICIDES AND FUNGICIDES ON
AGRICULTURAL CROPS AND PROVIDING PENALTIES FOR VIOLATION
THEREOF

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

SEC. 1. *Short Title.* – This Act shall be known as the “*Aerial Spraying Regulation Act of 2011.*”

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State 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. Toward these ends, the State shall strictly regulate the aerial spraying of chemicals, such as pesticides and fungicides, in order to uphold the principle of sustainable development and maintain a rational and balance of human health, environmental protection and socio-economic growth.

SEC. 3. *Definition of Terms.* – As used in this Act:

Aerial spraying- refers to the application of fertilizers, fungicides, and other similar chemicals or substances on crops from an aircraft for agricultural purposes;

Agricultural aircraft- refers to an aircraft custom built with a chemical sprayer system and used for aerial spraying of crops; and

Pesticide - refers to any substance or product, or mixture thereof, including active ingredients, adjuvants, and pesticides formulations, intended to control, prevent, destroy, repel or mitigate directly or indirectly, any pest. The term shall be understood to include insecticide, fungicide, bactericide, nematocide, herbicide, molluscicide, avicide, rodenticide, plant regulator, defoliant, dessicant and the like.

SEC. 4. *Lead Agency.* – The Fertilizer and Pesticide Authority under the Department of Agriculture, hereinafter referred to as the Authority, shall be the lead government agency responsible for the implementation and enforcement of this Act.

SEC. 5. *Standards for Aerial Spraying.* – Within six (6) months from the effectivity of this Act, the Authority shall, in coordination with the Department of Environment and Natural Resources (DENR), Department of Health (DOH), and other stakeholders, promulgate standards, rules and regulations based on internationally-accepted practices which will effectively implement aerial spraying measures, including but not limited to:

- a) ***Pesticides, Chemicals and Substances.*** – Only pesticides, chemicals, substance or a mixture thereof which are properly labelled and approved by the Authority shall be used for aerial spraying: *Provided*, That the pesticide shall be used and handled under proper procedures set by the Authority.
- b) ***Signage and Relevant Forewarning.*** – Signages showing the schedules of aerial spraying in a given area and other relevant information shall be posted in strategic and conspicuous places in government centers, farms or plantations, and provincial, city, municipal and barangay halls: *Provided*, That the written notification and report of such schedules and other relevant information are officially submitted to all offices of local government units having jurisdiction on the farm or plantation and residents of adjoining property, at least three (3) days prior to the first date of pesticides application: *Provided, further*, That proper warning schemes, such as series of sirens or alarms, are employed within thirty (30) minutes prior to the actual aerial spraying.
- c) ***Buffer Zones and Fences.*** – A minimum of perimeter buffer areas of fifty (50) meters from the areas being used by the general public or vulnerable groups, including but not limited to residential areas, schools, parks, roads and railways, and from bodies of water and surface and groundwater used for drinking water, or thirty (30) meters from the plant outside boundary line, whichever is higher, shall be maintained as aerial spray-free zone: *Provided*, That the same may be increased to ensure that adequate safeguard area is provided for the actual drift of the aerial spray: *Provided, further*, That the provision of the buffer fences, whether natural or otherwise, to further prevent aerial spray drift shall be the responsibility of the owners of plantations or farms practicing aerial spray.
- d) ***Aerial Application Level.*** – Agricultural aircraft spraying pesticides shall not fly more than 5-8 meters above the crops being treated.
- e) ***Farm Topographical, Atmospheric and Environmental Considerations.*** – Following the effectivity of this Act, the Authority shall annually issue a certificate showing that the plantation or farm has complied with safe and proper procedures for aerial spraying pursuant to this Act: *Provided*, That no farm or plantation shall be allowed to undertake aerial spraying without the said certificate: *Provided, further*, That the topographical atmospheric and environmental standards, including wind and temperature direction or measurement requirement, and aerial spraying schedule, shall be strictly imposed on any farm or plantation: *Provided, finally*, That no aerial spraying shall be allowed when wind speed is more than 4 kilometers per hour and air temperature is higher than 28° Celsius.
- f) ***Modern Facilities and Advanced Technologies.*** – The Authority shall ensure that agricultural aircrafts and subject farms or plantations are equipped with modern facilities and advanced technologies or systems which are internationally-accepted in advanced aerial spraying of pesticides necessary for safe, systematic and precise spraying, optimum dispersal and accurate monitoring of dispersal flow rates.

Nothing in this Section shall prevent the Authority to adopt, in coordination with the EMB-DENR and DOH, after proper public consultation with the stakeholders, more stringent standards or measures.

SEC. 6. *Agricultural Aircraft Certification and Pilot Licensing.* – The Civil Aviation Authority of the Philippines (CAAP) shall issue Agricultural Aircraft Certificates which shall be valid for one (1) year to all worthy agricultural aircraft that comply with the CAAP standards. No agricultural aircraft shall operate without the CAAP certification.

The CAAP shall likewise issue special licenses for pilots who possess appropriate skills for the operation of agricultural aircraft.

Within six (6) months from the effectivity of this Act, the Authority in coordination with the CAAP, shall establish agricultural aircraft and pilot certification standards and develop programs for agricultural pilots designed to equip them in technical safety, farm plantation or crop care products, human health and environmental concerns.

SEC. 7. *Inter-Agency Monitoring Support Team.* – The Authority in coordination with the DOH and the Environmental Management Bureau of the Department of Environment and Natural Resources (EMB-DENR) shall regularly monitor the health of persons, particularly the workers, labourers and employees, residing within and adjacent to the farms or plantations where aerial spraying is practiced.

The Authority shall regularly monitor and evaluate the air and water qualities as well as the ambient environmental condition of farms or plantations practicing aerial spraying.

Local government units (LGUs) shall assist in the implementation and enforcement of this Act within their respective territorial jurisdictions.

SEC. 8. *Visitorial Right.* – The Authority shall have visitorial rights as follows:

To enter or access any premises including documents and materials as referred to in the herein preceding section;

To inspect any pesticide, solution or waste source, control device, monitoring equipment or method required; and

To test any pesticides, substances, solution or mixture.

SEC. 9. *Record-keeping.* – The Authority shall, after proper public consultation with stakeholders, require any person who is subject to any requirement of this Act:

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

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

To submit said report.

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

SEC. 10. *Prohibited Acts and Penalties.*

- a) Any person found violating the standards set for aerial spraying, agricultural aircraft and agricultural pilot provided under Sections 5, 6 and 7 of this Act, including the standards and rules and regulations promulgated therefore, shall suffer the penalty of imprisonment of not less than one (1) year but not more than five (5) years and fine of not less than Five Hundred Thousand Pesos (P500,000.00) but not more than Ten (10) Million Pesos;

- b) Any person who uses or allows the use of an agricultural aircraft for aerial spraying without the certificates required under Sections 6 and 7 of this Act shall suffer the penalty of imprisonment of not less than six (6) months but not more than two (2) years and fine of not less than Two Hundred Thousand Pesos (P200,000.00) but not more than One (1) Million Pesos;
- c) Any person who flies or allows to fly an agricultural aircraft without the license required under Section 6 of this Act shall suffer the same penalty of imprisonment and fine set under the immediately preceding paragraph; and
- d) Any person found violating the standards set for aerial spraying, agricultural aircraft, agricultural pilot and owner of farm or plantation under any other Sections of this Act, including the standards and rules and regulations promulgated therefore, shall suffer the penalty of imprisonment of not less than three (3) months but not more than one (1) year and fine of not less than One Hundred Thousand Pesos (P100,000.00) but not more than Five Hundred Thousand Pesos (P500,000.00).

If the offender is a corporation, partnership or association, whether domestic or foreign, the chairman of the board of directors, president, general manager and the officer or employee directly responsible shall be imposed with the penalty of imprisonment and the juridical entity represented shall be jointly liable to the fine imposed herein.

The offender who is a foreigner, shall, in addition to the other penalties imposed herein, be deported after service of sentence without need of any further proceedings.

SEC. 11. **Implementing Rules and Regulations.** – Within six (6) months following the effectivity of this Act, the Secretary of Agriculture shall, in coordination with the DENR, DOH and DILG, upon public consultation with stakeholders, promulgate the necessary rules and regulations needed for the effective implementation of this Act.

SEC. 12. **Repealing Clause.** – All laws, decrees, executive orders, proclamations, rules and regulations, and issuances, or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed or amended accordingly.

SEC. 13. **Separability Clause.** – If any provision or part of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected, shall remain in full force and effect.

SEC. 14. **Effectivity.** – This Act shall take effect fifteen (15) days after publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved,