

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

FIFTEENTH CONGRESS

Second Regular Session

HOUSE BILL NO. 5693



Introduced by Representative Pedro P. Romualdo

EXPLANATORY NOTE

The Philippine motor vehicle industry plays a major role in the development of our national economy.

For more than three (3) decades, the State has pursued the development of the Philippine motor vehicle industry through the implementation of varying protectionist schemes of fiscal incentives and trade barriers. These fiscal incentives and trade barriers were instituted for the purpose of enticing major automotive industry players to establish their manufacturing and/or assembly facilities in the Philippines, to generate employment, to promote skills training and technology transfer to Filipino workers, as well as to lower the cost of acquiring motor vehicles for the average Filipino consumer.

These fiscal incentives were, however, made available only to a small number of automotive companies which established assembly facilities in the country. At present, these fiscal incentives benefit only the motor vehicle assemblers registered under the Motor Vehicle Development Program (MVDP) of the Government.

Notwithstanding the institution of fiscal incentives and trade barriers intended to favor the local motor vehicle industry, industry growth has been

weak compared to those in other major ASEAN economies. Consumer demand for motor vehicles in the Philippines remains low, with motor vehicle prices continuing to be beyond the reach of the average Filipino consumer. Neither have these fiscal incentives spurred local motor vehicle manufacturing.

With the entry into effect of the Common Effective Preferential Tariff (CEPT) scheme under the ASEAN Free Trade Agreement, imports from other ASEAN countries, including Completely Built-Up motor vehicles (CBUs), enjoy a zero-tariff rating, while CBU imports from other countries are subject to tariff rates between 20% to 30%. Taking advantage of the zero-tariff rating under the CEPT, local motor vehicle assemblers which are registered under the MDVP have been importing more CBUs from other ASEAN countries. As of 2010, CBU imports constituted fifty-six percent (56%) of local sales of motor vehicles. Despite the zero-tariff rating under the CEPT, local prices of motor vehicles remain beyond the reach of most Filipino consumers. This has resulted in price distortions, in that a CBU imported from an ASEAN country will have a lower landed cost than a similarly-priced CBU imported from a non-ASEAN country.

The selective grant of fiscal incentives only to motor vehicle assemblers which are registered under the MVDP has, therefore, become antithetical to fair trade and competition within the Philippine motor vehicle industry. CBU imports from other ASEAN countries enjoy a zero-tariff rating, while those imported from non-ASEAN countries are charged varying tariff levels. Prices of motor vehicles in the Philippines have, thus, become distorted.

More importantly, many of the major multinational motor vehicle assemblers registered under the MVDP have been importing more models from other ASEAN countries, rather than assembling them in the Philippines. Yet, these enterprises continue to benefit from fiscal incentives granted by the Philippines. The selective grant of fiscal incentives to these enterprises has not achieved its goal. On the contrary, the fiscal incentives granted to them by the Government only served to give MVDP-registered enterprises a distinct, unfair and unwarranted advantage over CBU importers which are not registered under the MVDP.

This proposed Bill aims to level the playing field between and among multinational automotive companies, which have established assembly facilities in the Philippines, but which are now importers of a greater number of CBU units, and also, for CBU importers. The proposed bill provides for the formulation and adoption of a fiscal incentives package to be granted uniformly to motor vehicle manufacturers, assemblers and importers which operate in the Philippines. It also provides for the formulation and adoption of an additional fiscal incentives package for automotive enterprises which make significant direct investments in the Philippines and export their products to other countries.

With the enactment into law of this proposed Bill, it is envisioned that prices of motor vehicles in the Philippine market will be significantly reduced, thus, making motor vehicles available to more Filipino consumers.

Approval of this House Bill is earnestly and urgently recommended.



PEDRO P. ROMUALDO

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18 AN ACT
19 TO PROMOTE COMPETITIVENESS AND FAIR COMPETITION
20 IN THE PHILIPPINE MOTOR VEHICLE INDUSTRY THROUGH
21 THE RATIONALIZATION OF THE GRANTING OF FISCAL
22 INCENTIVES
23

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26 *Be it enacted by the Senate and House of Representatives of the Philippines in*
27 *Congress assembled:*
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29 Section 1. *Declaration of Policy.* - Recognizing that the Philippine motor
30 vehicle industry contributes significantly to the economic growth of the nation, the
31 following are hereby declared to be the policies of the State:
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33 (a) The State shall develop a comprehensive policy that will accelerate
34 the development of the Philippine motor vehicle industry;
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36 (b) The State shall ensure free and fair trade in the Philippine motor
37 vehicle industry by fully developing its competitive capacities and promoting
38 greater participation in a globalized economy through increased export;
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40 (c) The State shall encourage technology transfer and advances and
41 promote automotive skills development as means to drive the competitiveness of
42 the Philippine motor vehicle industry; and
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(d) The State shall provide equal treatment in terms of taxes imposed, privileges and benefits granted, as well as in the rules and regulations issued to govern motor vehicle importers, manufacturers, assemblers, dealers, and the like.

Section 2. *Definition of Terms.* - As used in this Act, the following terms shall have the following meanings:

(a) "Motor vehicle" refers to any vehicle propelled by any power other than muscular power using the public thoroughfares and highways. The following shall not be considered as motor vehicles:

(i) Road rollers, trolley cars, street sweepers, sprinklers, lawn mowers, bulldozers, graders, fork lifters, amphibian trucks and cranes, if not used on a public thoroughfare or highway

(ii) Vehicles that run only on tracks or rails, and

(iii) Traction engines of all kinds used exclusively for agricultural purposes.

(b) "Motor vehicle industry" shall refer to the manufacture, assembly and/or importation of brand-new motor vehicles in the Philippines.

(c) "Motor vehicle industry participant" or "participant" shall mean an individual, partnership, corporation or other person or entity engaged in the manufacture, assembly and importation of brand-new motor vehicles in the Philippines, duly registered with the Board of Investments in accordance with Section 5 of this Act.

(d) A "brand-new motor vehicle" shall refer to a motor vehicle which is of (i) current or advance year model in the country of its origin or manufacture, or (ii) of a year model immediately preceding the year in the country of its origin or

1 manufacture, provided that, the motor vehicle has a mileage of not more than two
2 hundred (200) kilometers and the motor vehicle was acquired by the importer from
3 the manufacturer or dealer as the first owner.

4
5 (e) "Fiscal incentives" shall mean benefits and privileges, both financial
6 and non-financial, granted by the State to industries, or parts of industries, for the
7 purpose, among others, of increasing investments, promoting development,
8 increasing local employment and advancing technology transfer to the Philippines.
9 The term shall include, but shall not be limited to:

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11 (i) Income and/or excise tax holidays;

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13 (ii) Reduction in income tax or excise tax rates;

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15 (iii) Reduction in import duty rates or exemption from import duties
16 and taxes;

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18 (iv) Net operating loss carry-overs;

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20 (v) Special or additional deductions on expenses incurred for
21 research and development;

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23 (vi) Tax and/or duty free importation of capital equipment and
24 training equipment;

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26 (vii) Exemption from the payment of regulatory fees; and

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28 (viii) Acceleration in the depreciation period of fixed assets.

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31 **Section 3. Rationalization of the Grant of Fiscal Incentives** - Within one
32 (1) year from the effectivity of this Act, the Board of Investments (BOI) shall

1 formulate and, with the approval of the President, adopt and implement a "Fiscal
2 Incentives Package" for the motor vehicle industry. This fiscal incentives package,
3 to be known as:

4
5 (1.) "Fiscal Incentives Package A for the Motor Vehicle Industry," shall
6 apply and be available to all motor vehicle industry participants.

7
8 (2.) "Fiscal Incentives Package B for the Motor Vehicle Industry," setting
9 forth additional fiscal incentives for motor vehicle industry participants which can
10 meet these specific requirements:

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12 (a) Have made a direct investment into the Philippines
13 totaling at least Two billion pesos (Php2,000,000,000.00) for research
14 and development, expansion or improvement of plants and other
15 manufacturing or assembly facilities, and/or labor skills training and
16 technology transfer; and

17
18 (b) Exported at least forty percent (40%) of the their
19 respective annual production outputs, with a value of at least One
20 billion pesos (Php1,000,000.00) per annum per participant, to other
21 countries.

22
23 Both fiscal incentives set forth in this Section can be availed of by qualified
24 motor vehicle industry players. *Provided, however,* that motor vehicle industry
25 players shall continue to enjoy and benefit from the fiscal incentives from existing
26 issuances prior to the formulation, approval, adoption and implementation of the
27 fiscal incentives packages in this Act.

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29 *Provided, Further,* that any amendment or revision of the fiscal incentives
30 packages under this Act shall not be enforceable and implemented without the
31 approval of the President.

1 *Provided, Furthermore,* that the Department of Trade and Industry (DTI)
2 and Board of Investment (BOI) shall jointly recommend to increase, but shall not
3 reduce, the criteria for a participant's entitlement to, and availment of, the fiscal
4 incentives granted under "Fiscal Incentives Package B for the Motor Vehicle
5 Industry every five (5) years thereafter from the effectivity of this Act and after
6 proper determination of the level of participation and compliance of motor vehicle
7 industry players based on the yearly official report of the Board of Investments
8 (BOI) and the Department of Trade and Industry (DTI) to the Office of the
9 President (OP).

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12 **Section 4.** *Equalization of the Grant of Fiscal Incentives.* - The
13 fiscal incentives granted under "Fiscal Incentives Package A for the Motor Vehicle
14 Industry," shall apply and be available to all motor vehicle industry participants
15 equally and without discrimination. The fiscal incentives granted under "Fiscal
16 Incentives Package B for the Motor Vehicle Industry," shall also apply and be
17 available to all motor vehicle industry participants which meet the criteria therefor
18 set forth in Section 3 of this Act uniformly, equally and without discrimination.

19
20 Pending the adoption and implementation of the fiscal incentive packages
21 referred to in Section 3 of this Act, the fiscal incentives available to motor vehicle
22 manufacturers and assemblers under the Motor Vehicle Development Program
23 established under Executive Order No. 156, Series of 2002 and Executive Order
24 No. 877-A, Series of 2010 shall be apply and be made available to all motor
25 vehicle industry participants.

26
27 **Section 5.** *Registration of Motor Vehicle Industry Participants.* - As a
28 prerequisite for their availment of the fiscal incentives referred to in Sections 3 and
29 4 of this Act, motor vehicle industry participants must first register with the Board
30 of Investments (BOI). The Board of Investments is hereby authorized to determine
31 the documentary requirements and to prescribe and collect the fees necessary for
32 such registration. The Board of Investments shall prepare and maintain a roster of

1 motor vehicle industry participants which have been registered pursuant to the
2 provisions of this Act and shall post the updated list in their website. The Board of
3 Investments shall, upon prior notice to the participant concerned, remove such
4 participant from the roster and revoke its registration if the participant ceases to be
5 engaged in the manufacture, assembly or importation of motor vehicles in the
6 Philippines.

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8 **Section 6. *Implementing Rules and Regulations.*** - Within three (3)
9 months from effectivity of this Act, the Department of Trade and Industry shall,
10 promulgate such rules and regulations as may be necessary for the implementation
11 of this Act.

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13 **Section 7. *Repealing clause.*** - Any law, presidential decree or issuance,
14 executive order, administrative rule or regulation contrary to or inconsistent with
15 the provisions of this Act is hereby repealed, modified or amended accordingly.

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17 **Section 8. *Separability Clause.*** - If any of the provision of this Act is
18 held unconstitutional or invalid, the remainder of the Act or the provision not
19 otherwise affected shall remain valid and subsisting.

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21 **Section 9. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days
22 after its publication in two (2) newspapers of general circulation.