

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

H. No. 1555



Introduced by Representative Estrellita "Ging" B. Suansing

EXPLANATORY NOTE

This bill seeks to uphold the Constitutional right of the people to information on matters of public concern, specifically on food included in the list of basic necessities. The objective is to ensure transparency in all government transactions, in connection with food, so as to prevent any and all forms of syndicated monopoly or unscrupulous cartel which would otherwise restrict the people's access to affordable and adequate food supply.

Pursuant to the provisions of this bill, the State shall afford to all citizens, government or private, all information necessary for the proper implementation of this Act, save those which may jeopardize the right against self-incrimination of individuals and matters affecting national security, especially those information dealing with foreign diplomatic relations; and other circumstances provided by this Act.

In line with the same, the government body that possesses any significant information that affects food supply shall readily disseminate the same to the public and regularly update such information.

Any person denied access to any information, as provided in this Act, shall file a request in writing to the concerned government body, reasonably describing the information being sought and stating the correct and current contact details.

Whereupon, the government body shall comply with the said request within two (2) working days after the receipt of the request, or within a reasonable period of time mutually agreed upon by the requesting person and the government body's employee concerned, but not to exceed five (5) working days.

Such is the zeal and seriousness of the government in its desire to eradicate or at least alleviate the plight of our impoverished citizens by affording them access even to classified information, specifically in relation to food supply, that the Act mandates a penalty of imprisonment or fine, depending on the gravity of the offense, for any government official or employee who will violate the tenor of this Act.

Pertinent to the proper implementation of this Act, a Congressional Oversight Committee consisting of five (5) members each from the Senate and the House of Representatives shall be formed, to be composed of the Chairpersons of the Committees on Agriculture, Trade and Industry, Justice and Human Rights of both the Senate and the House of Representatives. They shall meet bi-annually to oversee the implementation of this Act.

Thus, the passage of this bill is earnestly sought as it will work together with the poverty alleviation programs of the government. Moreover, the criminal acts included in the Revised Penal Code, such as but not limited to, monopolies and combinations in restraint of trade and frauds in commerce and industry would be considerably addressed in favor of the innocents.

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


Rep. ESTRELLITA "GING" B. SUANSING
1st District, Nueva Ecija

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

H. No. 1555

Introduced by Representative Estrellita "Ging" B. Suansing

AN ACT

UPHOLDING THE CONSTITUTIONAL RIGHT OF THE PEOPLE TO INFORMATION ON MATTERS OF PUBLIC CONCERN ON FOOD INCLUDED IN THE LIST OF BASIC NECESSITIES OR PRIME COMMODITIES TO GUARANTEE THE RIGHT OF THE PEOPLE TO AFFORDABLE FOOD AND ADEQUATE FOOD SUPPLY

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

SECTION 1. **Short Title.** – This Act shall be known as the "Affordable Food Transparency Act of 2013".

SEC. 2. **Declaration of Policy.** – The State recognizes the fundamental right of the people to affordable food and adequate food supply. The State, therefore, acknowledges its obligation to the people to ensure adequate supply of food included in the list of basic necessities or prime commodities, as well as to ensure transparency in all its transactions and to prevent any and all forms of collusion and cartel that would restrict the people's access to affordable food and adequate food supply. In order to reinforce the right of the people to affordable food and adequate food supply, the State shall adopt and implement a policy of full public disclosure of all government transactions involving food included in the list of basic necessities or prime commodities, consistent with the constitutional right of the people to information on all matters of public concern.

To guarantee the people's fundamental human right to affordable food and adequate food supply, the State shall afford to all citizens, nongovernment organizations, civil society groups and other private entities access to official records, and to documents and papers pertaining to official acts, transactions or decisions, as well as to government research data used as basis for policy development, except for such information which may jeopardize the right against self-incrimination of individuals and matters affecting national security, especially those information dealing with foreign diplomatic relations.

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

(a) **“Basic necessities”** include rice, corn, bread; fresh, dried and canned fish and other marine products; fresh pork, beef and poultry meat; fresh eggs; fresh and processed milk; fresh vegetables; root crops; coffee; sugar; cooking oil; salt; laundry soap and detergents; firewood; charcoal; candles; and drugs classified as essential by the Department of Health (DOH), as defined under Republic Act No. 7581, otherwise known as “The Price Act”.

(b) **“Government body”** refers to any branch, agency or instrumentality of the Executive Department, specifically, but not limited to, the Department of Agriculture (DA) and the Department of Trade and Industry (DTI), the legislative, judicial or constitutional body of the government of the Republic of the Philippines, as well as the local government units (LGUs), the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP), government financial institutions (GFIs) and government-owned and -controlled corporations (GOCCs), and all such other entities where the government has substantial interest therein.

(c) **“Information”** refers to all documents, papers, letters, minutes and transcripts of official meetings, maps, books, photographs, films, sound and video recordings, magnetic or other tapes, electronic data processing records, computer-stored data, electronic mail messages, or any other like or similar data or material recorded, stored or archived in whatever form or format, which are made, received or kept in or under the control and custody of any government body, pursuant to law, executive order, rules and regulations, ordinance or any other issuance in connection with the performance or transaction of its official business.

(d) **“Prime commodities”** include fresh fruits; flour; dried, processed and canned pork; beef and poultry meat; dairy products not falling under basic necessities; noodles; onions; garlic; vinegar; patis; soy sauce; toilet soap; fertilizer; pesticides; herbicides; poultry, swine and cattle; paper; school supplies; nipa shingles; sawali; cement; clinker; galvanized iron (GI) sheets; hollow blocks; plywood; plyboard; construction nails; batteries; electrical supplies; light bulbs; steel wire; and all drugs not classified as essential drugs by the DOH, as defined under Republic Act No. 7581, otherwise known as “The Price Act”.

(e) **“Requesting person”** refers to a person, whether natural or juridical, who makes a request to obtain, have a copy of, or have access to information from any government body.

(f) **“Trade secret”** refers to any information, including a formula, pattern, compilation, program, device, product, method, technique or process, that is used, or may be used, in business or for any commercial advantage; derives independent economic value, actual or potential, from not being generally known to the public or to persons who can obtain economic value from its disclosure or use; is the subject of reasonable efforts to prevent it from becoming generally known, and the disclosure of which would result in harm or improper benefit.

SEC. 4. Coverage and Limitations. – All information, as herein defined, pertaining to food included in the list of basic necessities or prime commodities, which are in the custody of or under the control of a government body shall be made accessible and available for public scrutiny, copying and reproduction, except when:

(a) The information pertains to personal information on a third party, whether a natural or juridical person, but only when its revelation would constitute a violation of the individual's right against self-incrimination and confidentiality of information including, but not limited to, records or information covered by attorney-client or doctor-patient relationship;

(b) The information has been specifically authorized to be kept secret or considered classified in the interest of national security by the President of the Republic of the Philippines through an executive order duly published in the Official Gazette or in at least two (2) newspapers of general circulation, subject to the following provisions:

(1) The Supreme Court may, upon petition for certiorari by any citizen, inquire into the sufficiency of the factual basis for the determination of the President of the Republic of the Philippines;

(2) The information shall be reviewed every five (5) years by the head of each government body for purposes of declassification and making it available to the public; and

(3) The information shall finally be deemed declassified and open to the public after a period of fifteen (15) years from the date of first publication of the said Executive Order in the Official Gazette or in a newspaper of general circulation.

(c) The information relates to the detection and investigation of crime maintained by law enforcement agencies for criminal law enforcement including those maintained by any individual or compiled in the course of a criminal investigation by any law enforcement agency: *Provided*, That the disclosure of the public record or information:

(1) Could reasonably be expected to interfere with the prevention, detection, suppression or investigation of any criminal activity or with law enforcement operations;

(2) Would deprive a person of a right to a fair trial or an impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(4) Could reasonably be expected to disclose the identity of a confidential source, including a foreign agency or authority, or any private institution which furnished information on a confidential basis, or the information was furnished by a confidential source;

(5) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions; or

(6) Could reasonably be expected to endanger the life or physical safety of any individual, harm the security of any property or system including, but not limited to, a building, vehicle, computer or communications system:

Provided, however, That records or information relating to the administration, management and direction of a law enforcement agency shall be made public.

(d) The information is maintained by the Department of Foreign Affairs (DFA) and other relevant government bodies on another sovereign state, and the disclosure of such records or information could reasonably be expected to jeopardize the diplomatic relations of the government of the Republic of the Philippines with the said sovereign state: *Provided,* That treaties, trade agreements, contracts between agencies or government-owned and -controlled corporations, and implementing agreements, annexes, side letters and other such documents and records pertaining to or related to the same, and any other documents pertaining to dealings entered into by the government of the Republic of the Philippines with another sovereign State which binds the government to uphold such transactions under international and local laws shall not be covered by this exception;

(e) The information pertains to trade secrets and commercial or financial information obtained from a person, firm or corporation which is of a privileged or confidential nature; or

(f) The information is exempted from disclosure by another law or by the Rules of Court including, but not limited to, information considered as privileged communication or gathered by any government body in closed or executive session. In cases where access is requested to a portion of a record or information that is exempt from disclosure pursuant to this Act, the public shall have the right of access to the remainder of the record: *Provided,* That the exempt portion of the record may be reasonably separated, severed, deleted or concealed from the record.

Nothing in this Act shall, however:

(1) Authorize the withholding of information from, or limit the availability of records to Congress or any of its committees;

(2) Affect the power of any court, tribunal, investigative body, or any government body exercising quasi-judicial functions to compel a witness to testify or to compel the production of documents;

(3) Limit the information otherwise available by law to a party to litigation including a civil, criminal or administrative proceeding;

(4) Prohibit the transfer, storage or destruction of any record pursuant to law, decree, order, ordinance or rules and regulations;

(5) Prevent access to records maintained in a public office for the purpose of providing the public access to information; or

(6) Restrict disclosure of information for the purpose of an investigation or prosecution of a criminal case or a case of graft and corruption.

SEC. 5. *Procedure for Access.* – Any person who seeks to obtain, have a copy of, or have access to any information shall file a request in writing, as much as practicable, to the government body, reasonably describing the information being sought and stating correct and current contact details.

The government body shall comply with the said request within two (2) working days after the receipt of the request, or within a reasonable period of time mutually agreed upon by the requesting person and the government body's employee concerned, but not to exceed five (5) working days.

The time for compliance may, with due notice to the requesting person, be extended by the head of the government body to a period not exceeding fifteen (15) days if:

(a) The requesting person failed to give enough details about the information or record sought to be obtained;

(b) A large number of records is sought to be obtained in a single request, or when it has received voluminous requests, that compliance within the prescribed period under this Act would unreasonably interfere with its operations;

(c) The request requires search and collation of records from its field offices;

(d) Additional time is needed to consult with another government body having material or substantial interest in the determination of the request; and

(e) There are fortuitous events or other events from force majeure, or other analogous cases.

SEC. 6. *Payment of Reasonable Fees.* – Copies or reproductions of information, whether in print or electronic media, may be obtained by the requesting person whose request has been approved upon payment of a reasonable fee which shall not exceed the actual cost of reproduction, plus a reasonable margin not exceeding ten percent (10%): *Provided*, That proceeds from the reproduction fees charged shall be used exclusively for the purchase and maintenance of equipment and supplies required to produce copies or reproduction of the records.

Upon request, the government body shall provide a detailed itemization of the costs charged for the reproduction. No government body may, however, require the advanced payment of any reproduction fee.

SEC. 7. *Transfer of Request.* – If a government body to which the request was filed determines that the information being sought is not in its custody or control, it shall, within two (2) days from receipt of the request, notify the requesting person of the same, through writing or other contact channels that the requesting person has provided, and shall then either:

(a) Transmit the request to the government body which has the possession or custody of the information being sought; or

(b) Provide the requesting person with a referral letter, signed by its head and addressed to the head of the government body which has the possession or custody of the information being sought. The government body receiving such transmittal or referral letter shall then act on such request in the manner set forth in Section 5 hereof.

SEC. 8. *Denial of Request.* – If the government body decides to deny the request, in whole or in part, it shall, within two (2) working days from the receipt of the request, notify the requesting person of the denial in writing, signed by the head of the government body, and the specific grounds for the denial and the corresponding legal basis, as allowed in Section 4 hereof.

SEC. 9. *Remedies to Compel Disclosure.* – Every denial of any request for access to information may be appealed before the Office of the Ombudsman by filing, within fifteen (15) days from receipt of a letter of denial, a prayer for the disclosure of the information being sought.

If the Office of the Ombudsman upholds such denial or fails to act on such prayer within sixty (60) days from the appeal, the requesting person may then file a verified petition for mandamus before the Regional Trial Court with jurisdiction over the government body's office receiving the request for information. A decision of the court granting the request for information shall be subject to the proper judicial remedies available to the affected government body, following the procedure provided under the Rules of Court.

Nothing in this section shall, however, prejudice recourse to any other available administrative, civil or criminal action.

SEC. 10. *Publication of Importation Permits.* – In the spirit of transparency and accountability, the DA shall cause the publication of the following information on importation permits that it has granted for all basic necessities or prime commodities, especially rice, corn and sugar:

- (a) Name and address of importer, either as a natural or juridical entity;
- (b) Name and address of supplier from whom importation is sourced;
- (c) Country of origin of each shipment of imported basic necessities or prime commodities;
- (d) Date of contract of import;

(e) Date of arrival of each shipment of imported basic necessities or prime commodities;

(f) Schedule, cargo or vessel, and maximum tonnage per shipment;

(g) Contracted and actual volume of each shipment of imported basic necessities or prime commodities;

(h) Specifications of imported basic necessity or prime commodity per shipment;

(i) Contracted price of imported basic necessity or prime commodity per shipment;

(j) Value or cost of import per volume and for each source;

(k) Mode of purchase of imported basic necessity or prime commodity per shipment;

(l) Drop-off points or ports per shipment; and

(m) Such other information that may be necessary to ensure a complete and proper inventory of imported basic necessities or prime commodities.

The DA shall also prepare, keep and maintain records and a database containing the foregoing information which shall be made readily available to the public.

SEC.11. *Mandatory Disclosure of Food Information.* – Each government body that possesses any significant information that affects food supply shall readily disseminate the same to the public and regularly update such information. The means of disclosure and dissemination of the information shall include but not be limited to:

(a) Manuals, pamphlets, brochures, bulletins, posters, announcements, or any other printed documents, for distribution or for posting by the government body concerned in conspicuous places in its central and field offices; and

(b) Electronically uploading of such information in its website.

SEC. 12. *Mandatory Disclosure for Public Interest.* – Any government body which is in possession or has knowledge of any information, not otherwise declared classified or exempt pursuant to this Act, about the existence of a factor or risk significant to food supply and prices, or which clearly affects the public's right to affordable food and adequate food supply, shall, without delay, disclose such information to the public.

SEC. 13. **Penal Provisions.** – Any official or employee of the government body which has possession of any significant information on food supply and prices found guilty by final judgment of denying access to information, or parts thereof, without a valid legal ground as provided for in this Act, or who shall knowingly release false or misleading information, shall be punished with an imprisonment of not less than one (1) year but not more than three (3) years or a fine of not less than Twenty thousand pesos (P20,000.00) but not more than Forty thousand pesos (P40,000.00), or both imprisonment and fine, including all the accessory penalties provided by law, at the discretion of the court.

Any official or employee of the government who shall fail to respond to a request for information due to negligence, or fail to meet the time limits for response set forth in this Act, without justifiable reasons for such, shall be punished with an imprisonment of not less than six (6) months but not more than one (1) year or a fine of not less than Ten thousand pesos (P10,000.00) but not more than Twenty thousand pesos (P20,000.00), or both imprisonment and fine, including all the accessory penalties provided by law, at the discretion of the court.

Any official or employee of a government body who shall deliberately and knowingly refuse, or because of negligence, fail to update any information the said office is required to disclose under Sections 11 and 12 of this Act, shall be punished administratively with suspension from service, without pay, for at least six (6) months but not more than one (1) year. A subsequent offense shall cause the dismissal of the offending party from the service.

SEC. 14. **Implementing Guidelines.** – Each government body concerned with providing information on food as specified in this Act shall, within sixty (60) days from the effectivity of this Act, promulgate guidelines specifying the office, the employees from whom, and the methods and process whereby the public may request access to, or obtain information which are kept in or held under its custody or control.

SEC. 15. **Reports.** – On or before March 1 of each calendar year, each government body concerned with providing information on food as specified in this Act shall submit a report covering the preceding year to the Speaker of the House of Representatives and the President of the Senate for referral to the Committee on Agriculture and the Committee on Trade. The report shall include:

(a) A copy of the implementing guidelines and rules crafted by a government body in the implementation of this Act;

(b) A copy of the reproduction fee schedule under Section 6 of this Act, the total proceeds collected from the fees and the use of the proceeds by the government body;

(c) The number of determinations made by the government body to refuse the requests for information made to the government body under Section 9 hereof and the reasons for such determination;

(d) The names and titles or positions of officials responsible for the refusal of requests under this Act, and the number of instances of participation of each;

(e) The number of refused requests wherein the requesting person sought remedies before the Office of the Ombudsman or before the regular courts, and the names and titles or positions of officials in these cases;

(f) A copy of the information disclosed by the government body pursuant to Section 11 of this Act, including a description of the documents, whether print or electronic, used in the dissemination of the disclosed information;

(g) A summary of other initiatives made by the government body, whether or not mandated by this Act or any other law, that sought to enhance and enforce the implementation of this Act; and

(h) Such other information which the government body deems as necessary to disclose in relation to the implementation of this Act.

The Office of the Ombudsman shall submit an annual report on or before March 1 of each calendar year, listing the number of cases filed before it under Section 9 of this Act and the disposition of each case. The Solicitor General shall likewise submit an annual report on or before March 1 of each calendar year, listing the number of cases filed before the regular courts under Section 9 of this Act, the disposition of each case, the names and positions or titles of the officials penalized and the penalties imposed.

SEC. 16. Oversight Committee. – There shall be a Congressional Oversight Committee consisting of five (5) members each from the Senate and the House of Representatives, which shall be composed of the Chairpersons of the Committees on Agriculture, Trade and Industry, Justice and Human Rights of both the Senate and the House of Representatives, which shall meet bi-annually to oversee the implementation of this Act. The Congressional Oversight Committee shall be jointly chaired by the Chairpersons of the Committee on Agriculture and the Committee on Trade and Industry of the Senate and the House of Representatives. The Chairpersons of the Committee on Justice and the Committee on Human Rights of the Senate and the House of Representatives shall act as co-vice chairpersons of the oversight committee.

SEC. 17. Separability Clause. – If any provision or part of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected thereby shall remain in full force and effect.

SEC. 18. Repealing Clause. – All laws, decrees, orders, rules and regulations or other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 19. Effectivity Clause. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved.