

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

Sixteenth Congress
First Regular Session



House Bill No. **3381**

Introduced by AKBAYAN Representatives
Ibarra "Barry" M. Gutierrez III and Walden F. Bello

EXPLANATORY NOTE

Aerial spraying of pesticides is an agricultural practice by large pineapple and banana plantations allegedly resorted to in order to cut costs in fighting crop pests like insects and fungi. According to an unpublished study conducted by the Interface Development Interventions, Inc., large plantations prefer aerial spraying because ground spraying would lead to additional costs for infrastructure and employment. The same study shows that small farmers can have a nineteen percent (19%) increase in gross profit if ground spraying, instead of aerial spraying, is employed.

The profit margin being used as justification by large plantations, however, come to the expense of the health of members of non-target sites and communities, who receive at least forty percent (40%) drift of pesticides. The results made public through the campaign of farmers in Davao, dubbed "*Stop deadly shower, Dili kami pests,*" show the negative impacts to the life and property of communities affected by aerial spraying. One very significant study, conducted by the Department of Health, showed that there were traces of pesticides in the blood of the affected population. Moreover, the slow mental development of children in affected communities was linked and attributed to the continued exposure to pesticides which are being sprayed aurally. Admittedly, the mist from aerial spray cannot be controlled to target crops and pests.

At present, there is not law regulating aerial spraying. This is despite the continuous appeal of communities (specifically in Davao) for the government to ban aerial spraying.

The DOH and the Commission on Human Rights have issued position papers recommending the ban of aerial spraying, a position justified by aerial spraying's adverse health effects. It would seem that large profit margins are now being used to violate people's right to life and to a health environment.

Aside from documented adverse effects on health, small farmers also suffer losses to crops, like coconuts and durian fruits, because the drift of pesticides from aerial spraying stunts the growth of crops and hampers fruit-bearing trees to produce more fruits. There is also the inevitable contamination of water sources with pesticides from spray drift outside the target areas of aerial spraying.

This bill will ban aerial spraying as a method of administering pesticides and provide heavy penalties to the pilots and aircraft owners who conduct aerial spraying. By laying down a rule to ban such practice, lives and properties of communities, specifically in Davao, Davao del Norte and the Compostela Valley, among others, will be saved. Indeed, right to life and health should be given priority over right to profit.

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



IBARRA "BARRY" M. GUTIERREZ III



WALDEN F. BELLO

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AN ACT
PROVIDING FOR THE BAN OF AERIAL SPRAYING OF PESTICIDES AND
OTHER HAZARDOUS SUBSTANCES AND FOR OTHER PURPOSES

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

1 **SECTION 1. *Short title.***—This Act shall be known as the “*Aerial Spray Ban Act of 2013.*”

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3 **SECTION 2. *Declaration of policy.***—Pursuant to Section 15, Article II of the *1987 Philippine*
4 *Constitution* which mandates the protection and promotion of the right to health and makes it the
5 obligation of the State to instill consciousness on matters relating to the said right, and to Section
6 16 of the same Article, which mandates the State to protect and advance the right of the people
7 to a balanced and healthful ecology in accord with the rhythm and harmony of nature, it is
8 hereby declared the policy of the State to uphold the Constitutional rights to health and to a
9 balanced ecology. The State prohibits the method of aerial spraying of pesticides in all
10 agricultural activities.

11
12 **SECTION 3. *Definition of terms.***—As used in this Act:

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14 (a) “*Aerial spraying*” shall refer to the application of substances, including, but not limited to,
15 pesticides, through the use of any form of aircraft, in order to dispense the substances in
16 through the air.

- (b) "*Agricultural activity*" shall refer to the cultivation of the soil, planting of crops, growing of fruit trees, and shall include the following activities: land preparation, seeding, planting, cultivation, harvesting, bagging, and other activities and practices performed in conjunction with farming operations.
- (c) "*Agricultural entity*" refers to any person, whether natural or juridical, who is involved in agricultural activities.
- (a) "*Hazardous substances*" are substances which present either:
- (1) Short-term acute hazards, such as acute toxicity by ingestion, inhalation or skin absorption, corrosivity or other skin or eye contact hazards or the risk of fire or explosion; or
 - (2) Long-term environmental hazards, including chronic toxicity upon repeated exposure, carcinogenicity (which may in some cases result from acute exposure but with a long latent period), resistance to detoxification process such as biodegradation, the potential to pollute underground or surface waters, or aesthetically objectionable properties such as offensive odors.
- (d) "*Imminent hazard*" shall mean a situation which exists when the continued use of a pesticide will likely result in unreasonable adverse effects on the public and/or the environment or will involve unreasonable hazards to the survival of a species declared endangered by the appropriate authorities.
- (e) "*Persistent organic pollutant*" refers to the organic compounds, which resist photolytic, chemical and biological degradation, that persist in the environment, bio-accumulate through the food web, and pose a risk of causing adverse effects to human health and the environment. "*Persistent organic pollutants*" include, among others, dioxin, furan, polychlorinated biphenyls (PCBs), and organochlorine pesticides (such as aldrin, dieldrin, DDT, hexachlorobenzene, lindane, toxaphene and chlordane).
- (f) "*Pest*" means any form of plant or animal life, or any pathogenic agent, injurious or potentially injurious to plants or plants products.

(g) “*Pesticide*” shall refer 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 “*pesticide*” shall be understood to include insecticide, fungicide, bactericide, nematocide, herbicide, molluscicide, avicide, rodenticide, plant regulator, defoliant, desiccant and the like.

(h) “*Toxicity*” means a physiological or biological property determinative of the capacity of a chemical to do harm or produce injury to a living organism through non-mechanical means.

SECTION 4. *Scope and presumption.*—The provisions of this Act shall apply to aerial spraying of pesticides in all agricultural activities: *Provided*, That the use of an aircraft to spray substances near or above an agricultural plantation is presumed to be engaged in aerial spraying of pesticides: *Provided, finally*, That a person or entity engaged in aerial spraying of pesticides is presumed to be spraying hazardous substances or persistent organic pollutants.

Urban pest control and the use of urban pesticides are excluded from the coverage of this Act.

SECTION 5. *Ban on aerial spraying of pesticides.*—The aerial spraying of pesticides, hazardous substances and persistent organic pollutants shall be prohibited in all agricultural plantations three (3) months after the effectivity of this Act.

SECTION 6. *Implementing agency.*—The Fertilizer and Pesticides Authority (FPA), created by virtue of Presidential Decree No. 1144, attached to the Department of Agriculture shall be the primary government agency responsible for the implementation and enforcement of this Act.

By virtue of Section 6(I)(4) of P.D. 1144, the FPA shall promulgate the implementing rules and regulations of this Act within sixty (60) days from the effectivity hereof.

SECTION 7. *Administrative fines.*—Upon the *motu proprio* finding by the Fertilizer and Pesticides Authority and its corresponding recommendation to the Secretary of the Department of Agriculture, the following administrative fines shall be imposed for every day of aerial spraying of pesticides as prohibited in Section 5 and in relation to the presumption in Section 4 of this Act:

(a) An administrative fine of not less than fifty thousand Philippine pesos (PhP50,000.00) but not more than one hundred thousand Philippine pesos (PhP100,000.00) upon the owner of the plantation or the person who actually commissioned the aerial spraying of pesticides.

(b) An administrative fine of not less than twenty thousand Philippine pesos (PhP20,000.00) but not more than fifty thousand Philippine pesos (PhP50,000.00) upon the aircraft owner or operator and the aircraft pilot: *Provided*, That the recommendation of the FPA shall include the immediate suspension of the permit to operate, in the case of the owner or operator of the aircraft, and the professional license, in the case of the pilot of the aircraft, for a period of not less one (1) month or until cessation of aerial spraying of pesticides.

SECTION 8. *Penal provisions.*—

(a) The penalty of *prision mayor* shall be imposed upon the owner of the plantation or the person who actually commissioned the aerial spraying in violation of Section 5 of this Act: *Provided*, That in the case of juridical persons, corporations, partnerships or associations, the penalty herein shall be imposed upon the officers, directors or trustees of the corporation and upon any member who actually participated in the aerial spraying in violation of Section 5 hereof.

(b) In addition to the revocation of the permit to operate, in the case of the owner or operator, and the revocation of the professional license, in the case of the pilot, the penalty of *prision correccional* shall be imposed upon the owner or operator and the pilot of the aircraft used in aerial spraying of pesticides.

The aircraft and other equipment used in violation of Section 5 of this Act shall be subject to forfeiture under Article 45 of Act No. 3815 otherwise known as the “*Revised Penal Code*.”

The filing of a criminal action under this Act shall be without prejudice to the filing of civil and administrative cases by the persons or communities affected because of the aerial spraying of pesticides.

SECTION 9. *Repealing clause.*—Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the

provisions of this Act, particularly those inconsistent provisions of Presidential Decree No. 1144 and Act No. 3815, is hereby repealed, modified or amended accordingly.

SECTION 10. *Separability clause*.—If for any reason or reasons, any part or provision of this Act shall be held unconstitutional, invalid or without any force or effect, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 10. *Effectivity*.—This Act shall take effect fifteen (15) days after the completion of its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,