

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3857



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Introduced by:

Gabriela Women's Party Reps. LUZVIMINDA C. ILAGAN AND EMMI A. DE JESUS,
BAYAN Muna Reps. NERI J. COLMENARES and CARLOS ISAGANI T. ZARATE, ACT Teachers' Partylist
Rep. ANTONIO L. TINIO, Anakpawis Partylist Rep. FERNANDO HICAP,
and Kabataan Partylist Rep. JAMES TERRY L. RIDON

EXPLANATORY NOTE

For more than a decade now, the people living near banana plantations in Mindanao are seeking the prohibition of aerial spraying. And they have compelling reasons for their crusade: aerial spraying is disrupting their lives, contaminating their environment and injurious to their health.

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

Furthermore, Section 16 of the same Article provides that, 'The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature'.

On the strength of the above-quoted provisions of the 1987 Constitution and in response to the demands of the people in Mindanao, this bill seeks to prohibit aerial spraying and is hereby refilled¹.

Aerial spraying is a nuisance. In a study made by the Peasant Education Studies Center in 2007², the accounts of the people in Davao del Sur on how aerial spraying had affected their lives evoked scenes shades of Hitler's blitzkrieg over London during World War II. In an apt description of their plight, local folks have come to call 'aerial spraying' as 'aerial bombardment'.

Once they hear the sound of an approaching airplane (which often happens without any early warning), people would run to whatever 'air raid shelters' they could find, be it their homes, chapel, or empty bodegas. Or they would seek cover under some thick canopy of trees which does not protect them at all. Once inside any enclosure, they would close its doors and windows, thereby risking suffocation, just to shut off the nauseous odor that would

¹ This bill was first filed in the 15th Congress and denominated as House Bill 5249.

² Peasant Education and Studies Center, 'A Social Investigation on CARP Implementation in TNC Lands in Mindanao', PESCC: Quezon City (unpublished).

engulf their whole immediate environment. Normally, they would remain in the enclosure several hours after the spraying was done because it would leave behind a foul odor that lasted for days. The moment they ventured out, they would find their washed clothes in the clothesline soiled with black spots (like the color of '*alkitran*') that they had to wash them again. Those who happened to be away from home during the attack would also find their left-over food discolored that they had to throw them away. In addition, the nausea that aerial spraying inflicts would leave the affected people losing their appetite for two to three days. On these counts alone, aerial spraying is truly a *perwisyo!* – a nuisance that rightly deserved to be abated by the state using its police power.

Aerial spraying is not only a nuisance. It is also injurious to the health of the people living near banana plantations. A 2006 study made by the Department of Health showed that people living in Hagonoy, Davao del Sur³ showed high levels of ethylenethiourea (ETU) in their blood samples.⁴ ETU and chlorothalonil were also found in high levels in the soil and air of the village and, because of chemical drift, even in nearby areas. ETU is a breakdown product of Mancozeb, a fungicide widely used by large-scale banana growers but has been classified as carcinogenic by the State of California and the Swedish pesticide regulatory authority⁵. It has been documented to have produced 'follicular and pallillary' thyroid cancer in rats and 'hepatocellular' cancer in mice. The study also found that 52% of the village residents who reported to have been exposed to aerial spraying showed post-exposure symptoms like eye-redness, eye pain, eye tearing, eye and skin itchiness, headache, and spells of vomiting and dizziness⁶.

Aerial spraying also affects the vegetation and animal life in the vicinity of banana plantations. Residents would report that the soil in their villages had exhibited diminished fertility and plant growth in their backyard and farms had been seriously stunted. They now find it difficult to grow food crops. People also find it harder to raise pigs and chickens as they just die out. They also believe that their natural sources of water have been contaminated because a lot of the animals refused to drink from streams and springs and those that do eventually die.

Since the pesticides are released into the air, the method has absolutely no means of controlling chemical drift or of ensuring that the harmful chemicals would hit only their target areas. The air-borne harmful chemicals are usually swept by the winds, dispersing them over wide areas that include residential centers, schools, farms, rivers, lakes and other water systems. It is in this way that aerial spraying affects not just banana plantations but defiles whole eco-systems.

Chemicals from pesticides and similar harmful substances accumulate through the years. In the absence of deep-going study on the geo-ecological effects of chemical accumulation from pesticides released into the environment, it is the better part of government discretion to exercise precaution since the long-term implications on communities and environment long exposed to aerial spraying are imponderable.

The Philippine Banana Growers and Explorers Association had challenged the people's demand for prohibition on grounds of property rights and that aerial spraying is 'the best practice' in applying pesticides. They further contended that prohibiting aerial spraying would kill the banana industry. Such contentions are fallacious, narrow and self-serving which cannot defeat the constitutionally-guaranteed primordial rights of our people to health

³ Hagonoy, Davao del Sur hosts several banana plantations, the biggest of which is Guihing Agricultural Development Corporation, a subsidiary of the Lapanday Group of Companies.

⁴ Department of Health, 'A Health and Environmental Assessment in Sitio Camocaan, Davao del Sur, DoH: Davao City, 2006.

⁵ Mancozeb Factsheet, Environmental Commons (<http://environmentalcommons.org/cetos/criticalhabitat/mancozeb.pdf>)

⁶ Department of Health, *ibid*.

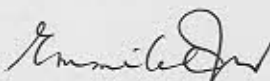
and sound environment. The property rights of banana planters end where the health of the people and whole communities begins; the profits of a few cannot be above the welfare of the many. A method which has proved to be a nuisance and is deleterious to health and environment cannot, by any measure, be considered as a 'best practice'.

As sure as the sun sets in the west, the prohibition of aerial spraying will not kill the banana industry. In provinces⁷ where aerial spraying has been banned, the industry is thriving and expanding. In fact, among the banana firms which have vigorously expanded into these 'no aerial spraying provinces' are the same banana firms which are challenging the people's clamor for prohibition. To postulate that people must suffer aerial spraying because it is the 'best practice' of an industry that is bringing in export dollars to the country is to grossly misplace our priorities.

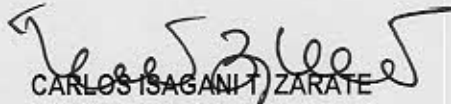
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Given all the premises, it is but fitting and proper for the state to intervene into this social bane in behalf of the people and for this bill to be urgently passed into law.


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⁷ Among the provinces and cities where aerial spraying is banned are South Cotabato, Bukidnon and Davao City.

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HOUSE BILL No. **3857**

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Introduced by:

Gabriela Women's Partylist Reps. **LUZVIMINDA C. ILAGAN** and **EMMI A. DE JESUS**, BAYAN Muna Reps. **NERI J. COLMENARES** and **CARLOS ISAGANI T. ZARATE**, ACT Teachers' Partylist Rep. **ANTONIO L. TINIO**, Anakpawis Partylist Rep. **FERNANDO HICAP**, and Kabataan Partylist Rep. **TERRY JAMES L. RIDON**

**AN ACT PROHIBITING AERIAL SPRAYING
AS A METHOD OF APPLYING CHEMICALS AND SIMILAR SUBSTANCES ON AGRICULTURAL CROPS**

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

Section 1. Title. – This Act shall be known as the 'Aerial Spraying Prohibition Act of 2014'.

Section 2. Declaration of State Principles and Policies – The State recognizes that, as an agricultural method of applying chemicals and similar substances, aerial spraying is vexatious to the peace of communities, detrimental to the health and well-being of the people, and destructive of the flora and fauna and the environment.

It is hereby declared the policy of the State to promote the welfare of the people, including the succeeding generations, by protecting their well-being, health and environment from any agricultural activity, practice or method that will lead to the exposure of any person and the environment to hazardous chemicals, substances and similar materials.

Section 3. Definition of terms – For purposes of this Act, the following terms shall be understood as follows:

- a. **Aerial spraying** refers to the application of chemicals, substances, or similar materials on crops by releasing them into the air from an aircraft.
- b. **Agricultural practices** refer to the practices that any person, natural or juridical, may conduct in relation to his agricultural activities.

- c. **Agricultural activities** refer to activities involved in the process of agricultural production, be it small, medium, or large scale.
- d. **Hazardous chemicals** refer to any substance or product, or mixture intended to control, 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, desiccant, and the like; same as hazardous substances or hazardous materials.
- e. **Buffer zone** refers to an identified 50-meter zone within and around the boundaries of agricultural farms/plantations that need special monitoring to avoid or minimize harm to the environment and inhabitants from the use of hazardous chemicals and substances. It is an area of land that must lie within the property which does not include public lands, public thoroughfares or adjacent private properties. It must be planted with diversified trees that grow taller than what are usually planted and grown in the plantation to protect those within the adjacent fields, neighboring farms, residential area, schools and workplaces.
- f. **Global Positioning System survey** refers to a survey plan to be made with the aid of Global Positioning System showing the metes and bounds of each agricultural farm/plantation that shall be submitted to the Office of the Mayor of the municipality/city which has jurisdiction over concerned agricultural farms/plantations.

Section 4. Prohibition of aerial spraying – The act of aerial spraying is hereby declared contrary to law and prohibited.

Section 5. Monitoring and enforcing agency – The Office of the Provincial Governor of each province or the Office of the City Mayor of each highly urbanized or chartered city shall be the principal enforcement agency for monitoring and ensuring compliance of this Act and for apprehending violators thereof. The Provincial Governor or the City Mayor shall form municipality/city-based monitoring teams from among farmers/farmworkers organizations, environment protection advocates, civil society, church people, and youth organizations. The municipal/city mayor, municipal/city agriculturist, municipal/city health officer, community environmental officer, and the municipal/city chief of police shall be automatic members of the monitoring team.

The municipality/city-based monitoring teams shall have inspectorial powers with respect to compliance of providing buffer zones as mentioned in Section 8.

Section 6. Deputization of monitoring teams to make arrests and confiscate – The monitoring teams are hereby deputized to make citizen's arrest of persons who violate Section 4 and to confiscate the instruments of the violation.

Section 7. Aircraft inventory – To help the enforcing agency in monitoring and ensuring compliance of this Act, all persons, natural or juridical, who have practiced aerial spraying or have been engaged in the business of providing aerial spraying services before the enactment of this Act, shall be required to submit to the Office of the Provincial Governor or the City Mayor, as the case maybe, an inventory of the aircrafts they used in aerial spraying. The aircraft shall indicate therein a brief distinctive description of the aircraft, engine manufacturer's identification number, company logo, and location of the hangar and other relevant information for the facile identification of the aircraft when airborne.

Section 8. Corporate violators – If the violator of this Act is a corporation, partnership or any other juridical entity, the penal provisions hereof shall be applied to the president or chief executive officer of the corporation, the managing partner in the case of partnership, or the equivalent head in the case of any other juridical entity or any other person acting in their behalf. In the case of corporations, the indictment shall include the manager of the department directly responsible for aerial spraying and similar operations.

Section 9. Provision of buffer zones – All persons, natural or juridical, who are engaged in agricultural crop production of fifty (50) hectares and above and which makes use of hazardous chemicals, substances or similar materials to improve productivity, shall provide for a thirty (30) meter buffer zone starting within the boundaries of their agricultural farms/plantations. This buffer zone must be properly delineated through Global Positioning System survey.

If the agricultural crop production has an operation scale of three hundred (300) hectares and above, the buffer zone shall be fifty (50) meters.

Section 10. Grace period for compliance of buffer zones – After the effectivity of this Act, there shall be a period of one (1) year within which the persons mentioned in Section 8 shall comply the requirement of providing buffer zones in their agricultural farms/plantations.

Section 11. Penal provisions – Any person found to be violating the provisions of this Act shall be penalized as follows:

1. On violation of Section 4 hereof:
 - a. First Offense: Fine of Fifty Thousand Pesos (P50,000) and imprisonment of not less than three (3) months but not more than six (6) months;
 - b. Second Offense: Fine of One Hundred Thousand Pesos (P100,000) and imprisonment of not less than six (6) months but not more than one (1) year and suspension of business permit and license for one (1) year; and
 - c. Third Offense: Fine of One Hundred fifty Thousand Pesos (P150,000) and imprisonment of not less than one (1) year but not more than one (1) year and six (6) months and perpetual cancellation of business permit and license.

In the case of the pilot of the aircraft, the punishment for third violation shall include the cancellation of his pilot's license.

2. On Violation of Section 8 hereof:
 - a. A fine of Fifty Thousand Pesos (P50,000).

Section 12. Implementing Rules and Regulations – Within fifteen (15) days after the effectivity of this Act, the Department of Interior and Local Government, in consultation with the Department of Agriculture, Department of Health and Department of Environment and natural Resources, and the Bureau of Rural Workers, shall issue the Implementing Rules and Regulations of this Act.

Section 13. *Separability clause* – If any part or provision of this Act is declared void or unconstitutional, the remaining provisions thereof shall remain in full force and effect.

Section 14. *Repealing clause* – All other laws, decrees, rules and regulations, orders, and issuances inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

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Section 14. *Effectivity clause* – This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in any newspaper of general circulation.