

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

House Bill No. 5179



Introduced by Representative ESTRELLITA "GING" B. SUANSING

EXPLANATORY NOTE

The Philippines has constantly grappled with the problem of rampant smuggling. It has plagued the Philippine economy, depriving the country of its much needed revenue and crippling key programs of the government.

The report of the Global Financial Integrity finds that the Philippine government has lost at least \$19.3 billion since 1990 in tax revenue due to customs duties evasion through import under-invoicing alone. Combined with an additional \$3.7 billion in tax revenue lost through export under-invoicing, the Philippine government has lost at least \$23 billion in customs revenue due to trade misinvoicing since 1990.¹

In 2011 alone, the Philippines lost an estimated \$3.85 billion in tax revenues due to smuggling, "more than double the size of the fiscal deficit and also constituted 95 per cent of the Philippines' total government expenditures on social benefits during the same year."² In the 52-year period covered by the study, the Philippines lost \$177 billion through capital flight.³

From 2002 to 2011, the government lost more than P1.33 trillion in revenue due to smuggling through the country's ports, according to the Federation of Philippine Industries.⁴

Even with the reported gains in the first half of this year as compared with the same period last year, the Bureau of Customs (BOC) still did not meet its collection target. From January to June 2014, the BOC collected

¹ Kar, Dev and LeBlanc, Brian. *Illicit Financial Flows to and from the Philippines: A Study in Dynamic Simulation, 1960-2011: Global Financial Integrity*. February 2014. Online.

² Ibid.

³ Ibid.

⁴ Esplanada, Jerry E. Gov't lost P1.3T to smugglers in 9 years: Inquirer.net. 14 January 2014. Online.

P173.401 billion, higher than last year's P145.132 billion collection, but still short of its P198.949 billion target for the period.⁵

Aside from the revenue losses, smuggling constantly poses as a hindrance to the growth of the domestic industries. It fosters unfair competition with the local producers and manufacturers, including licensed distributors, wholesalers and retailers.

Considering its detrimental effect on the Philippine economy and the problems it presents to the Filipino people, this bill seeks to define any form of smuggling, which involves goods with an aggregate value of P1 million, as an act of economic sabotage.

This bill aims to ward off such illegal activities by providing appropriate punishments and penalties.

In view of the foregoing, approval of this bill is earnestly sought.


ESTRELLITA B. SUANSING
1st District, Nueva Ecija

⁵ BOC revenues grow 17.5% in June 2014. 21 July 2014. Online.

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AN ACT

AMENDING PRESIDENTIAL DECREE NO. 1464, OTHERWISE KNOWN AS THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, TO DEFINE SMUGGLING AS AN ACT OF ECONOMIC SABOTAGE, TO PROVIDE THE APPROPRIATE PUNISHMENT AND PENALTIES, AND FOR OTHER PURPOSES

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

SECTION 1. Section 3514 of the Tariff and Customs Code of the Philippines is hereby amended to read as follows:

“SEC. 3514. Words and Phrases Defined. – As used in this Code:

“Foreign port” means a port or place outside the jurisdiction of the Philippines.

“Port of entry” is a domestic port open to both foreign and coastwise trade. The term includes principal ports of entry and subports of entry. A “principal port of entry” is the chief port of entry of the collection district wherein it is situated and is the permanent station of the Collector of such port. Subports of entry are under the administrative jurisdiction of the Collector of the principal port of entry of the district. Whenever the term “Port of entry” is used herein, it shall include “airport of entry”.

“Person” whether singular or plural refers to an individual, corporation, partnership, association, company or any other kind of organization.

“ECONOMIC SABOTAGE” REFERS TO ANY AND ALL ACTIVITIES THAT UNDERMINES, WEAKENS OR RENDER

INTO DISREPUTE THE ECONOMIC SYSTEM OR VIABILITY OF THE COUNTRY OR TENDS TO BRING ABOUT SUCH EFFECTS. FOR THE PURPOSE OF THIS ACT, ANY VIOLATION OF SECTION 3601 AND 3602 OF THIS ACT, WHICH INVOLVES GOODS AND/OR ARTICLES WITH THE AGGREGATE VALUE OF ONE MILLION PESOS (P1,000,000.00), SHALL CONSTITUTE AS 'ECONOMIC SABOTAGE.'

SECTION 2. Section 3601 of the Tariff and Customs Code of the Philippines is hereby amended to read as follows:

"SEC. 3601. Unlawful Importation. — Any person who shall fraudulently import or bring into the Philippines, or assist in so doing, any article, contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such article after importation, knowing the same to have been imported contrary to law, shall be punished by a fine of not less than Six Hundred Pesos (P600.00) nor more than Five Thousand Pesos (P5,000.00) and imprisonment for not less than six (6) months nor more than two (2) years and, if the offender is an alien, he shall be deported after serving the sentence.

ANY VIOLATION OF THIS PROVISION THAT CONSTITUTES AS ECONOMIC SABOTAGE, AS DEFINED IN THIS ACT, SHALL BE PUNISHED AS FOLLOWS:

- (a) FINE EQUAL TO TWICE THE FAIR MARKET VALUE OF THE ARTICLES INVOLVED;
- (b) FINE EQUAL TO THE AGGREGATE AMOUNT OF THE TAXES, DUTIES AND OTHER CHARGES AVOIDED;
- (c) IMPRISONMENT OF A MINIMUM OF EIGHT (8) YEARS AND ONE (1) DAY UP TO LIFE IMPRISONMENT; AND
- (d) CONFISCATION OF THE ARTICLES INVOLVED.

IF THE PERSON VIOLATING THIS PROVISION IS A JURIDICAL ENTITY, THE PENALTY OF IMPRISONMENT SHALL BE IMPOSED ON THE PRESIDENT AND THE RESPONSIBLE OFFICERS THEREOF. IN ADDITION, THE BUSINESS PERMITS AND LICENSES OF THE BUSINESS ENTITY SHALL BE REVOKED OR CANCELLED.

THE BROKER OF THE VIOLATOR OF THIS PROVISION SHALL BE PUNISHED AS A PRINCIPAL.

When, upon trial for a violation of this section, the defendant is shown to have or to have had possession of the article in question, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the court."

SECTION 3. Section 3602 of the Tariff and Customs Code of the Philippines is hereby amended to read as follows:

"SEC. 3602. Various Fraudulent Practices Against Customs Revenue. — Any person who makes or attempts to make any entry of imported or exported article by means of any false or fraudulent invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice whatsoever, or shall be guilty of any willful act or omission by means of whereof the Government might be deprived of the lawful duties, taxes and other charges, or any portion thereof, accruing from the article or any portion thereof, embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission, shall, for each offense, be punished by a fine of not less than Six Hundred Pesos (P600.00) nor more than Five Thousand Pesos (P5,000.00) and imprisonment for not less than six (6) months nor more than two (2) years and if the offender is an alien, he shall be deported after serving the sentence.

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THE BROKER OF THE VIOLATOR OF THIS PROVISION
SHALL BE PUNISHED AS A PRINCIPAL.”

SECTION 4. *Repealing Clause.* All laws, presidential decrees, executive orders, rules and regulations or part thereof, contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 5. *Separability Clause.* If any provision of this Act is subsequently declared unconstitutional or invalid, such parts or provisions not so declared shall remain valid and subsisting.

SECTION 6. *Effectivity Clause.* This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,