

HOUSE OF REPRESENTATIVES)
SIXTEENTH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



HOUSE OF REPRESENTATIVES

House Bill No. 6171

Introduced by Representative Delphine Gan Lee

EXPLANATORY NOTE

Throughout the decades, the Philippines has been recognized as an agriculture-centric country. Its people have always been dependent upon rice, corn and root crops for their daily sustenance. In the past, the Philippines have even been recognized as a preeminent authority in agricultural cultivation; garnering international attention specially on rice.

In the past years however, the Philippines has experienced shortages on rice and other agricultural produce. This regular shortage inevitably ends up with the Philippines importing rice from neighboring countries to address its own internal shortages. Government intervention is a regular occurrence to address the volatility of the rice market however this effort is regularly disrupted and sabotaged by unconscionable traders and cutthroats. Their actions impair and damage the national economy and the livelihood of farmers.

Agricultural smuggling, both of produce and machinery, is a form of economic sabotage that is detrimental to all concerned. It allows certain individuals to manipulate the market and foster discord felt by all of Philippine society.

This bill seeks to address the that problem via specifically defining the parameters onto which agricultural smuggling is and introducing stiffer penalties for those who commit such crimes. It is with fervent hope that the passage of this bill would deter and prevent individuals from manipulating the agricultural market and situation of the country for their own benefit and to the detriment of others.


HON. DELPHINE GAN LEE

HOUSE OF REPRESENTATIVES)
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AN ACT

**DECLARING LARGE-SCALE AGRICULTURAL SMUGGLING AS ECONOMIC SABOTAGE,
PRESCRIBING PENALTIES THEREFOR AND FOR OTHER PURPOSES**

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

SECTION 1. *Short Title.* – This Act shall be known as the "Anti-Agricultural Smuggling Act of 2015"

SEC. 2. *Declaration of Policy.* – It is the policy of the State to protect and promote the productivity of the agriculture sector and farmers from unscrupulous traders and importers, who by their illegal importation of agricultural products, especially rice, significantly affect the production, availability of supply and stability of prices, and thereby threatens the food security of the State.

The State shall impose higher sanctions for large-scale smuggling of agricultural products, as a self-preservation measure to shield itself from the manipulative scheme of economic saboteurs, and to protect the livelihood of our farmers and to ensure their well-being.

SEC. 3. *Definition of Terms.* – As used in this Act, the following terms shall mean:

- (1) "Agricultural Products subject to economic sabotage" – shall cover rice, sugar, corn, pork, poultry, garlic, onion, carrots, dried fish, and cruciferous vegetables, in its raw state, or which have undergone the simple processes of preparation or preservation for the market; and
- (2) "Person" – shall mean natural and juridical persons.

SEC. 4. Definition of the Crime of Agricultural Smuggling. – Any person who shall import or bring into the Philippines agricultural products without the required import permit from the regulatory agencies, or use of import permits of persons, natural or juridical, other than those persons specifically named in the permit, or any person who shall import agricultural products by means of fraud or by illegally obtaining the required import permit shall be guilty of the crime of smuggling, including those acts which are within the purview of technical smuggling.

For Purposes of this Act, import permits, issued by the regulatory agency, shall be named to a particularly person, natural or juridical, and shall be effective only within a specific time and place therein stated.

SEC. 5. Agricultural Smuggling as Act of Economic Sabotage. – The acts of agricultural smuggling, including technical smuggling therefor, are acts inimical to the national interest, economic growth and development.

Any person, natural or juridical, found guilty of engaging in agricultural smuggling, or technical smuggling therefor, of a minimum aggregate amount of One Million Pesos (Php 1,000,000.00) worth of agricultural products subject to economic sabotage as defined herein, except rice, or has been found guilty of engaging in agricultural smuggling of rice, or technical smuggling thereof, with a minimum aggregate amount of Ten Million Pesos (Php 10,000,000.00), as valued by the Bureau of Customs, utilizing methods of value verification by the Bureau of Customs, shall be guilty of economic sabotage.

SEC. 6. Elements of the Crime of Agricultural Smuggling as Economic Sabotage. – In the determination of the crime of agricultural smuggling as economic sabotage, the following elements are present:

A. By Means of Technical Smuggling:

1. That an act of misclassification, undervaluation or misdeclaration has been committed upon the filing of Import Entry and Revenue Declaration with the Bureau of Customs in order to evade the payment of rightful taxes and duties due to the government; or
2. That the smuggled agricultural products subject to economic sabotage were entered into the Customs jurisdiction by means of any of the following: without the required permits, use of fake or fictitious permits, or use of fake shipping documents; or
3. Excessive importation of what was allowed in the permit, non-use or inability to produce the required permits; and

4. That the amount of smuggled agricultural product subject to economic sabotage is equal or more than Ten Million Pesos for rice and equal or more than One Million Pesos for other agricultural products defined herein, based on the transaction value assessed by the Bureau of Customs.

B. By Means of Outright Smuggling:

1. That an act of importation of agricultural products subject to economic sabotage without the complete government required importation documents has been committed in an area outside the Customs jurisdiction such as, but not limited to, private ports, fish ports, fish landing, resorts, airports; and
2. That the amount of smuggled agricultural products subject to economic sabotage is equal or more than Ten Million Pesos for rice, and equal or more than One Million Pesos for other agricultural products defined herein, based on the appraised value assessed by the Bureau of Customs.

SEC. 7. Persons Liable as Principals to the Crime of Agricultural Smuggling as Economic Sabotage. – The following shall be deemed as principals to the crime of agricultural smuggling as economic sabotage:

- a. Any person found violating the provision of Section 5 of this Act;
- b. Any person who prey on cooperatives and by using their permits for purposes of smuggling, shall punished as principals;
- c. Any person who deliberately use dummy corporations, non-government organizations, or associations for purposes of smuggling shall be punished as principals;
- d. The officers of dummy corporations, non-government organizations, associations, who knowingly sell, lend, assign, consent and allow the unauthorized use of their import permits for purposes of smuggling shall also be punished as principals;
- e. The officers of cooperatives who knowingly sell, lend, lease, assign, consent and allow the unauthorized use of their import permits for purposes of smuggling shall also be punished as principals; and
- f. The broker of violating importers shall likewise be liable and shall be charge as principal.

When the offender is a government official or employee acting in connivance with private individuals or entities or other government officials or employee, he shall be charged as principal without prejudice to administrative, civil and criminal cases which may be filed against him.

SEC. 8. Other Persons Liable as Principals to the Crime of Agricultural Smuggling as Economic Sabotage. – The following shall likewise be deemed as principals to the crime of agricultural smuggling as economic sabotage:

a. Forwarders, Charterers, Transporters of Smuggled Agricultural Products Subject to Economic Sabotage

a. 1. The registered owner and its lessee or charterer, in case of lease, of a chartered boats, motorized commercial vessel of more than three gross tonnage who was caught knowingly transporting the agricultural product subject to economic sabotage regardless of quantity, shall be held liable as principal by direct participation; and

a. 2. The registered owner and its lessee, in case of lease, of six or more wheeler trucks, vans and other means of transportation, who was caught knowingly transporting the agricultural product subject to economic sabotage regardless of quantity, shall be held liable as principal by direct participation.

b. Warehouse Owners and Lessees

The registered owner and lessee of a warehouse, or any property who knowingly store the smuggled agricultural product subject to economic sabotage, with a value equal or more than Ten Million Pesos for rice, and equal or more than One Million Pesos for other agricultural products as defined under this Act, shall be held liable as principal by direct participation.

c. Private port owners, fish ports, fish landing sites, resorts, airports

The registered owner, lessee, president or chief executive officer of the private port, fish port, fish landing sites, resorts, airports who knowingly let the agricultural products to be smuggled into the country shall be held liable as principal by indispensable cooperation.

Those guilty of the abovementioned acts, but knowledge of the crime is not established, shall be held liable as an accomplice to the crime of agricultural smuggling as economic sabotage.

SEC. 9. Persons Liable as Accomplices to the Crime of Agricultural Smuggling as Economic Sabotage. – The following shall be deemed as accomplices to the crime of agricultural smuggling as economic sabotage:

a. Forwarders, Charterers, Transporters of Smuggled Agricultural Products Subjects to Economic Sabotage

a. 1. The registered owner with its lessee or charterer, in case of lease, of a chartered motorized vessel of equal or less than three gross tonnage who was caught

transporting the agricultural product subject to economic sabotage regardless of quantity, shall be held liable as an accomplice to the crime of agricultural smuggling as economic sabotage;

- a. 2. The registered owner with its lessee, in case of lease, of trucks, vans and other means of transportation with less than six wheels, who was caught transporting the agricultural product subject to economic sabotage regardless of quantity, shall be held liable as accomplice to the crime of agricultural smuggling as economic sabotage.

b. Warehouse Owners and Lessees

The registered owner and lessee of a warehouse, or any property where the smuggled agricultural products, with a value equal or more than Ten Million Pesos for rice, and equal or more than One Million Pesos for other agricultural products as defined under this Act, are stored shall be held liable as accomplice by direct participation.

SEC. 10. Penalties. – Any person, natural or juridical, found guilty as principal under Section 5, 6, 7 and 8 of this Act shall suffer the following penalties:

a. *Reclusion perpetua*;

- b. A fine of twice the fair value of the smuggled agricultural product, or fine equal to the aggregate amount of the taxes, duties and other charges avoided, whichever is higher;

c. Confiscation of the smuggled agricultural product;

- d. Cancellation and revocation of business license, import permits and other pertinent documents for importation;

- e. Forfeiture of property used in agricultural smuggling, consistent with Section 2530 of the Tariff and Customs Code and without prejudice to Section 2531 of the same Code; and

- f. Perpetual absolute disqualification to engage in any business of importation.

Any person, natural or juridical, found guilty as accomplice under Section 5, 6, and 9 of this Act shall suffer the following penalties:

a. *Reclusion temporal*;

- b. A fine equal to the fair value of the smuggled agricultural product subject to economic sabotage, or a fine equal to the aggregate amount of the taxes, duties and other charges avoided, whichever is higher;

c. Confiscation of the smuggled agricultural product;

- d. Cancellation and revocation of business license, import permits and other pertinent documents for importation;

- e. Forfeiture of property used in agricultural smuggling, consistent with Section 2530 of the Tariff and Customs Code and without prejudice to Section 2531 of the same Code; and
- f. Perpetual absolute disqualification to engage in any business of importation.

In applying the abovementioned penalties, if the offender is an alien and the prescribed penalty is not *reclusion perpetua*, he shall be deported after serving the sentence without further proceedings for deportation. If the offender is a government official or employee, the penalty shall be the maximum as hereinabove prescribed and the offender shall suffer an additional penalty of perpetual disqualification from public office, to vote and to participate in any public election.

When, upon trial for violation of this Section, the defendant is shown to have had possession of the agricultural product in question, possession shall be deemed sufficient evidence to authorize conviction unless the defendant shall explain the possession to the satisfaction of the court: *Provided*, however, that payment of the tax due after apprehension shall not constitute a valid defense in any prosecution under this Section.

When the offender is a juridical person, criminal liability shall attach to its president, chief operating officer or manager. In addition, the business permit or licenses of the business entity shall be revoked or cancelled.

SEC. 11. *Presumption of Agricultural Smuggling.* – Mere possession of rice or any agricultural product under this Act, which has been the subject of smuggling, entered into the Philippines other than the Customs controlled ports or without the necessary permits shall be *prima facie* evidence of smuggling.

SEC. 12. *Implementing Rules and Regulations.* – The Bureau of Customs, in consultation with concerned agencies, shall promulgate the implementing rules and regulations of this Act within thirty (30) days upon its effectivity.

SEC. 13. *Prescription of Crimes.* – The crime punishable under this Act shall prescribe in twenty (20) years.

SEC. 14. *Separability Clause.* – The provision of this Act are hereby declared to be separable from, and independent of, one another and that should one or more of such provisions be declared unconstitutional, the validity of the remaining provisions shall not be affected thereby.

SEC. 15. *Repealing Clause.* – All laws, decrees, executive issuances, rules and regulations inconsistent with this Act are hereby repealed and/or modified accordingly.

SEC. 16. *Effectivity Clause.* – This Act shall take effect immediately upon its approval.

Approved,