

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
FIRST REGULAR SESSION

HOUSE BILL NO. 6209



Introduced by **REPRESENTATIVE CONRADO M. ESTRELLA III**

EXPLANATORY NOTE

In order to achieve food security and agricultural sustainability, effective policies must be put in place in order to protect those considered and/or classified as "*Agricultural Political Commodities*". "*Agricultural Political Commodities*" are those agricultural commodities which meet the following criteria:

1. They are agricultural produce and/or commodities;
2. Such agricultural produce and/or commodities are food staples for Filipinos; and
3. Production of such agricultural produce and/or commodities are significant industry in Philippine economy and source of income of Filipino farmers.

According to the latest report on the Labor and Employment Status of Filipinos conducted by the Philippine Statistics Authority covering the year 2014, agricultural sector remains to be the biggest employer of Filipino workers, employing about 30% of the entire Philippine workforce or an estimated 11,193,00 Filipinos.

There are several laws that ensure Filipino farmers are given the means and are encouraged to produce agricultural commodities to safeguard food security and inclusive growth in the countryside. Among the most significant laws are the Comprehensive Agrarian Reform Law (Republic Act No. 6657, as amended) and its precursor laws, the Agri-Agra Law (Republic Act No. 10000) and Agriculture and Fisheries Modernization Act (Republic Act No. 8435).

Government expenditure on land reform alone amounted to a total of Php 289,000,000,000.00 (P289 Billion in 2007 Prices) from 1972-2008. The Food

and Agriculture Organization (FAO) of the United Nations has reported that land redistribution has resulted in increased *per capita* income, reduced poverty incidence, higher investments in physical capital, and greater household welfare and productivity, aside from social justice and peace attained in the countryside.

Add to these government expenditures are the farm-to-market roads that get significant allocation in the national budget on a yearly basis. For fiscal year 2015, P14,500,000,000.00 (Php 14.5 Billion) was allocated for building and rehabilitating farm-to-market roads.

The government has spent substantial resources in ensuring the *production* and delivery to the market of agricultural commodities. This measure is significant step in ensuring that the market for the said agricultural commodities remains to be competitive. Among the reasons that greatly affect the production of agricultural political commodities are:

1. It unnaturally affects market prices and supply and demand. The illegal presence of smuggled goods saturates the market, thereby artificially affecting prices. At some point, it will unjustly lower the market price, making it almost impossible for locally produced goods to compete. This will result in lesser employment generation and greater poverty, particularly in the agricultural sector.
2. It puts at risk food safety, particularly on agricultural products. Smuggling of agricultural products, among others, allows the entry of pests and diseases that greatly endanger the health and safety of the populace. Without going through standard and proper safety procedures and quarantine of concerned government authorities, there is significantly greater risk that smuggled goods may be the point of entry for dangerous and harmful pests and diseases.
3. It ultimately robs the government of much-needed revenues necessary to provide for basic services to its citizens. According to data from the Bureau of Animal Industry (BAI), 199 Million kilos of pork were imported in 2013. However, according to a United Nations Commodity Trade Division (UN ComTrade) Report, countries exported 237 Million kilos of pork meat into the Philippines. There is a difference of 38 million kilos that are presumed to be smuggled into the country. If we multiply the 38 million kilos that are unaccounted for with the correct duties for prime cuts that were usually misdeclared as pork fats or offal, the result is a staggering P3.85-billion in lost revenues for the government. Such lost

revenues could have otherwise been used to fund the much needed government basic services to our people.

While some illegal acts of smuggling are already punishable under the existing criminal laws and Tariffs and Customs Code (TCC), the more vicious illegal acts of smuggling, such as those of agricultural economic commodities, are not sufficiently addressed by prevailing laws.

Illegal acts of smuggling are being carried out in many forms, which include but not limited to nondeclaration, misdeclaration, undervaluation, misclassification, and the used of falsified documents and used of fictitious names and addresses of consignee.

According to the Southeast Asia Regional Center for Graduate Study and Research in Agriculture (SEARCA), from 1986 to 2008, in terms of volume in metric tons, the top five agricultural commodities smuggled into the country are milled rice, refined sugar, beef meat, dry onion, and pork. In terms of value the order of agricultural commodities technically smuggled from 1986 to 2009 are milled rice, beef meat, sugar, pork, and chicken meat.

According to a study conducted by Habito and Briones (2005) for the World Bank, the top five agricultural commodities produced in the Philippines are rice, corn, coconut, sugarcane, and banana. There is a clear similarity in the list of goods most smuggled into the Philippines and the list of goods most produced in the Philippines.

There is also an increase in the sophistication by which present smugglers operate their illegal activities. Instead of simply unlawfully smuggling large amounts or volume of rice, they illegally smuggled smaller amounts or volumes by using several fictitious consignees in order to avoid having large shipments get caught and confiscated by the government authorities. This is also done clearly to circumvent and avoid application of current anti-smuggling laws that reserves its strictest penalty to those engaged in smuggling in high volumes.

The current situation of the rampant smuggling into the country, particularly the agricultural products, greatly affects the agriculture sector which constrained this representation to propose this timely and relevant measure to stop the unlawful act of smuggling in the country, particularly, the smuggling of Agricultural Political Commodities. There must be safeguards against a more sophisticated forms of smuggling while also indirectly increasing income opportunities of local producers as well as alleviate poverty among the farmers and the rest of the agricultural industry. Lastly, this proposed measure is a

significant step towards achieving food security and agricultural sustainability of our country.

In order to achieve such lofty aspirations, this proposed measure must include stricter sanctions for the illegal act of smuggling of agricultural political commodities that are most integral to the country's drive for food security and agricultural sustainability. These goods must be given protected status and defined as *Agricultural Political Commodities*. Further, the smuggling of anything of whatever value of goods, which is hereby classified and/or considered as *Agricultural Political Commodities* must be strictly punished as a criminal act involving economic sabotage.

It is in this view that the immediate passage of this bill is earnestly sought.



CONRADO M. ESTRELLA III
Representative, ABONO Party-list

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Introduced by **REPRESENTATIVE CONRADO M. ESTRELLA III**

**AN ACT DECLARING SMUGGLING AS A CRIME INVOLVING ECONOMIC
SABOTAGE, PRESCRIBING PENALTIES THEREFOR AND FOR OTHER
PURPOSES**

*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 “*Smuggling of
Agricultural Political Commodities as a Crime Involving Economic Sabotage Act of
2015*”.

SEC. 2. Declaration of Policy. – It is the policy of the State to ensure growth
and stability of the agriculture sector and farmers from unscrupulous traders
and importers, who by their illegal importation of agricultural political
commodities negatively affect the production, availability of supply and stability
of prices, put safety at risk and thereby threatens the food security of the state.

The State shall impose higher sanctions for large-scale smuggling of agricultural political commodities, to ensure the growth and stability of the agriculture sector, which is the largest employer of Filipino workers.

High incidents of smuggling of agricultural political commodities unnaturally affect market prices and supply and demand, discouraging food producers to continue their production, due to lack of satisfactory return on investment. Such situation, will eventually lead to the demise of our local industries thereby constituting economic sabotage.

SEC. 3. *Agricultural Political Commodities.* – These shall be limited to the following agricultural and marine agricultural commodities: livestock and poultry, rice, sugar, corn, pork, poultry, garlic, onion, carrots, dried fish, cruciferous vegetables, in their original state. Agricultural Political Commodities shall be considered in their original state even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, broiling, roasting, smoking or stripping. Polished and/or husked rice, corn grits, raw cane sugar and molasses, and ordinary salt shall be considered in their original state.

Sec. 4. *Large-Scale Agricultural Smuggling of Agricultural Political Commodities as Economic Sabotage.* – The crime of large-scale agricultural smuggling as economic sabotage, involving Agricultural Political Commodities with a minimum amount of One Million Pesos (P1,000,000.00), or rice, with a

minimum amount of Ten Million Pesos (P10,000,000.00), as valued by the Bureau of Customs (BOC), is committed through any of the following acts:

(a) Importing or bringing into the Philippines without the required import permit from the regulatory agencies;

(b) Using import permits of persons, natural, juridical or entities without juridical personality other than those specifically named in the permit;

(c) Using fake, fictitious or fraudulent import permits, shipping documents, names of natural or juridical persons or entities without juridical personality, and addresses of consignee;

(d) Selling, lending, leasing, assigning, consenting or allowing the use of import permits of corporations, nongovernment organizations, associations, cooperatives, or single proprietorships by other persons;

(e) Misclassification, undervaluation or misdeclaration upon the filing of import entry and revenue declaration with the BOC in order to evade the payment of rightful taxes and duties due to the government;

(f) Organizing or using dummy corporations, nongovernment organizations, associations, cooperatives, or single proprietorships for the purpose of acquiring import permits;

(g) Transporting or storing the agricultural product subject to economic sabotage regardless of quantity; or

(h) Acting as broker of the violating importer.

SEC. 5. Penalties. – (a) The penalty of life imprisonment and a fine of twice the fair value of the smuggled agricultural product and the aggregate amount of the taxes, duties and other charges avoided shall be imposed on any person who commits any of the acts enumerated under Section 4 of this Act.

(b) The penalty of imprisonment of not less than seventeen (17) years but not more than twenty (20) years, and a fine of twice the fair value of the smuggled agricultural product and the aggregate amount of the taxes, duties and other charges avoided shall be imposed on the officers of dummy corporations, non-government organizations, associations, cooperatives, or single proprietorships who knowingly sell, lend, lease, assign, consent or allow the unauthorized use of their import permits for purposes of smuggling.

(c) The penalty of imprisonment of not less than fourteen (14) years but not more than seventeen (17) years and a fine equal to the fair value of the smuggled agricultural product and the aggregate amount of the taxes, duties and other charges avoided shall be imposed on the following:

(1) The registered owner and its lessee or charterer, in case of lease, of a chartered boat, motorized commercial vessel of more than three gross tonnage, who knowingly transports the agricultural product subject to economic sabotage, regardless of quantity;

(2) The registered owner and its lessee, in case of lease, of six (6) or more wheeler trucks, vans and other means of transportation, who knowingly transports the agricultural product subject to economic sabotage, regardless of quantity;

(3) The registered owner and lessee of a warehouse, or any property, who knowingly stores the smuggled agricultural product subject to economic sabotage; or

(4) The registered owner, lessee, president or chief executive officer of the private port, fish port, fish landing sites, resorts, airports who knowingly allows the agricultural product to be smuggled into the country.

(d) The penalty of imprisonment of not less than twelve (12) years but not more than fourteen (14) years and a fine equal to the fair value of the smuggled agricultural product subject to economic sabotage and the aggregate amount of the taxes, duties and other charges avoided shall be imposed on the following:

(1) The registered owner and its lessee or charterer, in case of lease, of a chartered boat, motorized commercial vessel of three gross tonnage or less, who knowingly transports the agricultural product subject to economic sabotage, regardless of quantity; or

(2) The registered owner and its lessee, in case of lease, of less than six-wheel trucks, vans and other means of transportation, who knowingly transports the agricultural product subject to economic sabotage, regardless of quantity.

In all cases, the smuggled agricultural political commodities shall be confiscated and the 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, shall be forfeited in favor of the government.

When the offender is a juridical person, criminal liability shall attach to its president, chief operating officer or manager who consents to or knowingly tolerates the commission of the prohibited crime.

Any person, natural or juridical, found guilty under this Act shall also suffer the penalty of perpetual absolute disqualification to engage in any business involving importation.

In applying the abovementioned penalties, if the offender is an alien and the prescribed penalty is not life imprisonment, he/she 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.

SEC. 6. *Presumption of Smuggling of Agricultural Political Commodities.*

– Mere possession of rice or any agricultural political commodities under this Act, which has been the subject of smuggling, entered into the Philippines, either in the Bureau of Customs controlled ports or not, or without the necessary permits, shall be *prima facie* evidence of smuggling.

SEC. 7. *Implementing Rules and Regulations.* – The BOC, in consultation with concerned government agencies, shall promulgate the implementing rules and regulations of this Act within thirty (30) days upon its effectivity.

SEC. 8. *Prescription of Crimes.* – The crime punishable under this Act shall prescribe in twenty (20) years, regardless of penalties.

SEC. 9. *Separability Clause.* – If any portion of this Act is declared unconstitutional or invalid, the portions or provisions which are not affected shall continue to be in full force and effect.

SEC. 10. *Repealing Clause.* – All laws, decrees, executive issuances, rules and regulations inconsistent with this Act are hereby repealed and/or modified accordingly.

SEC. 11. *Effectivity Clause.* – This Act shall take effect after fifteen (15) days following its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,