

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

SEVENTEENTH CONGRESS  
First Regular Session

**4491**  
HOUSE BILL NO. \_\_\_\_\_



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Introduced by:

Gabriela Women's Party Reps. EMMI A. DE JESUS and ARLENE D. BROSAS,  
BAYAN Muna Rep. CARLOS ISAGANI T. ZARATE, ACT Teachers' Partylist  
Reps. ANTONIO L. TINIO and FRANCE L. CASTRO, Anakpawis Partylist Rep. ARIEL CASILAO,  
and Kabataan Partylist Rep. SARAH JANE I. ELAGO

EXPLANATORY NOTE

This bill was first filed in the 15<sup>th</sup> Congress and was filed again in the 16<sup>th</sup> Congress.<sup>1</sup> It has undergone several committee deliberations dating back to the 15<sup>th</sup> Congress. Through these, the issues surrounding the bill had already been exhaustively discussed and debated upon. The records of the House of Representatives Committee on Ecology will show that insofar as the clamor for prohibiting aerial spraying is concerned, the House of Representatives is already in possession of the core information and views sufficient and necessary to form a legislative action. It is on this note that the principal authors would like to make reference to the official committee records as aid for the committee members in deliberating this bill so that if there is any need for new hearings, it must be in the service of prompt legislative action in order to give the people and communities in Mindanao whose lives have been blighted by aerial spraying the long-overdue affirmative relief they have sought from this Congress.

From the hearings conducted during the 15<sup>th</sup> and 16<sup>th</sup> Congress, it has become increasingly clearer that there is a need to prohibit aerial spraying and such prohibition is getting more urgent. The people and communities in or near the banana plantations in Mindanao have been suffering the adverse impact of aerial spraying since the early 1990s following the escalated expansion and production intensification earlier launched by big banana agro-corporations. This translates to more than two decades of *accumulated* and *no let-up* suffering from the vexation (on this sense, a nuisance) and health risks that aerial spraying has been inflicting on these people and communities.

In the early development stage of the industry, most banana plantations were far from population centers and communities. During the early part of the Marcos regime, the area for banana production was even limited to 25,000 hectares. The banana plantations were also buffered by other crops and vegetation and they used manual methods in applying chemicals to their crops. When the industry expanded in frenetic pace starting in the early 1980s, banana plantations advanced from low-density communities (mostly abandoned logged-over areas) to high-density communities (population centers). At the same time, the industry expansion attracted the influx of agricultural workers that formed settlements within the banana plantations. Consequently, the industry had grown big and became a top export crop, turning Mindanao into a virtual banana republic. This growth resulted in the close contact between banana plantations and densely populated areas.

<sup>1</sup> In fact, bills of the same intent were also filed by other authors as early as the 14<sup>th</sup> Congress. In the 16<sup>th</sup> Congress, this bill was denominated as House Bill 3857. The principal authors of the present bill would like to call attention to the Explanatory Note of House Bill 3857 as additional reference.

Banana agro-corporations and exporters would like the public to believe that the growth of the industry and its coming into contact with communities have no problems. This is a useless argument because it does not tally with reality. To say nothing of the changed ecological landscape the industry wrought in Mindanao, the expansion of banana plantations destroyed the buffer vegetation, stripping the nearby communities of natural protection. This loss of natural protection is closely related with the fact that having grown big, the industry started using aerial spraying in the early 1990s. Today, banana production in Mindanao is estimated to cover 150,000 hectares and still counting since its expansion is continuing. It affects more than two million people, also still counting because of the high gravitational pull of banana plantation employment. These are the area and people which constitute the universe affected by the deleterious 'chemical showers' of aerial spraying.

To sum up the testimonies of the affected people and communities in the committee deliberations and other fora, they demand for the prohibition of aerial spraying on the following grounds:

1. Aerial spraying is a nuisance (verily, a vexation) because it adds disruption to the already miserable poor lives of the affected people and communities. Its shower fallout soils their open air laundry, spoils their grains sun-dried in open spaces and leaves a nauseous odor that fouls their home and immediate environment. The strong odor it leaves lends the exposed to bouts of vomiting and lost appetite.
2. More than being a nuisance, it poses several risks at high level to the affected individuals, the community and the environment. In the deliberations, resource persons, including individuals who sourced their income from the industry, complained of persistent episodes of hard coughing, dizziness, headaches, and various skin afflictions among adults and children in the affected communities. These experiences are consistent with studies which found that 52% of people 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 dizziness<sup>2</sup>. 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. Plant growth in their backyard and farms had been seriously stunted, suggesting of changed geo-ecological balance. They now find it difficult to grow food crops. People also find it harder to raise pigs and chickens. They believe that their natural sources of water have been compromised because a lot of the animals refused to drink from streams and springs and those that do eventually die, suggesting of habitat and environmental contamination. 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.
3. Chemicals from pesticides and similar harmful substances accumulate through the years. Sadly, no study has been conducted in this country on the long-term accumulative geo-ecological effects of aerial spraying. It is well to mention on this regard that one of the advances of development perspectives that had come to guide governments and social institutions starting in the 1990s is the adoption of the 'precautionary principle'. In the absence of a 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.

In contrast with the testimonies of victimized communities, banana agro-corporations and exporters mainly deny the harmful effects of aerial spraying and, instead of presenting meritorious arguments to buttress their position, have used the hearings to irresponsibly hurl fantastic conspiracy theories about the proponents (both the grassroots communities from where the idea of banning aerial spraying actually originated and the authors of the various bills). If

<sup>2</sup>Department of Health, 'A Health and Environmental Assessment in Sitio Camocnaan, Davao del Sur', DoH: Davao City, 2006.

their lead is to be followed, they want this House to divert its look to some phantom while the people living in banana plantations are coughing their way to the village *hilot*.

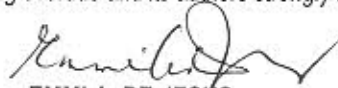
The victimized people and communities started their organized clamor for prohibiting aerial spraying in the early 1990s such that their struggle now spans more than two decades. They first lobbied with the LGUs but obtained mixed results. A few LGUs responded favorably and passed their environmental and anti-aerial spraying ordinances. Among such LGUs are Davao City, South Cotabato, and Bukidnon. In these LGUs, banana plantations have expanded and experienced unprecedented growth, belying the apprehensions sown by banana growers and exporters that those ordinances would kill the industry. Unfortunately, most LGUs have succumbed to the banana industry whose escalated expansion had transformed it into a Big Brother of sorts, a local king maker and influence-peddler. So in 2004, through some representatives sympathetic to their cause, the victimized people and communities started petitioning this Congress, invoking the relevant sections of the 1987 Constitution<sup>3</sup> for the enactment of a national law that will protect them from the harmful ways of banana agro-corporations, particularly aerial spraying.

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This explains why every Congress, they would return to this House of Representatives (aka the House of the People), appealing to its sworn sense of public welfare and placing their confidence on this House to put the people's health above profits and narrow interests. This 17<sup>th</sup> Congress is therefore the 4<sup>th</sup> Congress they have appealed to and 2016 will make up 12 years of their petitioning efforts. Certainly, there is nothing conspiratorial in the avenue they have chosen and in persevering for twelve years in their trust in this House despite having been failed by previous Congresses.

The people and communities clamoring for putting a legislative clamp on aerial spraying are mostly farm workers and small scale rural entrepreneurs with businesses closely connected with the banana production. With their close economic connection to the industry, they count as part of its stakeholders. As such, they are not out to slay the goose. If they are clamoring for a stop to aerial spraying, it is *only* because the growth through the decades of banana production into a big agri-business has brought along with the boon negative effects that constitute the industry's baneful side and such effects are crying for legislative intervention.

Given all the premises, this bill is long overdue and its authors strongly urge this House to pass it promptly.

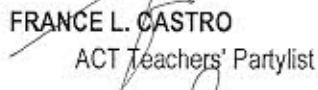
  
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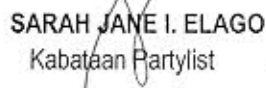
  
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<sup>3</sup>Section 15, Article II of the Philippine Constitution which provides that, 'The State shall protect and promote the right to health of the people and instill health consciousness among them'; and Section 16 of the same Article which provides 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'.

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**FRANCE L. CASTRO**, Anakpawis Partylist Rep. **FERNANDO HICAP**, and  
Kabataan Partylist Rep. **SARAH JANE I. ELAGO**

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**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 2016'.

**Section 2. Declaration of State Principles and Policies** – Pursuant to Section 15, Article II of the Philippine Constitution, which declares that the State shall protect and promote the right to health of the people and instill health consciousness among them, as well as Section 16, Article II of the Philippine Constitution, which further declares 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, it is hereby the declared policy of the State:

1. To ensure the protection and promotion of these Constitutionally guaranteed rights to health and balanced ecology of the people, including generations yet to be born;
2. To protect the people from the hazards of the environmentally degrading and health threatening agricultural practice of aerial spraying;
3. To adopt the precautionary principle in assessing projects which are environmentally critical;

**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 substances, including but not limited to pesticides and any other hazardous substances, through the use of any aircraft in order to dispense the substances into the air;

- b. **Agricultural activity** refers 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;
- d. **Buffer zone** refers to an identified area/zone within and around the boundaries of 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;
- e. **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;
- f. **Hazardous substances** refers to substances which present either:
  - f.1 **short-term acute hazards**, such as acute toxicity by indigestion, inhalation or skin absorption, or other skin or eye contact hazards, or the risk of fire or explosion; or
  - f.2 **long-term hazards**, including chronic toxicity upon repeated exposure, carcinogenicity (which may in some cases result from acute exposure but with a long latent period), resistant to detoxification process, such as biodegradation, the potential to pollute underground or surface waters, or aesthetically objectionable properties such as offensive odors; or
  - f.3 those substances which the Fertilizer and Pesticides Authority (FPA) under the Department of Agriculture and other government agencies will identify as hazardous
- g. **Imminent hazard** refers to 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 species declared endangered by the appropriate authorities;
- h. **Persistent Organic Pollutant (POP)** refers to the organic compounds which resist photolytic, chemical and biological degradation, that persist in the environment, bio-accumulate through the ecosystem and the food web, and pose risk of causing adverse effects to human health and environment. Persistent Organic Pollutants include, among others, dioxin, foran, polychlorinated biphenyls (PCBs), and organochlorine pesticides such as aldrin, dieldrin, DDT, hexachlorobenzene, lindane, toxaphene, and chlordane;
- i. **Pest** refers to any form of plant or animal life, or any pathogenic agent injurious or potentially injurious to plants or plant products;
- j. **Pesticide** refers to any substance or product, or a mixture thereof, including active ingredients, adjuvants and pesticide formulations, intended to control, prevent, 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, dessicant, and the like;

- k. **Toxicity** refers to 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. Ban on aerial spraying** – The act of aerial spraying of pesticides, hazardous substances, and persistent organic pollutants is hereby declared as contrary to law and, thus, prohibited as an agricultural activity.

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**Section 5. Scope and presumption** – The provision of this Act shall apply to aerial spraying of pesticides in all agricultural activities; Provided, that spraying substances with the use of an aircraft flying near or above an agricultural plantation is a prima facie evidence of the commission of aerial spraying: Provided, finally, that a person or entity engaged in aerial spraying shall be presumed to be spraying hazardous substances or persistent organic pollutants.

**Section 6. Who may be held liable** – Any person, natural or juridical, who performs the act of using an aircraft to spray hazardous substances and persistent organic pollutants shall be held liable. Provided, that if the violator is a corporation, partnership or any other juridical entity, the penal provisions hereof shall be applied to the president or the 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 corporation, the indictment shall include the manager of the department directly responsible for aerial spraying and similar operations.

**Section 7. Buffer zone** – All persons, natural or juridical, who are engaged in agricultural crop production of fifty (50) hectares and above shall observe the following:

- a. A 40-meter buffer zone shall be established between the plantations and critical areas, such as recharge zones, critical slopes, riverbanks, springs, wells, and other sources of water; and
- b. A 30-meter buffer zone shall be established between the plantations and residential houses, schools, clinics, chapels, and other institutions; Provided, that the existing plantations, upon the effectivity of this Act, shall provide the relocation of those inside the plantation and within the buffer zone to a suitable site at its own expense.

**Section 8. Implementing agencies** – The Fertilizer and Pesticide Authority (FPA) shall be primarily responsible for the implementation and enforcement of this Act.

The Department of Environment and Natural Resources-Environmental Management Board (DENR-EMB), in coordination with the established municipality/city-based monitoring teams, shall conduct quarterly monitoring to ensure compliance with Presidential Decree No. 1586, otherwise known as The Philippine Environmental Impact Statement System (PEISS).

The Department of Health, in coordination with the regional and local health offices, shall conduct regular community health monitoring in areas located within or near agricultural farms/plantations.

The Department of Interior and Local Government (DILG), through the Office of Provincial Governor of each province or the Office of the City Mayor of each highly urbanized or chartered city, where such agricultural farms/plantations are located, shall be responsible in monitoring to ensure compliance of this Act. The Provincial governor or 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 7 of this Act.

**Section 9. Documentation/Inventory** – The municipality /city-based monitoring teams shall have a record of, but not limited to, the following:

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1. Agricultural farms/plantations:
  - a. Number of agricultural farms/plantations within their territorial jurisdiction;
  - b. Area covered by these agricultural farms/plantations
  - c. Main crop produced by these agricultural farms/plantations
2. Agricultural farms/plantations and companies engaged in aerial spraying or have been engaged in the business of providing aerial spraying services before the enactment of this Act:
  - a. Aircrafts used in aerial spraying which shall include:
    - i. brief description of the aircraft;
    - ii. engine manufacturer's identification number; and
    - iii. 3 company logo
  - b. Location of the hangar
  - c. Other relevant information/description

**Section 10. Administrative fines** – Upon the motu proprio finding of the Fertilizer and Pesticides Authority, based on the report of the Municipality/City-based monitoring team, and its corresponding recommendation to the Secretary of the Department of Agriculture, the following administrative fines shall be imposed upon every day of aerial spraying of pesticides:

1. In violation of Section 4 and in relation to the presumption in Section 5 of this Act:
  - a. An administrative fine of not less than fifty thousand Philippine pesos (P50,000.00) but not more than one hundred thousand Philippine pesos (P100,000.00) upon the owner of the plantation who actually commissioned the aerial spraying of pesticides;
  - b. An administrative fine of not less than twenty thousand Philippine pesos (P20,000.00) but not more than fifty thousand Philippine pesos (P50,000.00) upon the aircraft owner, 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, and the professional license, in the case of the aircraft pilot, for a period of not less than one (1) month or until cessation of aerial spraying of pesticides.
2. In violation of Section 7 of this Act:
  - a. An administrative fine of not less than fifty thousand Philippine pesos (P50,000.00).

**Section 11. Penal provisions** – The following penalties shall be imposed for acts in violation of Section 4 and in relation to the presumption in Section 5 of this Act:

1. The penalty of *prision mayor* shall be imposed upon the owner of the plantation or the person who actually commissioned the aerial spraying. In the case of juridical persons, such penalty shall be imposed in relation to Section 6 of this Act.

2. In addition to the revocation of the permit to operate, in the case of the owner or operator of the aircraft, and the revocation of the professional license, in the case of the aircraft pilot, the penalty of prison correccional shall be imposed upon the owner or operator of the aircraft and the pilot of the aircraft used in the aerial spraying.

The aircraft and other equipment used in violation of Section 4 hereof shall be subject to forfeiture under Article 45 of Act No. 3815, otherwise known as The Revised Penal code. Page | 8

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 12. *Implementing Rules and Regulations*** – Within sixty (60) days after the effectivity of this Act, the Department of Agriculture, through the Fertilizer and Pesticide Authority, in coordination with the DILG, DENR-EMB, and DOH, shall formulate and issue 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.

**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.