

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

5528
HOUSE BILL NO. ____



Introduced by REP. Michael L. Romero and Enrico A. Pineda

EXPLANATORY NOTE

In pursuant to **RA No.7394**, otherwise known as the "Consumer Act of the Philippines"

It shall be unlawful for any person to:

- 1) manufacture for sale, offer for sale, distribute in commerce, or import into the Philippines any consumer product which is not in conformity with an applicable consumer product quality or safety standard promulgated in this Act;
- 2) manufacture for sale, offer for sale, distribute in commerce, or import into the Philippines any consumer product which has been declared as banned consumer product by a rule in this Act;
- 3) refuse access to or copying of pertinent records or fail or refuse to permit entry of or inspection by authorized officers or employees of the department;
- 4) fail to comply with an order issued under Article 11 relating to notifications of substantial product hazards and to recall, repair, replacement or refund of unsafe products;
- 5) fail to comply with the rule prohibiting stockpiling.

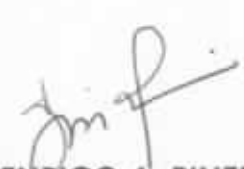
This House Bill seeks to:

- a)** Assist the consumer in evaluating the quality, including safety, performance and comparative utility of consumer products;
- b)** Protect the public against unreasonable risks of injury associated with consumer products;
- c)** Undertake research on quality improvement of products and investigation into causes and prevention of product related deaths, illness and injuries;
- d)** Assure the public of the consistency of standardized products; and
- e)** Develop and provide safety and quality standards for consumer products, including performance or use-oriented standards, codes of practice and methods of tests.

Thus, the early passage of this bill is earnestly requested.



MICHAEL L. ROMERO Ph.D



ENRICO A. PINEDA

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HOUSE BILL NO. **5528**

Introduced by REP. Michael L. Romero and Enrico A. Pineda

AN ACT
AMENDING REPUBLIC ACT NO.7394, OTHERWISE KNOWN AS THE
"CONSUMER ACT OF THE PHILIPPINES", INCREASING ITS PENALTIES
AND SANCTIONS, RATIONALIZING ITS POLICIES AND GUIDELINES, AND
FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representative of the Philippines in congress assembled:

SECTION 1. Title – this act shall be known as the **"COMSUMER ACT OF THE PHILIPPINES 2017"**.

SECTION 2. Article 41 of RA7394 is hereby amended to read as follows:

ARTICLE 41. Penalties. —

a) Any person who violates any of the provisions of Article 40 hereof shall, upon conviction, be subject to imprisonment of not less than two **(2)** years but not more than six **(6)** years, or a fine of not less than Twenty Five thousand pesos **(P25,000.00)** but not more

than Fifty thousand pesos (**P50,000.00**), or both such imprisonment and fine, in the discretion of the Court.

Should the offense be committed by a juridical person, the Chairman of the Board of Directors, the President, General Manager, or the partners and/or the persons directly responsible therefore shall be penalized.

b) No person shall be subject to the penalties of sub-article (a) of this Article for (1) having sold, offered for sale or transferred any product and delivered it, if such delivery was made in good faith, unless he refuses to furnish on request of the Department, the name and address of the person from whom he purchased or received such product and copies of all documents, if any there be, pertaining to the delivery of the product to him; (2) having violated Article 40(a) if he established a guaranty or undertaking signed by, and containing the name and address of, the person residing in the Philippines from whom he received in good faith the product, or (3) having violated Article 40(a), where the violation exists because the product is adulterated by reason of containing a color other than the permissible one under regulations promulgated by the Department in this Act, if such person establishes a guaranty or undertaking signed by, and containing the name and address, of the manufacturer of the color, to the effect that such color is permissible, under applicable regulations promulgated by the Department in this Act.

SECTION 3. Article 47 of RA7394 is hereby amended to read as follows:

ARTICLE 47. Penalties, Exception —

a) Any person who violates any of the provisions of Article 46 shall, upon conviction, be subject to a fine of not less than Thirty thousand pesos (**P30,000.00**) or an imprisonment of not less than one **(1)** year but not more than six **(6)** years or both upon the discretion of the court.

b) No person shall be subject to the penalties of paragraph (a) of this Article for (1) having violated paragraph (c) of Article 46 unless he refuses to furnish, upon request by the Department or his representative, the name and address of the person from who he purchased such hazardous substances and (2) having violated paragraph (a) of Article 46, if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person from whom he received in good faith, the hazardous substance to the effect that the hazardous substance is not a mislabeled hazardous substance or banned hazardous within the meaning of that term in this Act.

SECTION 4. Article 65 of RA7394 is hereby amended to read as follows:

ARTICLE 65. Penalties —

a) Any person who shall violate the provisions of paragraphs (a) to (f) and paragraph (l) of Article 64 or its implementing rules and regulations shall, upon conviction, be subject to a fine of not less than Five thousand pesos (**P5,000.00**) but not more than Twenty Five thousand pesos (**P25,000.00**) or by imprisonment of not more than two (**2**) years or both upon the discretion of the court.

b) Any person who shall violate the provisions of paragraph (g) of Article 64 for the first time shall be subject to a fine of not less than Five thousand pesos (**P5,000.00**) or by imprisonment of not less than six (**6**) months but not more than six (**6**) years or both, upon the discretion of the court.

c) The owner-possessor or user of instrument of weights and measure enumerated in paragraphs (h) to (k) of Article 64 shall, upon conviction, be subject to a fine of not less than Five thousand pesos (**P5,000.00**) or imprisonment not exceeding two (**2**) years, or both, upon the discretion of the court.

SECTION 5. Article 68 of RA7394 is hereby amended to read as follows:

ARTICLE 68. Additional Provisions on Warranties —

In addition to the Civil Code provisions on sale with warranties, the following provisions shall govern the sale of consumer products with warranty:

a) Terms of express warranty. — Any seller or manufacturer who gives an express warranty shall:

- 1)** set forth the terms of warranty in clear and readily understandable language and clearly identify himself as the warrantor;
- 2)** identify the party to whom the warranty is extended;
- 3)** state the products or parts covered;
- 4)** state what the warrantor will do in the event of a defect, malfunction or failure to conform to the written warranty and at whose expense;
- 5)** state what the consumer must do to avail of the rights which accrue to the warranty; and
- 6)** stipulate the period within which, after notice of defect, malfunction or failure to conform to the warranty, the warrantor will perform any obligation under the warranty.

b) Express warranty — operative from moment of sale. — All written warranties or guarantees issued by a manufacturer, producer, or importer shall be operative from the moment of sale.

- 1)** Sales Report. — All sales made by distributors of products covered by this Article shall be reported to the manufacturer, producer, or importer of the product sold within thirty (30) days from date of purchase, unless otherwise agreed upon. The report shall contain, among others, the

date of purchase, model of the product bought, its serial number, name and address of the buyer. The report made in accordance with this provision shall be equivalent to a warranty registration with the manufacturer, producer, or importer. Such registration is sufficient to hold the manufacturer, producer, or importer liable, in appropriate cases, under its warranty.

2) Failure to make or send report. — Failure of the distributor to make the report or send them the form required by the manufacturer, producer, or importer shall relieve the latter of its liability under the warranty: Provided, however, That the distributor who failed to comply with its obligation to send the sales report shall be personally liable under the warranty. For this purpose, the manufacturer shall be obligated to make good the warranty at the expense of the distributor.

3) Retail. — The retailer shall be subsidiarily liable under the warranty in case of failure of both the manufacturer and distributor to honor the warranty. In such case, the retailer shall shoulder the expenses and costs necessary to honor the warranty. Nothing therein shall prevent the retailer from proceeding against the distributor or manufacturer.

4) Enforcement of warranty or guarantee. — The warranty rights can be enforced by presentment of a claim. To this end, the purchaser needs only to present to the immediate seller either the warranty card or the official receipt along with the product to be serviced or returned to the immediate seller. No other documentary requirement shall be demanded from the purchaser. If the immediate seller is the manufacturer's factory or showroom, the warranty shall immediately be honored. If the product was purchased from a distributor, the distributor shall likewise immediately honor the warranty. In the case of a retailer other than the distributor, the former shall take responsibility without cost to

the buyer of presenting the warranty claim to the distributor in the consumer's behalf.

5) Record of purchases. — Distributors and retailers covered by this Article shall keep a record of all purchases covered by a warranty or guarantee for such period of time corresponding to the lifetime of the product's respective warranties or guarantees.

6) Contrary stipulations — null and void. — All covenants, stipulations or agreements contrary to the provisions of this Article shall be without legal effect.

c) Designation of warranties. — A written warranty shall clearly and conspicuously designate such warranty as:

1) "Full warranty" if the written warranty meets the minimum requirements set forth in paragraph (d); or

2) "Limited warranty" if the written warranty does not meet such minimum requirements.

d) Minimum standards for warranties. — For the warrantor of a consumer product to meet the minimum standards for warranty, he shall:

1) remedy such consumer product within a reasonable time and without charge in case of a defect, malfunction or failure to conform to such written warranty;

2) permit the consumer to elect whether to ask for a refund or replacement without charge of such product or part, as the case may be, where after reasonable number of attempts to remedy the defect or malfunction, the product continues to have the defect or to malfunction.

The warrantor will not be required to perform the above duties if he can show that the defect, malfunction or failure to

conform to a written warranty was caused by damage due to unreasonable use thereof.

e) Duration of warranty. — The seller and the consumer may stipulate the period within which the express warranty shall be enforceable. If the implied warranty on merchantability accompanies an express warranty, both will be of equal duration.

Any other implied warranty shall endure not less than ninety **(90)** days nor more than one (1) year following the sale of new consumer products.

f) Breach of warranties —

1) In case of breach of express warranty, the consumer may elect to have the goods repaired or its purchase price refunded by the warrantor. In case the repair of the product in whole or in part is elected, the warranty work must be made to conform to the express warranty within thirty (30) days by either the warrantor or his representative. The thirty-day period, however, may be extended by conditions which are beyond the control of the warrantor or his representative. In case the refund of the purchase price is elected, the amount directly attributable to the use of the consumer prior to the discovery of the non-conformity shall be deducted.

2) In case of breach of implied warranty, the consumer may retain in the goods and recover damages, or reject the goods, cancel and contract and recover from the seller so much of the purchase price as has been paid, including damages.

SECTION 6. Article 73 of RA7394 is hereby amended to read as follows:

ARTICLE 73. Penalties —

a) Any person who shall violate the provisions of Article 67 shall be subject to fine of not less than Ten thousand pesos

(P10,000.00) but not more than Fifty thousand pesos **(P50,000.00)** or an imprisonment of not less than six **(6)** months but not more than three **(3)** years or both upon the discretion of the court. A *second conviction under this paragraph shall also carry with it the penalty or revocation of his business permit and license.*

b) Any person, natural or juridical, committing any of the illegal acts provided for in Chapter III, except with respect to Article 67, shall be liable for a fine of not less than Ten thousand pesos **(P10,000.00)** but not more than One hundred thousand pesos **(P100,000.00)** or imprisonment for a period of at least two **(2)** years but not more than six **(6)** years, or both, at the discretion of the court.

The imposition of any of the penalties herein provided is without prejudice to any liability incurred under the warranty or guarantee.

SECTION 7. Article 95 of RA7394 is hereby amended to read as follows:

ARTICLE 95. Penalties —

a) Any person who shall violate the provisions of Title III, Chapter IV of this Act, or its implementing rules and regulations, except Articles 81 to 83 of the same Chapter, shall be subject to a fine of not less than Five thousand pesos **(P5,000.00)** but not more than Fifty thousand pesos **(P50,000.00)** or imprisonment of not less than six **(6)** months but not more than three **(3)** years or both, at the discretion of the court;

*Provided, That, if the consumer product is one which is not a food, cosmetic, drug, device or hazardous substance, the penalty shall be a fine of not less than Five thousand pesos **(P5,000.00)** but not more than Fifty thousand pesos **(P50,000.00)** or imprisonment of not less than six **(6)** months but not more than one **(3)** years or both, at the discretion of the court.*

b) Any person who violates the provisions of Article 81 to 83 for the first time shall be subject to a fine of not less than Five thousand pesos (**P5,000.00**) but not more than Fifty thousand pesos (**P50,000.00**) or by imprisonment of not less than six (**6**) months but not more than three (**3**) years or both, at the discretion of the court. A second conviction under this paragraph shall also carry with it the penalty of revocation of business permit and license.

SECTION 8. Article 107 of RA7394 is hereby amended to read as follows:

ARTICLE 107. Penalties —

Any person who shall violate any provision of this Chapter or its implementing rules and regulations with respect to any consumer product which is not food, cosmetic, or hazardous substance shall upon conviction, be subject to a fine of not less than Twenty Five thousand pesos (**P25,000.00**) and by imprisonment of not more than two (**2**) years or both upon the discretion of the court.

In case of juridical persons, the penalty shall be imposed upon its president, manager or head. If the offender is an alien, he shall, after payment of fine and service of sentence, be deported without further deportation proceedings.

SECTION 9. Article 123 of RA7394 is hereby amended to read as follows:

ARTICLE 123. Penalties —

a) Any person, association, partnership or corporation who shall violate any of the provisions of Articles 110 to 115 shall, upon conviction, be subject to a fine of not less than Five thousand Pesos (**P5,000.00**) but not more than Fifty thousand pesos (**P50,000.00**) or an imprisonment of not less than six (**6**) months but not more than three (**3**) years or both upon the discretion of the court.

b) Any violation of the provisions of Articles 116 to 121 shall, upon conviction, subject the offenders to a fine of not less than Five thousand pesos **(P5,000.00)** but not more than Twenty Five thousand pesos **(P25,000.00)** or an imprisonment of not less than six **(6)** months but not more than two **(2)** years or both upon the discretion of the court.

If the violation was committed by a juridical person, the manager, representative, director, agent or employee of said juridical person responsible for the act shall be deported after service of sentence and payment of the fine without need for further deportation proceedings.

SECTION 10. Article 147 of RA7394 is hereby amended to read as follows:

ARTICLE 147. Penalties —

Any creditor who in connection with any credit transaction fails to disclose to any person any information in violation of this Chapter or the Implementing rules and regulations issued thereunder shall be liable to such person in the amount of Five thousand pesos **(P5,000.00)** or in amount equal to twice the finance charge required by such creditor in connection with such transaction, whichever is greater, except that such liability shall not exceed Three thousand pesos **(P15,000.00)** for any credit transaction and actual damages with the non-disclosure of the required information.

Action to recover such penalty may be brought by such person within six **(6)** months from the date of the occurrence of the violation in any court of competent jurisdiction.

SECTION 11. Article 164 of RA7394 is hereby amended to read as follows:

ARTICLE 164. Sanctions. —

After investigation, any of the following administrative penalties may be imposed even if not prayed for in the complaint:

- a)** the issuance of a cease and desist order. Provided, however, That such order shall specify the acts that respondent shall cease and desist from and shall require him to submit a report of compliance therewith within a reasonable time;
- b)** the acceptance of a voluntary assurance of compliance or discontinuance from the respondent which may include any or all of the following terms and conditions:
 - 1)** an assurance to comply with the provisions of this Act and its implementing rules and regulations;
 - 2)** an assurance to refrain from engaging in unlawful acts and practices or unfair or unethical trade practices subject of the formal investigation;
 - 3)** an assurance to comply with the terms and conditions specified in the consumer transaction subject of the complaint;
 - 4)** an assurance to recall, replace, repair, or refund the money value of defective products distributed in commerce;
 - 5)** an assurance to reimburse the complaint out of any money or property in connection with the complaint, including expenses in making or pursuing the complaint, if any, and to file a bond to guarantee compliance therewith.
- c)** restitution or rescission of the contract without damages;
- d)** condemnation and seizure of the consumer product found to be hazardous to health and safety unless the respondent files a bond to answer for any damage or injury that may arise from the continued use of the product;

e) the imposition of administrative fines in such amount as deemed reasonable by the Secretary, which shall in no case be less than Fifty thousand pesos (**P50,000.00**) nor more than Five hundred thousand pesos (**P500,000.00**) depending on the gravity of the offense, and an additional fine of not more than Five thousand pesos (**P5,000.00**) or each day of continuing violation.

SECTION 12. Article 171 of RA7394 is hereby amended to read as follows:

ARTICLE 171. Appropriations —

For the initial operating expenses of the National Consumer Affairs Council, the sum of Twenty million pesos (**P20,000,000.00**) is hereby appropriated out of funds of the National Treasury not otherwise appropriated.

Thereafter, such sums as may be necessary to carry out its purpose shall be included in the General Appropriations Act (GAA).

SECTION 13. SEPARABILITY CLAUSE - If any provision or section of this Act or the application thereof to any person or circumstances is held invalid, the other provisions or sections of this Act shall remain valid, and the application of such remaining provisions or sections to the other persons or circumstances, shall not be affected thereby.

SECTION 14. Repealing Clause. All laws, executive orders, issuances, rules and regulations inconsistent with this Act are hereby amended, repealed or modified accordingly.

SECTION 15. EFFECTIVITY CLAUSE - This Act shall take effect fifteen (15) days from the date of its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved.