

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2902



Introduced by Rep. Precious Hipolito Castelo

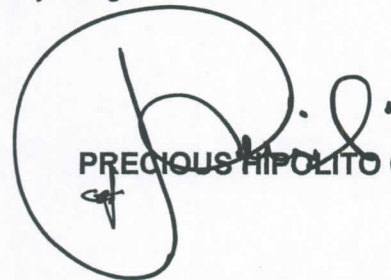
EXPLANATORY NOTE

The Philippine Constitution expressly provides that: "The State shall pursue a trade policy that serves the general welfare and utilizes all forms and arrangements of exchange on the basis of equality and reciprocity."¹

In recognition of the above-stated policy on national economy, the Consumer Act of the Philippines (Republic Act No. 7394) was enacted in 1992. However, since then, there has been no amendment of the said law in order to conform with the current trends in the market, especially considering the advent of information and communications technology (ICT) in the modern world. Furthermore, the penalties and sanctions provided in the law are no longer adequate as a deterrent against unscrupulous, deceitful, and dishonest merchants.

Accordingly, this bill endeavors for the integration and utilization of ICT in commerce, and the modification of the administrative and penal provisions of the law in order to effectively enforce strong consumer protection nationwide.

Thus, the immediate passage of this bill is collectively sought.


PRECIOUS HIPOLITO CASTELO

¹ Section 13 of Article XII.

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AN ACT
PROVIDING BROADER PROTECTION TO CONSUMERS, AMENDING FOR THE
PURPOSE REPUBLIC ACT NO. 7394, OTHERWISE KNOWN AS THE "CONSUMER ACT
OF THE PHILIPPINES"

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

SECTION 1. Article 1 of Republic Act No. 7394 is hereby amended to read as follows:

"Article 1. *Short Title.* – This Act shall be known as the "**REVISED** Consumer Act of the Philippines."

SEC. 2. Article 4 of the same Act is hereby amended to read as follows:

"Article 4. *Definition of Terms.* – For purposes of this Act, the term:

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i) "*Business name, firm name, or style*" means any name or designation other than the true name of a person, partnership, corporation or association which is used or signed in connection with his/its business or in

1) any written or printed receipt, including receipt for tax or business;

2) any written or printed contract not verified by a notary public;

3) any written or printed evidence of any agreement or business transaction; ~~and~~

4) any sign or billboard kept conspicuously exhibited in plain view in or at the place of the business, announcing a firm name or business name or style; and

5) ANY ELECTRONIC EVIDENCE OF ANY AGREEMENT, BUSINESS TRANSACTION OR ADVERTISEMENT THROUGH INFORMATION AND COMMUNICATIONS TECHNOLOGY (ICT) MEDIA, INCLUDING VOICE, VIDEO, AND OTHER FORMS OF DATA.

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at) "*Mass media*" refers to any means or methods used to convey advertising messages to the public such as television, radio,

INTERNET, MOBILE PHONE, LANDLINE, magazines, cinema, billboards, posters, streamers, hand bills, leaflets, mails and the like.

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bn) "Seller" means a person engaged in the business of selling consumer products **AND SERVICES** directly to consumers. It shall include a supplier or distributor if (1) the seller is a subsidiary or affiliate of the supplier or distributor; (2) the seller interchanges personnel or maintains common or overlapping officers or directors with the supplier or distributor; or (3) the supplier or distributor provides or exercises supervision, direction or control over the selling practices of the seller.

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br) "Standard" means a set of conditions to be fulfilled to ensure the quality and safety of **CONSUMER products OR OF SERVICES**;

X X X

SEC. 3. Article 8 of the same Act is hereby amended to read as follows:

"Article 8. *Publication of Consumer Product Standards.* – The concerned departments shall, upon promulgation of the above standards, publish or cause the publication of the same in [~~two (2) newspapers of general circulation at least once a week for a period of not less than one (1) month.~~] **THE OFFICIAL GAZETTE OR IN THE DEPARTMENT'S OFFICIAL WEBSITE.** It may likewise conduct an information campaign through other means deemed effective to ensure the proper guidance of consumers, businesses, industries and other sectors concerned."

SEC. 4. Article 11 of the same Act is hereby amended to read as follows:

"Article 11. *Amendment and Revocation of Declaration of the Injurious, Unsafe or Dangerous Character of a Consumer Product.* – Any interested person may petition the appropriate department to commence a proceeding for the issuance of an amendment or revocation of a consumer product safety rule or an order declaring a consumer product injurious, dangerous and unsafe.

In case the department, upon petition by an interested party or its own initiative and after due notice and hearing, determines a consumer product to be substandard or materially defective, it shall so notify the manufacturer, distributor or seller thereof of such finding and order such manufacturer, distributor or seller **TO DO THE FOLLOWING WITHIN TWENTY-FOUR (24) HOURS:**

- a) give notice to the public of the defect or failure to comply with the product safety standards; and
- b) give notice to each distributor or retailer of such product; **AND**
- C) AS FAR AS PRACTICABLE, GIVE NOTICE TO EACH PERSON TO WHOM SUCH CONSUMER PRODUCT WAS DELIVERED OR SOLD.**

The department shall also direct the manufacturer, distributor or seller of such product to extend **WITHIN A REASONABLE TIME, AS DETERMINED BY THE DEPARTMENT**, any or all of the following remedies to the injured person:

- a) to bring such product into conformity with the requirements of the applicable consumer product standards or to repair the defect in order to conform with the same;
- b) to replace the product with a like or equivalent product which complies with the applicable consumer product standards which does not contain the defect;
- c) to refund the purchase price of the product less a reasonable allowance for use; and
- d) to pay the consumer reasonable damages as may be determined by the department.

The manufacturer, distributor or seller shall not charge a consumer who avails himself of the remedy as provided above of any expense and cost that may be incurred."

SEC. 5. Article 19 of the same Act is hereby amended to read as follows:

"Article 19. *Penalties.* –

a) Any person who shall violate any provision of Article 18 shall upon conviction, be subject to a fine of not less than [~~One thousand pesos (P1,000.00)~~] **ONE HUNDRED THOUSAND PESOS (P100,000.00)** but not more than [~~Ten thousand pesos (P10,000.00)~~] **FIVE HUNDRED THOUSAND PESOS (P500,000.00)** or imprisonment of not less than [~~two (2) months~~] **ONE (1) YEAR** but not more than [~~one (1) year~~] **FIVE (5) YEARS**, or both upon the discretion of the court. If the offender is an alien, he shall be deported after service of sentence and payment of fine without further deportation proceedings.

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D) THE CONCERNED DEPARTMENT MAY ORDER THE CLOSURE OF ANY BUSINESS WHO SHALL VIOLATE ANY PROVISION OF ARTICLE 18, AFTER A DETERMINATION THAT ALLOWING IT TO CONTINUE ITS OPERATIONS WILL BE DETRIMENTAL TO PUBLIC HEALTH AND PUBLIC SAFETY.

In case the violation is committed by, or in the interest of a foreign juridical person duly licensed to engage in business in the Philippines, such license to engage in business in the Philippines shall immediately be revoked."

SEC. 6. Article 21 of the same Act is hereby amended to read as follows:

"Article 21. *Implementing Agency.* – In the implementation of the foregoing policy, the State, through the Department of Health, hereby referred as the Department, shall, in accordance with the provisions of this Act:

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d) strengthen the ~~[Bureau of Food and Drugs]~~ **FOOD AND DRUG ADMINISTRATION."**

SEC. 7. Article 24 of the same Act is hereby amended to read as follows:

"Article 24. *Regulation of Unprocessed Food.* – The provincial, municipal and city governments shall regulate the preparation and sale of meat, fresh fruits, poultry, milk, fish, vegetables and other foodstuff for public consumption, pursuant to the Local Government Code **AND APPLICABLE ORDINANCES IN THEIR RESPECTIVE JURISDICTIONS, IF ANY."**

SEC. 8. Article 28 of the same Act is hereby amended to read as follows:

"Article 28. *Effectivity of Regulations.* – The regulations promulgated under the preceding articles shall take effect fifteen (15) days after its publication in a newspaper of general circulation **AND IN THE DEPARTMENT'S OFFICIAL WEBSITE**, but the Department may stay such effectivity if, after issuance of such order, a hearing is sought by any person adversely affected by such order."

SEC. 9. Article 39 of the same Act is hereby amended to read as follows:

"Article 39. *Administrative Sanctions.* – In addition to the administrative sanctions provided for under Letter of Instructions No. 1223, the Department is hereby authorized to impose, after notice and hearing, administrative fines of not less than ~~[One thousand pesos (P1,000.00)]~~ **ONE HUNDRED THOUSAND PESOS (P100,000.00)** nor more than ~~[Five thousand pesos (P5,000.00)]~~ **ONE MILLION PESOS (P1,000,000.00)** for any violation of this Act."

SEC. 10. Article 41 of the same Act 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 ~~[one (1) year]~~ **THREE (3) YEARS** but not more than ~~[five (5) years]~~ **SEVEN (7) YEARS**, or a fine of not less than ~~[Five thousand pesos (P5,000.00)]~~ **ONE HUNDRED THOUSAND PESOS (P100,000.00)** but not more than ~~[Ten thousand pesos (P10,000.00)]~~ **ONE MILLION PESOS (P1,000,000.00)**, or both such imprisonment and fine, in the discretion of the Court.

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SEC. 11. Article 47 of the same Act 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 ~~[One thousand pesos (P1,000.00)]~~ **ONE HUNDRED THOUSAND PESOS (P100,000.00)** or an imprisonment of not less than ~~[six (6) months]~~ **THREE (3) YEARS** but not more than ~~[five (5) years]~~ **SEVEN (7) YEARS** or both upon the discretion of the court.

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SEC. 12. Article 60 of the same Act is hereby amended to read as follows:

"Article 60. *Penalties.* –

a) Any person who shall violate the provisions of Title III, Chapter I, shall upon conviction, be subject to a fine of not less than ~~[Five Hundred Pesos (P500.00)]~~ **FIFTY THOUSAND PESOS (P50,000.00)** but not more than ~~[Ten Thousand Pesos (P10,000.00)]~~ **FIVE HUNDRED THOUSAND PESOS (P500,000.00)** or imprisonment of not less than ~~[five (5) months]~~ **ONE (1) YEAR** but not more than ~~[one (1) year]~~ **THREE (3) YEARS** or both, upon the discretion of the court.

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SEC. 13. Article 65 of the same Act 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 ~~[Two hundred pesos (P200.00)]~~ **TWENTY THOUSAND PESOS (P20,000.00)** but not more than ~~[One thousand pesos (P1,000.00)]~~ **ONE HUNDRED THOUSAND PESOS (P100,000.00)** or by imprisonment of not more than one (1) year 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 hundred pesos (P500.00)]~~ **FIFTY THOUSAND PESOS (P50,000.00)** or by imprisonment ~~[of not less than one (1) month but not more than five (5) years]~~ **NOT EXCEEDING 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 ~~[Three hundred pesos (P300.00)]~~ **FIFTY THOUSAND PESOS (P50,000.00)** or imprisonment not exceeding ~~[one (1) year]~~ **THREE (3) YEARS**, or both, upon the discretion of the court."

SEC. 14. Article 68 of the same Act 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:

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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. **DURING THE PERIOD OF EXTENSION, THE CONSUMER SHALL HAVE THE OPTION TO JUST ASK FOR THE REFUND OF THE PRICE PAID.** 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]~~ **THE** contract and recover from the seller so much of the purchase price as has been paid, including damages.”

SEC. 15. Article 73 of the same Act 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 ~~[Five hundred pesos (P500.00)]~~ **FIFTY THOUSAND PESOS (P50,000.00)** but not more than ~~[Five thousand pesos (P5,000.00)]~~ **THREE HUNDRED THOUSAND PESOS (P300,000.00)** or an imprisonment of not less than ~~[three (3) months]~~ **SIX (6) MONTHS** but not more than ~~[two (2) years]~~ **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 ~~[One thousand pesos (P1,000.00)]~~ **ONE HUNDRED THOUSAND PESOS (P100,000.00)** but not more than ~~[Fifty thousand pesos (P50,000.00)]~~ **FIVE HUNDRED THOUSAND PESOS (P500,000.00)** or imprisonment for a period of at least ~~[one (1) year]~~ **TWO (2) YEARS** but not more than ~~[five (5) years]~~ **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.”

SEC. 16. Article 77 of the same Act is hereby amended to read as follows:

“Article 77. *Minimum Labeling Requirements for Consumer Products.* – All consumer products domestically sold whether manufactured locally or imported shall indicate the following in their respective labels of packaging:

"Article 103. *Repair Service Obligation.* – When services are provided for the repair of any product, the supplier shall be considered implicitly bound to use adequate, new, original replacement parts, or those that maintain the manufacturer's technical specifications unless, otherwise authorized, as regards to the latter by the consumer.

IF THE DEFECT IN THE PRODUCT IS COVERED BY EXPRESS OR IMPLIED WARRANTY, THE DEFECT SHALL BE REPAIRED WITHOUT COST TO THE CONSUMER. IF THE DEFECT IS NOT COVERED BY WARRANTY, THE DEFECT SHALL BE REPAIRED BY THE SUPPLIER AT AN ARM'S LENGTH RATE."

SEC. 22. Article 107 of the same Act 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 [~~Five thousand pesos (P5,000.00)~~] **FIFTY THOUSAND PESOS (P50,000.00)** and by imprisonment of not more than [~~one (1) year~~] **SIX (6) 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 **OR THE PERSONS DIRECTLY RESPONSIBLE THEREFOR.** If the offender is an alien, he shall, after payment of fine and service of sentence, be deported without further deportation proceedings."

SEC. 23. Article 110 of the same Act is hereby amended to read as follows:

"Article 110. *False, Deceptive or Misleading Advertisement.* – It shall be unlawful for any person to disseminate or to cause the dissemination of any false, deceptive or misleading advertisement by Philippine mail or in commerce by print, radio, television, **INTERNET, LANDLINE, MOBILE PHONE,** outdoor advertisement or other medium for the purpose of inducing or which is likely to induce directly or indirectly the purchase of consumer products or services.

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SEC. 24. Article 116 of the same Act is hereby amended to read as follows:

"Article 116. *Permit to Conduct Promotion.* – No person shall conduct any sales campaigns, including [~~beauty~~] contests **AND GAMES,** national in character, sponsored and promoted by manufacturing enterprises without first securing a permit from the concerned department at least thirty (30) calendar days prior to the commencement thereof. Unless an objection or denial is received within fifteen (15) days from filing of the application, the same shall be deemed approved and the promotion campaign or activity may be conducted: Provided, That any sales promotion campaign using medical prescriptions or any part thereof or attachment thereto for raffles or a promise of reward shall not be allowed, nor a permit be issued thereof."

SEC. 25. Article 123 of the same Act 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 Hundred Pesos (P500.00)~~] **FIFTY THOUSAND PESOS (P50,000.00)** but not more than [~~Five thousand pesos (P5,000.00)~~] **ONE MILLION PESOS (P1,000,000)** or an imprisonment of not less than [~~one (1) month~~] **SIX (6) MONTHS** but not more than [~~(6) months~~] **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 [~~Two hundred pesos (P200.00)~~] **TWENTY THOUSAND PESOS (P20,000.00)** but not more than [~~Six hundred pesos (P600.00)~~] **ONE HUNDRED THOUSAND PESOS (P100,000.00)** or an imprisonment of not less than [~~one (1) month~~] **SIX (6) MONTHS** but not more than [~~six (6) months~~] **THREE (3) 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."

SEC. 26. Article 134 of the same Act is hereby amended to read as follows:

"Article 134. *Delinquency Charges.* – With respect to a consumer credit transaction other than one pursuant to an open-end credit plan, the parties may agree to a delinquency charge on any installment not [~~paid~~] **PAID** in full on or before the tenth day after its scheduled or deferred due date."

SEC. 27. Article 147 of the same Act 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 [~~One thousand pesos (P1,000.00)~~] **FIFTY THOUSAND PESOS (P50,000.00)** 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 (P3,000.00)~~] **THREE HUNDRED THOUSAND PESOS (P300,000.00)** 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 [~~one (1) year~~] **THREE (3) YEARS** from the date of the occurrence of the violation in any court of competent jurisdiction."

SEC. 28. Article 149 of the same Act is hereby amended to read as follows:

"Article 149. *Composition.* – The Council shall be composed of representatives from the following government agencies and non-government agencies:

x x x

E) DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY;

[e)] **F)** four (4) representatives from consumer organizations of nationwide base to be chosen by the President from among the nominees submitted by the various consumer groups in the Philippines;

[f)] **G)** two (2) representatives from business/industry sector to be chosen by the President from among the nominees submitted by the various business organizations."

SEC. 29. Article 159 of the same Act is hereby amended to read as follows:

"Article 159. *Consumer Complaints.* – The concerned department may commence an investigation upon petition or upon letter-complaint from any consumer: Provided, That, upon a finding by the department of prima facie violation of any provisions of this Act or any rule or regulation promulgated under its authority, it may motu proprio or upon verified complaint commence formal administrative action against any person who appears responsible therefor. The department shall establish procedures for systematically logging in, investigating and responding to consumer complaints into the development of consumer policies, rules and regulations, assuring as far as practicable simple and easy access on the part of the consumer to seek redress for his grievances, **TAKING INTO CONSIDERATION THE ADVENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY IN COMMERCE.**"

SEC. 30. Article 164 of the same Act 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:

x x x

e) the imposition of administrative fines in such amount as deemed reasonable by the Secretary, which shall in no case be less [~~that Five hundred pesos (P500.00)~~] **THAN FIFTY THOUSAND PESOS (P50,000.00)** nor more than [~~Three hundred thousand pesos (P300,000.00)~~] **FIVE MILLION PESOS (P5,000,000.00)** depending on the gravity of the offense. [~~and an additional fine of not more than One thousand pesos (P1,000.00) or each day of continuing violation.~~]

SEC. 31. *Separability Clause.* – If any provision or section of this Act is held invalid or unconstitutional, the other provisions and sections not affected thereby shall remain in full force and effect.

SEC. 32. *Repealing Clause.* – All laws, presidential decrees, executive orders, or issuances, or any part thereof which are inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 33. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or two (2) newspapers of general circulation.

Approved,