

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
Second Regular Session

HOUSE BILL NO. 7272



Introduced by Congressman Deogracias Victor Savellano

EXPLANATORY NOTE

As tobacco excise taxes increase, illicit trade not only grew but it also evolved. From 2017, the illicit trade landscape has evolved. Rather than illicit products mainly coming from one source, there are now several small to medium-sized illicit factories operating in various parts of the Philippines. During raids conducted by both the Bureau of Internal Revenue and Bureau of Customs, it has been observed that several of these smaller factories are principally operated by foreign nationals. Based on available data shared with the House Committee on Ways and Means, the number of illegal factories manufacturing cigarettes are increasing. From two (2) illegal factories raided in 2016 and 2017, there were seven (7) factories raided in 2018 and an alarming twelve (12) factories in 2019. Based on conservative estimates, one line of cigarette maker and packer can produce more than 3.6 million sticks of cigarettes per day or about 43.68 million packs a year. At the current excise tax rate of P45 per pack, the government is losing around P1.965 billion per one line of cigarette maker and packer.

The objective of HB Nos. 6507 and 6508 is to deter further illicit trade in order to revert volumes to the legal market to boost revenue collection and to ensure that the local tobacco industry shall continue and grow for our tobacco farmers and their families, our workers in the processing and manufacturing plants and all stakeholders in our tobacco industry. The illegal trade in tobacco is a knife that pierces the heart of the farmers and workers toiling in the fields and at the factory floor, and that same knife cuts a gaping hole on the coffers of government.

The foregoing consolidated bill seeks to dull that knife by increasing penalties against illicit traders by increasing penalties which under certain conditions shall be deemed non-bailable. By doing so, that revolving door of arresting-then-releasing illicit traders on bail will remain shut.

The consolidated bills also sharpen government's teeth to fight illicit trade by providing the needed-resources for the task forces of the BIR and BOC to sustain their enforcement measures against illicit traders.

In view of the foregoing, the passage of this bill is earnestly sought


HON. DEOGRACIAS VICTOR "DV" B. SAVELLANO
Republic of the Philippines

HOUSE OF REPRESENTATIVES

Quezon City

Eighteenth Congress
Second Regular Session

HOUSE BILL NO. 7272

Introduced by Congressman Deogracias Victor Savellano

AN ACT TO STRENGTHEN LAWS AGAINST THE ILLICIT TRADE OF TOBACCO PRODUCTS AND RELATED RAW MATERIALS BY AMENDING SECTIONS 3 AND 4 OF REPUBLIC ACT NO. 10845, OTHERWISE KNOWN AS THE ANTI-AGRICULTURAL SMUGGLING ACT OF 2016, AMENDING SECTION 1141 AND CREATING A NEW SECTION 1700-A OF REPUBLIC ACT NO. 10863, OTHERWISE KNOWN AS THE CUSTOMS MODERNIZATION AND TARIFF ACT, AMENDING SECTIONS 129, 131, 156, 159, 225, 275 AND 288 OF REPUBLIC ACT NO. 8424, AS AMENDED, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AND FOR OTHER PURPOSES

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

SECTION 1. Section 3 of Republic Act No. 10845 or the Anti-Agricultural Smuggling Act of 2016 is hereby further amended to read as follows:

SEC. 3. *Large-Scale Agricultural Smuggling as Economic Sabotage.* – The crime of large-scale agricultural smuggling as economic sabotage, involving sugar, corn, pork, poultry, garlic, onion, carrots, fish, and cruciferous vegetables, in its raw state, or which have undergone the simple processes of preparation or preservation for the market, 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), **OR TOBACCO, WHETHER MANUFACTURED OR UNMANUFACTURED, INCLUDING FINISHED PRODUCTS SUCH AS CIGARS, CIGARETTES OR HEATED TOBACCO PRODUCTS, WITH A MINIMUM EXCISE TAX AND VAT PAYABLE IN THE AMOUNT OF FIFTY MILLION PESOS (P50,000,000.00),** 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 or juridical, other than those specifically named in the permit;
- (c) Using fake, fictitious or fraudulent import permits or shipping documents;
- (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;
 - (h) Acting as broker, **AGENT, FACILITATOR, FORWARDER, OR LESSOR OF A WAREHOUSE, BUILDING, LAND OR STRUCTURE WHERE THE AGRICULTURAL PRODUCT MAY BE FOUND/OR STORED**, of the violating importer;
 - (i) **ALLOWING THE USE OF A PRIVATE PORT, FISH PORT, FISH LANDING SITE, RESORT, AND/OR AIRPORT TO PERPETUATE THE ECONOMIC SABOTAGE REGARDLESS OF QUANTITY**
 - (j) **MANUFACTURING OR IMPORTING FINISHED PRODUCTS SUCH AS CIGARETTES, CIGARS, AND HEATED TOBACCO PRODUCTS, THAT ARE NOT REGISTERED WITH THE BUREAU OF INTERNAL REVENUE. FOR THIS PURPOSE, THE BUREAU OF INTERNAL REVENUE SHALL PUBLISH AND REGULARLY UPDATE THE LIST OF FINISHED GOODS THAT ARE REGISTERED IN THEIR OFFICE, STATING THEREIN THAT ALL UNREGISTERED PRODUCTS ARE ILLEGAL AND ARE SUBJECT TO IMMEDIATE CONFISCATION.**
 - (k) **MANUFACTURED TOBACCO REFERS TO ANY PRODUCT THAT CONSISTS OF LOOSE TOBACCO THAT CONTAINS NICOTINE AND IS INTENDED FOR USE IN A CIGARETTE, INCLUDING ANY PRODUCT CONTAINING TOBACCO AND INTENDED FOR SMOKING OR HEATING OR PUFFING OR ORAL OR NASAL USE. UNMANUFACTURED TOBACCO REFERS TO AGRICULTURAL COMPONENTS DERIVED FROM THE TOBACCO PLANT, WHICH ARE PROCESSED FOR USE IN THE MANUFACTURING OF CIGARETTES AND OTHER TOBACCO PRODUCTS.**

SECTION 2. Section 4 of Republic Act No. 10845 or the Anti-Agricultural Smuggling Act of 2016 is hereby further amended to read as follows:

SEC. 4. *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 3 of this Act. **HOWEVER, IN THE CASE OF TOBACCO PRODUCTS, WHETHER MANUFACTURED OR UNMANUFACTURED, THE PENALTIES TO BE IMPOSED ARE THOSE SPECIFIED UNDER PARAGRAPH (E) OF THIS SECTION.**

(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, nongovernment 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 (3) 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, and 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 (3) 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 (6) wheeler trucks, vans and other means of transportation, who

knowingly transports the agricultural product subject to economic sabotage, regardless of quantity.

(E) THE PENALTY OF IMPRISONMENT OF NOT LESS THAN THIRTY (30) YEARS BUT NOT MORE THAN FORTY (40) YEARS AND A FINE OF TWICE THE FAIR VALUE AND THE AGGREGATE AMOUNT OF THE TAXES, DUTIES AND OTHER CHARGES EVADED OF THE SMUGGLED TOBACCO, WHETHER MANUFACTURED OR UNMANUFACTURED, INCLUDING FINISHED PRODUCTS SUCH AS CIGARS, CIGARETTES OR HEATED TOBACCO PRODUCTS, WITH A MINIMUM AMOUNT OF ONE HUNDRED MILLION PESOS (P100,000,000.00), 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, WHO KNOWINGLY TRANSPORTS THE TOBACCO PRODUCT SUBJECT TO ECONOMIC SABOTAGE, REGARDLESS OF QUANTITY;

(2) THE REGISTERED OWNER AND ITS LESSEE, IN CASE OF LEASE OF TRUCKS, VANS AND OTHER MEANS OF TRANSPORTATION, WHO KNOWINGLY TRANSPORTS THE TOBACCO 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 TOBACCO 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, OR AIRPORTS WHO KNOWINGLY ALLOWS THE TOBACCO PRODUCT TO BE SMUGGLED INTO THE COUNTRY.

PROVIDED, THAT FOR PURPOSES OF THIS ACT, THE OFFENSE UNDER THIS PARAGRAPH SHALL BE NON-BAILABLE.

In all cases, the smuggled agricultural products shall be confiscated and the property used in agricultural smuggling, consistent with Section 2530 of the **CUSTOMS MODERNIZATION AND TARIFF ACT** and without prejudice to Section 2531 of the same **ACT**, shall be forfeited in favor of the government.

PROVIDED, HOWEVER, THAT THE GOVERNMENT MAY MOVE FOR THE SALE OF PERISHABLE AGRICULTURAL PRODUCTS, EXCLUDING MANUFACTURED AND FINISHED TOBACCO, DURING THE PENDENCY OF THE CRIMINAL PROCEEDINGS.

THE PROCEEDS OF THE AUCTION SHALL BE HELD IN ESCROW UNTIL THE FINAL RESOLUTION OF THE PROCEEDINGS.

PROVIDED FURTHER, THAT THE CONFISCATED MANUFACTURED TOBACCO AND FINISHED TOBACCO PRODUCTS UNDER THIS ACT SHALL BE DISPOSED BY DESTRUCTION AFTER SUMMARY PROCEEDINGS, IN SUCH MANNER AS THE CASE MAY REQUIRE AS TO RENDER THEM ABSOLUTELY WORTHLESS, IN THE PRESENCE OF A REPRESENTATIVE FROM THE DEPARTMENT OF JUSTICE, BUREAU OF CUSTOMS AND, IF POSSIBLE, A REPRESENTATIVE OF THE AFFECTED PRIVATE STAKEHOLDER AFTER BEING GIVEN NOTICE, WITH THE ALLOWANCE OF RETENTION OF REPRESENTATIVE SAMPLES FOR FURTHER CRIMINAL PROSECUTION.

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.

SECTION 3. Section 1141 of the Customs Modernization and Tariff Act (CMTA) is hereby further amended to read as follows:

Sec. 1141. *Mode of Disposition.* – The goods subject to disposition may be donated to another government agency or declared for official use of the Bureau, after approval of the Secretary of Finance, or sold at a public auction within thirty (30) days after a ten (10)-day notice posted at a public place at the port where the goods are located and published electronically or in a newspaper of general circulation.

“DISTILLED SPIRITS, LIQUORS, WINES, CIGARS, CIGARETTES, HEATED TOBACCO PRODUCTS, OTHER MANUFACTURED PRODUCTS OF TOBACCO, AND ALL APPARATUS USED IN OR ABOUT THE ILLICIT PRODUCTION OF SUCH ARTICLES, REGARDLESS IF THE SAME CAN BE USED FOR ANY OTHER LEGITIMATE PURPOSE, SHALL, UPON FORFEITURE, BE IMMEDIATELY DESTROYED BY ORDER OF THE

COMMISSIONER, AND SHALL BE PROHIBITED TO BE DISPOSED OF IN ANY OTHER MANNER”

For purposes of donating the goods as above described, goods suitable for shelter or consisting of foodstuffs, clothing materials or medicines may be donated to the DSWD.

SECTION 4. A new section designated as Section 1700-A of the Customs Modernization and Tariff Act (CMTA) is hereby inserted to read as follows:

SEC. 1700-A. SPECIAL TASK FORCE AGAINST ILLICIT TRADE OF EXCISABLE PRODUCTS. TO FURTHER CURTAIL THE PROLIFERATION OF ILLICIT TRADE OF EXCISABLE PRODUCTS SUCH AS TOBACCO, HEATED TOBACCO PRODUCTS, ALCOHOL, PETROLEUM, SUGAR-SWEETENED BEVERAGES, AUTOMOBILES, MINERAL PRODUCTS AND OTHER NON-ESSENTIAL GOODS, THE BUREAU OF CUSTOMS SHALL INSTITUTIONALIZE A TASK FORCE AGAINST ILLICIT TRADE OF EXCISABLE PRODUCTS. THE TASK FORCE SHALL ACT AS THE LEAD AND POINT COORDINATOR OF ALL OF THE BUREAU’S ENFORCEMENT ACTIVITIES AGAINST COUNTERFEIT OR SMUGGLED EXCISABLE PRODUCTS, MACHINES, EQUIPMENT, COMPLEMENTS AND OTHER RAW MATERIALS IMPORTED FOR THE ILLEGAL MANUFACTURE OF EXCISABLE PRODUCTS.

AN AMOUNT OF NOT LESS THAN TWO HUNDRED MILLION PESOS (P200,0000,000.00) ANNUALLY SHALL BE EARMARKED FOR THE TASK FORCE. THE TASK FORCE SHALL BE COMPOSED OF BUREAU OFFICIALS AND EMPLOYEES HOLDING CONFIDENTIAL OR PERMANENT POSITIONS. THE FUNDS ALLOTTED SHALL BE USED PRIMARILY ON THE FOLLOWING:

- a) SALARIES OR ADDITIONAL PAY FOR MEMBERS OF ENFORCEMENT TEAMS;**
- b) PURCHASE OF PROTECTIVE GEAR DURING ENFORCEMENT ACTIONS;**
- c) TRANSPORT, HAULING, WAREHOUSE AND DESTRUCTION EXPENSES OF SEIZED ILLICIT FINISHED GOODS, RAW MATERIALS AND MACHINES, INCLUDING THE HIRING OF THIRD PARTY SECURITY SERVICE PROVIDERS FOR THE STORAGE FACILITIES;**
- d) FUNDS FOR INTELLIGENCE GATHERING AND SURVEILLANCE OPERATIONS;**
- e) VEHICLES, FUEL, MEAL ALLOWANCES AND OTHER OPERATING EXPENSES DURING ENFORCEMENT ACTIONS;**
- f) TRAINING FUNDS FOR INTELLIGENCE GATHERING AND SURVEILLANCE OPERATIONS.**

THE TASK FORCE SHALL SUBMIT AN ANNUAL REPORT TO THE COMMISSIONER OF CUSTOMS AS WELL AS TO THE SECRETARY OF FINANCE. SUCH REPORT SHALL ALSO BE SUBMITTED TO THE JOINT CONGRESSIONAL OVERSIGHT COMMITTEE CREATED UNDER SECTION 1700 OF THE CUSTOMS MODERNIZATION AND TARIFF ACT.

SECTION 5. Section 129 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC.129. Goods subject to Excise Taxes. - Excise taxes apply to goods manufactured or produced in the Philippines for domestic sales or consumption or for any other disposition and to things imported. The excise tax imposed herein shall be in addition to the value-added tax imposed under Title IV.

For purposes of this Title, excise taxes herein imposed and based on weight or volume capacity or any other physical unit of measurement shall be referred to as '*specific tax*' and an excise tax herein imposed and based on selling price or other specified value of the good shall be referred to as '*ad valorem tax*.'

THE BUREAU SHALL EXERCISE REGULATORY AUTHORITY OVER ALL ARTICLES SUBJECT TO EXCISE TAX INCLUDING THOSE PRODUCED OR KEPT IN AREAS DEEMED OR MANAGED AS SEPARATE CUSTOMS TERRITORIES SUCH AS BUT NOT LIMITED TO SPECIAL ECONOMIC ZONES, ECONOMIC ZONES AND FREEPORTS. PENDING INVESTIGATION OF VIOLATIONS OF THIS TITLE, THE LICENSES OF LOCATORS OPERATING INSIDE SUCH SPECIAL ECONOMIC ZONES, ECONOMIC ZONES AND FREEPORTS, SHALL BE SUSPENDED AND THEREAFTER REVOKED AFTER THE COMMISSION OF THE OFFENSE IS ESTABLISHED BY THE BUREAU.”

SECTION 6. Section 131 of the National Internal Revenue Code as amended by RA 9334 and 10351 should be amended to read as follows:

(A) Persons Liable. - Excise taxes on imported articles shall be paid by the owner or importer to the Custom Officers, conformably with the regulations of the Department of Finance and before the release of such articles from the customs house, or by the person who is found in possession of articles which are exempt from excise taxes other than those legally entitled to exemption.

In the case of tax-free articles brought or imported into the Philippines by persons, entities, or agencies exempt from tax which are subsequently sold, transferred or exchanged in the Philippines to non-exempt persons or entities, the purchasers or recipients shall be considered the importers thereof, and shall be liable for the duty and internal revenue tax due on such importation.

The provision of any special or general law to the contrary notwithstanding, the importation of cigars and cigarettes, distilled spirits, fermented liquors and wines, into the Philippines, even if destined for tax and duty-free shops shall be subject to all applicable taxes, duties, charges including excise taxes **AND VAT** due thereon. **THE SAME TAXES, DUTIES AND CHARGES** shall apply to cigars and cigarettes, distilled spirits, fermented liquors, and wines brought directly, **IMPORTED, TRANSHIPPED THROUGH, or DELIVERED TO, AREAS CREATED, MANAGED AND OPERATED AS SEPARATE CUSTOMS TERRITORIES SUCH AS BUT NOT LIMITED TO** the duly chartered or legislated **ECONOMIC ZONES** of the Subic Special Economic Zone **AND CLARK SPECIAL ECONOMIC ZONE**, created under Republic Act No. 7227, The Cagayan Special Economic Zone and Freeport created under Republic Act No. 7922, Zamboanga City Special Economic Zone created under Republic Act 7903, **TAWI SPECIAL ECONOMIC ZONE AND INTERNATIONAL CONTAINER PORT, AREAS ESTABLISHED AS SEPARATE CUSTOMS TERRITORIES UNDER THE PHILIPPINE SPECIAL ECONOMIC ZONE ACT OR REPUBLIC ACT 7915 AS AMENDED**, and **ALL** such other **AREAS THAT ARE OR HEREAFTER CREATED, MANAGED AND OPERATED AS SEPARATE CUSTOMS TERRITORIES**. Provided, further, That notwithstanding the provisions of Republic Act Nos. 9400 and 9593, importations of cigars and cigarettes, distilled spirits, fermented liquors and wines made directly by a government-owned and operated duty-free shop, like the Duty-Free Philippines (DFP), shall be exempted from all applicable duties only: *Provided, still further*, That such articles directly imported by a government-owned and operated duty-free shop, like the Duty-Free Philippines, shall be labeled 'duty-free' and 'not for resale': *Provided, finally*, That the removal and transfer of tax and duty-free goods, products, machinery, equipment and other similar articles other than cigars and cigarettes, distilled spirits, fermented liquors and wines, from one freeport to another freeport, shall not be deemed an introduction into the Philippine customs territory."

Cigars and cigarettes, distilled spirits and wines within the premises of all duty-free shops which are not labelled as hereinabove required, as well as tax and duty-free articles obtained from a duty-free shop and subsequently found in a non-duty-free shop to be offered for resale shall be confiscated, and the perpetrator of such non-labelling or re-selling shall be punishable under the applicable provisions of this Code.

Articles confiscated shall be destroyed using the most environmentally friendly methods available in accordance with the rules and regulations to be promulgated by the Secretary of Finance upon the recommendations of the Commissioners of Customs and Internal Revenue

The tax due on any such goods, products, machinery, equipment or other similar articles shall constitute a lien on the article itself, and such lien shall be superior to all other charges or liens, irrespective of the possessor thereof.

SECTION 7. Section 156 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

SEC. 156. *Labels and Form of Packages.* - All articles of domestic manufacture subject to excise tax and all leaf tobacco shall be put up and prepared by the manufacturer or producer, when removed for sale or consumption, in such packages only and bearing such marks or brand as shall be prescribed in the rules and regulations promulgated by the Secretary of Finance; and goods of similar character imported into the Philippines shall likewise be packed and marked in such a manner as may be required.

PROVIDED THAT, IN THE CASE OF TOBACCO PRODUCTS INCLUDING CIGARS, CIGARETTES AND HEATED TOBACCO PRODUCTS BEARING LABELS WITH BRANDS NOT REGISTERED WITH THE BIR, PERSONS WHO POSSESS, IMPORT, OR MANUFACTURE SUCH PRODUCTS, SHALL SUFFER IMPRISONMENT OF RECLUSION PERPETUA AND A FINE OF AT LEAST TWENTY MILLION PESOS OR UP TO TEN TIMES THE AMOUNT OF EXCISE TAXES EVADED, WHICHEVER IS HIGHER, WHEN THE EXCISEABLE VALUE OF SUCH PRODUCTS BEARING NON BIR-REGISTERED BRANDS IS AT LEAST FIFTY MILLION PESOS.

SECTION 8. Section 159 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

“SEC. 159. Proof of Exportation; Exporter's Bond. - Exporters of goods that would be subject to excise tax, if sold or removed for consumption in the Philippines, shall submit proof of exportation satisfactory to the Commissioner, and, when the same is deemed necessary, shall be required to give a bond prior to the removal of the goods for shipment, conditioned upon the exportation of the same in good faith. **NO EXPORTERS BOND SHALL BE RELEASED, NO CLAIM FOR PRODUCT REPLENISHMENT SHALL BE ALLOWED, AND NO APPLICATION FOR THE REFUND FOR EXCISE TAXES, SHALL BE GRANTED UNLESS PROOF OF PAYMENT OF IMPORT DUTIES AND OTHER APPLICABLE TAXES IMPOSABLE ON THE EXCISABLE GOODS AT THE PORT OF DESTINATION SHALL BE PRESENTED BY THE EXPORTER TO THE BUREAU.”**

SECTION 9. Section 225 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

SEC. 225. When Property to be Sold or Destroyed. - Sales of forfeited chattels and removable fixtures shall be effected, so far as practicable, in the same manner and under the same conditions as the public notice and the time and manner of sale as are prescribed for sales of personal property distrained for the non-payment of taxes.

Distilled spirits, liquors, cigars, cigarettes, other manufactured products of tobacco, and all apparatus used in or about the illicit production of such articles **SHALL**, upon forfeiture, be destroyed by order of the Commissioner, when the sale of the same for consumption or use would be injurious to public health or prejudicial to the enforcement of the law.

All other articles subject to excise tax, which have been manufactured or removed in violation of this Code, as well as dies for the printing or making of internal revenue stamps and labels which are in imitation of or purport to be lawful stamps, or labels **SHALL**, upon forfeiture, be sold or destroyed in the discretion of the Commissioner.

Forfeited property shall not be destroyed until at least twenty (20) days after seizure."

Section 10: Section 275 of the National Internal Revenue Code is hereby amended to read as follows:

SEC. 275. Violation of Other Provisions of this Code or Rules and Regulations in General AND NON BAILABLE OFFENSES. - Any person who violates any provision of this Code or any rule or regulation promulgated by the Department of Finance, for which no specific penalty is provided by law, shall, upon conviction for each act or omission, be punished by a fine of not more than One thousand pesos (P1,000) or suffer imprisonment of not more than six (6) months, or both.

THE FOLLOWING ACTS SHALL BE DEEMED NON-BAILABLE OFFENSES AND SHAL BE PUNISHED BY RECLUSION PERPETUA AND A FINE OF AT LEAST FIFTY MILLION PESOS (P50,000,000.00) OR UP TO TEN (10) TIMES THE VALUE OF THE EXCISE TAX EVADED.

- a) **WHEN A PERSON HAS NO WRITEN PERMIT REQUIRED UNDER SECTION 164 TO MANUFACTURE OR IMPORT, AND WHEN THE OFFENDER POSSESESS ANY CIGARETTE PAPER, CIGARETTE TIPPING PAPER, CIGARETTE FILTER TIPS, TOBACCO LEAF, RAW MATERIALS, MACHINES OR MECHANICAL CONTRIVANCE, AND FINISHED TOBACCO PRODUCTS (BASED ON EXCISE AND VAT DUE), WITH A CUMULATIVE VALUE OF AT LEAST FIFTY MILLION PESOS (P50,000,000.00).**
- b) **WHEN A PERSON HAS POSESSION OF FALSE/COUNTERFEIT/RECYCLED TAX STAMPS IN EXCESS OF A CUMULATIVE AMOUNT OF FIFTY MILLION PESOS (P50,000,000.00) WITHOUT AUTHORIZATION FROM THE COMMISSIONER.**
- c) **WHEN A PERSON POSSESSES, IMPORTS, OR MANUFACTURES TOBACCO PRODUCTS INCLUDING CIGARS, CIGARETTES AND HEATED TOBACCO PRODUCTS BEARING LABELS WITH BRANDS**

NOT REGISTERED WITH THE BIR, AND WHEN THE EXCISEABLE VALUE OF SUCH PRODUCTS BEARING NON BIR-REGISTERED BRANDS IS AT LEAST FIFTY MILLION PESOS (₱50,000,000.00).

THE FOLLOWING ACCUSED PERSONS SHALL BE HELD LIABLE AND DETAINED WHEN THE OFFENSE COMMITTED IS NON-BAILABLE,

- a) IN THE CASE OF ASSOCIATIONS, PARTNERSHIPS OR CORPORATIONS, THE PARTNER, PRESIDENT, GENERAL MANAGER, BRANCH MANAGER, TREASURER, AND OFFICER-IN-CHARGE.**
- b) IN THE CASE OF SINGLE PROPRIETORSHIPS, THE PROPRIETOR WHETHER REGISTERED OR NOT WITH THE DTI SHALL BE HELD LIABLE FOR THE OFFENSE**

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 THE MANUFACTURE, DISTRIBUTION OR IMPORTATION OF TOBACCO PRODUCTS.

IN APPLYING THE ABOVEMENTIONED PENALTIES, IF THE OFFENDER IS A FOREIGN NATIONAL, HE/SHE SHALL BE DETAINED WITHOUT BAIL FROM THE TIME OF ARREST OR VOLUNTARY SURRENDER UNTIL THE TERMINATION OF THE CRIMINAL PROCEEDINGS FOR THE VIOLATION OF THIS SECTION. MOREOVER, HE/SHE SHALL NOT BE DEPORTED UNTIL AFTER HE/SHE IS ACQUITTED OF THE OFFENSE OR AFTER HE/SHE HAD SERVED THE SENTENCE.

SECTION 11. Section 288-A of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

SEC. 288-A. Disposition of Revenues from Excise Tax on Sweetened Beverages, Alcohol, Tobacco Products, Heated Tobacco Products, and Vapor Products. -

- (A) Revenues from Excise Tax on Sweetened Beverages from Republic Act No. 10963. - xxx**
- (B) xxx**
- (C) Revenues from Excise Tax on Tobacco Products. – The provision of existing laws to the contrary notwithstanding, the total revenues collected from the excise tax on tobacco products shall be distributed in the following manner:**

(1) xxx;

(2) xxx;

- (3) **TO FURTHER CURTAIL THE PROLIFERATION OF ILLICIT TRADE OF TOBACCO PRODUCTS, THE BUREAU OF INTERNAL REVENUE SHALL INSTITUTIONALIZE THE STRIKE TEAM ON ILLICIT TRADE OF TOBACCO PRODUCTS. THE STRIKE TEAM SHALL ACTS AS THE LEAD AND POINT COORDINATOR OF ALL OF THE BUREAU'S ENFORCEMENT ACTIVITIES AGAINST LOCALLY MANUFACTURED COUNTERFEIT TOBACCO PRODUCTS.**

AN AMOUNT OF NOT LESS THAN TWO HUNDRED MILLION PESOS (P200,000,000.00) ANNUALLY SHALL BE EARMARKED FOR THE TASK FORCE. THE STRIKE TEAM SHALL BE COMPOSED OF BUREAU OFFICIALS AND EMPLOYEES HOLDING PERMANENT POSITIONS. THE FUNDS ALLOTTED SHALL BE USED PRIMARILY ON THE FOLLOWING:

- a. SALARIES OR ADDITIONAL PAY FOR MEMBERS OF ENFORCEMENT TEAMS;**
- b. PURCHASE OF PROTECTIVE GEAR DURING ENFORCEMENT ACTIONS;**
- c. TRANSPORT, HAULING, WAREHOUSE AND DESTRUCTION EXPENSES OF SEIZED ILLICIT FINISHED GOODS, RAW MATERIALS AND MACHINES, INCLUDING THE HIRING OF THIRD PARTY SECURITY SERVICE PROVIDERS FOR THE STORAGE FACILITIES;**
- d. FUNDS FOR INTELLIGENCE GATHERING AND SURVEILLANCE OPERATIONS;**
- e. VEHICLES, FUEL AND MEAL ALLOWANCES DURING ENFORCEMENT ACTIONS;**
- f. TRAINING FUNDS FOR INTELLIGENCE GATHERING AND SURVEILLANCE OPERATIONS.**

THE TASK FORCE SHALL SUBMIT AN ANNUAL REPORT TO THE COMMISSIONER OF INTERNAL REVENUE AS WELL AS TO THE SECRETARY OF FINANCE. SUCH REPORT SHALL ALSO BE SUBMITTED TO THE JOINT CONGRESSIONAL OVERSIGHT COMMITTEE ON ILLICIT TRADE ON EXCISABLE PRODUCTS CREATED UNDER SECTION 290-A OF THE NIRC, AS AMENDED.

(D) xxx

(E) xxx

xxx.

SECTION 12. *Repealing Clause.* All laws, executive orders, presidential decrees, rules and regulations and other issuances contrary to or inconsistent with this Act shall be deemed repealed or modified accordingly.

SECTION 13. *Separability Clause.* — If any provision of this Act is subsequently declared invalid or unconstitutional, the other provisions hereof which are not affected thereby shall remain in full force and effect.

SECTION 14. *Effectivity.* This Act shall take effect fifteen (15) days from the date of publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,