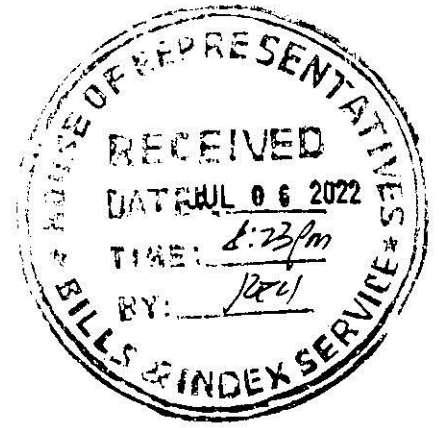


**Republic of the Philippines
House of Representatives
Quezon City**

**Nineteenth Congress
First Regular Session**

House Bill No. 1376



**Introduced by Representatives
MIKAELA ANGELA B. SUANSING and HORACIO P. SUANSING, JR.**

**AN ACT
DEFINING THE CRIME OF ECONOMIC ESPIONAGE
AND PROVIDING PENALTIES THEREFOR**

EXPLANATORY NOTE

All economic agents, from regular consumers to multinational corporations, act upon incentives to participate in commercial exchange. Incentives are vital to the functioning of all markets, without sizeable incentives, trade between parties would result in suboptimal results, if they even transpire at all.

Specifically, for all commercial establishments, the development of proprietary economic information (i.e. the development of physical or electronic business, financial, commercial, or technical data, mechanisms, programs, strategies, etc.) is a byproduct of considerable incentives within a fully-functional, competitive market to improve establishments' physical and/or technological machinery to remain competitive. For agents within these establishments, allocating a significant amount of resources towards the development of proprietary economic information and data would then rest on the projected benefits and costs of doing such action within the conditions of the environment in which it is to be done.

Unfortunately, as it stands today, the environment in which our local commercial establishments functions are far from being congenial or conducive to the development of proprietary economic information because, within our legal framework, there is a lack of formidable legal safeguards against its theft, misappropriation and wrongful use. Additionally, given recent developments in technology, it has become more challenging for our local businesses to acquire and implement their own institutional safeguards against more sophisticated methods of cybertheft, thus making them more vulnerable against agents who, aspire to expropriate or steal information from their establishments. Such conditions have already immensely diminished incentives for our local firms to allocate resources towards research, improving their respective machinery/technologies and adopting more modern ways of conducting commercial activities. This has had an adverse impact on our domestic economic markets, both in the short- and the long-run, and has impeded the acceleration of research and development in our country.

It is therefore important that this Congress enacts legal protections to safeguard against economic espionage and against the theft, misappropriation and wrongful use of proprietary

economic information from both domestic agents and foreign governments and their agents or instrumentalities, as these can cost our economy millions of pesos each year and diminish incentives to modernize Philippine commerce. By imposing criminal penalties against the theft, wrongful destruction or alteration, misappropriation and conversion by agents (both domestic and foreign, or their instrumentalities) of proprietary economic information, Congress can deter these actions and act upon its duty to facilitate local commercial exchange free of discord, thereby preserving the competitiveness of critical segments of Philippine trade and industry.

This measure intends to advance the development and lawful use of proprietary economic information in the country by protecting such information from theft, unlawful destruction, alteration, misappropriation, and conversion by:

1. Criminalizing the misappropriation of proprietary economic information (including conspiracy to misappropriate and the subsequent acquisition of such) with the knowledge or intent that the theft will benefit a foreign power or will injure the owner of the economic information;
2. Requiring criminal forfeiture of any proceeds of the crime and property derived from proceeds of the crime, and any property used, or intended to be used, in the commission of the crime;
3. Providing extra-territorial jurisdiction; and
4. Preserving the confidentiality of proprietary economic information during court trials, subject to certain provisions of law.

To protect the competitiveness of our domestic markets and to develop an environment conducive to research and development, the immediate approval of this bill is earnestly sought.¹


MIKAELA ANGELA B. SUANSING
1st District of Nueva Ecija


HORACIO P. SUANSING, JR.
2nd District of Sultan Kudarat

¹ This bill was originally filed by Senator Miriam Defensor Santiago during the 13th Congress and the 16th Congress, and it was re-filed by Rep. Horacio P. Suansing, Jr. during the 18th Congress.

Republic of the Philippines
House of Representatives
Quezon City

Nineteenth Congress
First Regular Session
1376
House Bill No. _____

Introduced by Representatives
MIKAELA ANGELA B. SUANSING and HORACIO P. SUANSING, JR.

AN ACT
DEFINING THE CRIME OF ECONOMIC ESPIONAGE
AND PROVIDING PENALTIES THEREFOR

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

1 **SECTION 1. *Short Title.*** — This Act may be cited as the “Economic Espionage and Protection
2 of Proprietary Information Act.”

3 **SEC. 2. *Statement of Policy.*** — It is hereby declared the policy of the State to prevent
4 economic espionage and further the development and lawful use of Philippine proprietary
5 economic information.

6 **SEC. 3. *Definition of Terms.*** — as used in this Act,

7 (A) “Foreign corporation, institution, or instrumentality” – any corporation, agency,
8 component, institution, association, instrumentality, as well as any legal,
9 commercial or business entity that is substantially owned, controlled, sponsored,
10 commanded, managed, patronized, dominated or chartered by a foreign government
11 or subdivision of a foreign government.

12 (B) “Foreign agent” – any officer, employee, proxy, servant, delegate or representative
13 of a foreign nation or government.

14 (C) “Person” – a natural person, corporation, agency, association, institution or any
15 other legal, commercial or business entity.

16 (D) “Proprietary economic information” – all forms and types of financial, business,
17 scientific, technical, economic or engineering information, including, but not
18 limited to, data, plans, tools, mechanisms, compounds, formulas, designs,
19 prototype, processes, procedures, programs, codes or commercial strategies,
20 whether tangible or intangible and whether stored, compiled, or memorialized

1 physically, electronically, graphically, photographically or in writing provided that
2 the following occur:

3 (1) The owner thereof has taken reasonable measure to keep such information
4 confidential;

5 (2) The information is not available generally to, or accessible by, the public;

6 (3) The information is not a matter of public concern.

7 (E) "Owner" – any Filipino person or any Philippine Government compound,
8 department or agency in which rightful legal, beneficial or equitable title or license
9 for proprietary economic information reposes.

10 (F) "Filipino person" –

11 (1) In the case of a natural person, a Philippine citizen or a permanent resident alien;

12 (2) In the case of an artificial person, a Philippine Government or by Filipino
13 citizens or permanent resident aliens, or persons incorporated under Philippine
14 laws.

15 (G) "Economic espionage" is committed by any person who:

16 (1) Steals, wrongfully appropriates, takes or conceals, or by fraud, artifice or
17 deception obtains proprietary economic information;

18 (2) Wrongfully copies, duplicates, replicates, photocopies, draws, photographs,
19 downloads, uploads, alters, destroys, sends, transmits, communicates, delivers
20 or conveys proprietary economic information;

21 (3) Being entrusted with, or having lawful possession, control of or access to
22 proprietary economic information and subsequently wrongfully copies,
23 duplicates, replicates, photocopies, draws, photographs, downloads, uploads,
24 alters, destroys, sends, transmits, communicates, delivers or conveys the
25 proprietary economic information;

26 (4) Receives, acquires or possesses proprietary economic information, knowing the
27 same to have been stolen or wrongfully appropriated, obtained, or converted;

28 (5) Attempts to commit any offense described in the preceding subparagraphs (1),
29 (2), (3) or (4); or

30 (6) Conspires with one or more other persons to commit any offense described in
31 preceding paragraphs (1), (2), (3) or (4), and one or more of such persons do
32 any act to effect the object of the conspiracy, shall, except as provided in the
33 next subsection (B), be fined not more than 50% of the economic value of such

1 proprietary information or imprisoned for a period ranging from 15 to 25 years,
2 or both.

3 **SEC. 4. *Prohibited Acts and Penalties.*** — Any person who commits economic espionage as
4 defined in the preceding Section, whether or not in the aid of foreign nations, governments,
5 corporations, institutions or instrumentalities, shall be fined an amount equivalent to the
6 economic value of such proprietary information or imprisonment for a period ranging from 15
7 to 25 years, or both.

8 The person mentioned in the preceding paragraph is presumed to have acted with intent
9 to injure any owner and benefit any foreign nation, government, corporation, institution,
10 instrumentality, unless proven otherwise.

11 If the offender is a corporation, any officer, director or manager, or other person
12 occupying a position of authority and responsibility for the acquisition, use of management or
13 proprietary economic information for the corporation or other business or commercial entity
14 who knowingly permitted or failed to prevent the commission of any of the acts which
15 constitute economic espionage, shall be given the said penalty.

16 **SEC. 5. *Forfeiture.*** —

17 (A) Notwithstanding any provision of law to the contrary, any person convicted of
18 violation of this Act shall forfeit to the Philippine Government any property
19 constituting, or derived from any proceeds the person obtained, directly or
20 indirectly, from the commission of such violations, as well as any of the person's
21 property used, or intended to be used, in any manner or part, to commit or to
22 facilitate the commission of a violation of this Act.

23 (B) The court, in imposing penalty on the offender for a violation of this Act, shall order
24 that the property described in paragraph (A) of this Section be forfeited in favor of
25 the Philippine Government.

26 **SEC. 6. *Extra-Territoriality.*** — Notwithstanding any provision of law to the contrary, this Act
27 applies to conduct occurring outside the territorial jurisdiction of the Philippines if —

28 (A) The offender is a Filipino citizen or permanent resident of the Philippines;

29 (B) The victim of the offense is an “owner”, as defined in Section 3 of this Act, and the
30 offense was intended to have, or had, an effect in the Philippines; or

31 (C) The offender foreign corporation is conducting business in the Philippines through
32 agents or subsidiaries and has caused damaged to the “owner” in the conduct of its
33 business abroad.

1 **SEC. 7. *Construction with Other Laws.*** — This Act shall not be construed to preempt or
2 displace any other existing legal remedies, whether civil or criminal, for the misappropriation
3 of proprietary economic information.

4 **SEC. 8. *Preservation of Confidentiality.*** — In any prosecution under this Act, the court shall
5 preserve the confidentiality of alleged proprietary economic information by any reasonable and
6 lawful means including, but not limited to –

7 (A) The granting or protective orders in connection with discovery proceedings; and

8 (B) The holding of in-camera hearing, sealing relevant portions of the record and the
9 ordering of any person involved in the proceedings not to disclose the alleged
10 proprietary economic information.

11 **SEC. 9. *Non-Applicability of Lawfully Authorized Law Enforcement or Intelligence***
12 ***Activities.*** — Any act in which information is seized, taken, transported, transmitted or
13 transferred pursuant to or in furtherance of any lawfully authorized investigative, protective or
14 intelligence activity of a law enforcement agency of the Philippines or any of its political
15 subdivisions shall not be deemed a violation of this Act.

16 **SEC. 10. *Separability Clause.*** — If any provision or part thereof is held invalid or
17 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
18 valid and subsisting.

19 **SEC. 11. *Repealing Clause.*** — All laws, presidential decree or issuance, executive order, letter
20 of instruction, administrative order, rule, or regulation contrary to or inconsistent with the
21 provisions of this Act is hereby repealed, modified, or amended accordingly.

22 **SEC. 12. *Effectivity Clause.*** — This Act shall take effect fifteen (15) days after its publication
23 in the *Official Gazette* or in a newspaper of general circulation.

24 Approved,