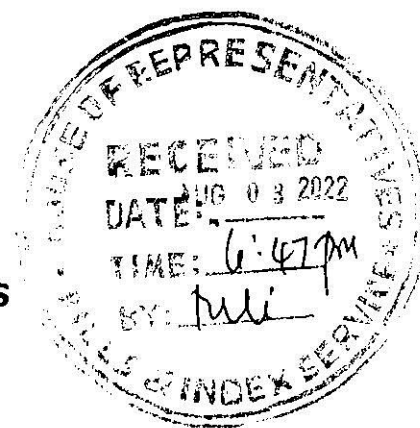


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

HOUSE OF REPRESENTATIVES

H. B. No. 3173



Introduced by Representative Ralph G. Recto

AN ACT
PROVIDING FOR THE DEVELOPMENT OF THE HEALTHCARE AND
MANUFACTURING INDUSTRIES TO STRENGTHEN THE COUNTRY'S
PROTECTION AGAINST PANDEMICS AND PROVIDING FUNDS THEREFOR

EXPLANATORY NOTE

With the rapid spread of COVID-19, the world experienced a sudden surge in the demand for critical medical supplies and equipment, hence, causing shortages and disruption in the global supply chain of personal protective equipment (PPE). In April 2020, the Asian Development Bank determined that there is a backlog of 4 to 6 months for PPE supply orders globally.¹ Unfortunately, during this pandemic, the initial shortage of PPE left doctors, nurses and other frontline workers dangerously ill-equipped in protecting themselves while taking care of COVID-19 patients.²

At the onset of the pandemic, many economies implemented an export ban on PPE and its key raw materials and reserved their respective production for their domestic use. In March 2020, just when the Philippine government declared the imposition of Enhanced Community Quarantine, the total import value of PPE amounted to USD 15.5 million, which dropped at an annual rate of 11.4 percent.³ This

¹ Asian Development Bank. (April 2020). "Global Shortage of Personal Protective Equipment amid COVID-19: Supply Chains, Bottlenecks, and Policy Implications". Information retrieved at <https://www.adb.org/sites/default/files/publication/579121/ppe-covid-19-supply-chains-bottlenecks-policy.pdf>

² World Health Organization. (March 3, 2020). "Shortage of personal protective equipment endangering health workers worldwide". Information retrieved at <https://www.who.int/news-room/detail/03-03-2020-shortage-of-personal-protective-equipment-endangering-health-workers-worldwide>

³ Philippine Statistics Authority. (June 10, 2020). "Highlights of the Philippine Export and Import Statistics". Information retrieved from <https://psa.gov.ph/press-releases/id/162591>

is not due to the lack of demand for imported PPE but because there is hardly any supply available in the international market. In effect, countries experiencing shortage in sourcing PPE, including the Philippines, started looking inwards to supply its own needs. Notwithstanding the international demand slowing down later, the overriding concern and policy direction of each country is to ensure that the steady long-term supply of PPE is locally guaranteed, and not reliant on international sources.

The Philippine health system does not have a local supply base of medical grade PPE. Philippine hospitals and health systems do not stockpile PPE for emergency situations, but use just-in-time procurement and supply to limit excess inventory. The reliance on imports coupled with lack of local testing facilities and regulatory approvals gave rise to substandard PPE, thereby putting at risk the lives of the Filipino frontline health care workers during the pandemic.

As of January 9, 2022, the Department of Health reported that 117 health care workers died from COVID-19 while a total number of 29,609 healthcare workers were infected with the same. At that time, 1.0% of the total number of COVID-19 cases were healthcare workers. One side of the spectrum brings forth the need to strengthen our local industry to produce medical grade PPE of international health and safety standard. At the opposite end of the spectrum, local manufacturers employing Filipino workers and producing medical grade PPE need the support of government to establish its competitiveness and provide a level playing field in the local market. The sustainability of this emerging sector needs to be supported with a steady long-term local market demand allowing it to build up its capacity and supply chain.

Thus, with the local manufacturers of medical grade PPE ready and products available, it becomes a matter of utmost urgency and necessity for Congress to enact a law that will adequately and effectively support and prioritize the purchase of critical products produced by local manufacturers to: 1) retain employment of these skilled workers during this time of crisis; and 2) assure the local availability of such critical products to meet current demand and for stockpiling requirements.

This bill provides for the accreditation of manufacturers and producers of critical products; exemption from custom duties, value-added tax, and fees; suspension of export requirement; preferential procurement of critical products by the Government; exemption from the requirement of Phase IV clinical trial under Health Technology Assessment of vaccines and medicines; stockpiling of critical products; and, relocation or expansion of manufacturing enterprises in the Philippines.

It is for this reason that the immediate approval of this bill is earnestly sought.



RALPH G. RECTO

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PROVIDING FOR THE DEVELOPMENT OF THE HEALTHCARE AND
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PROTECTION AGAINST PANDEMICS AND PROVIDING FUNDS THEREFOR

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

1 Section 1. *Short Title.* – This Act shall be known as the "*Pandemic Protection*
2 *Act*".

3 Sec. 2. *Declaration of Policy.* – It is hereby the declared policy of the State to
4 protect and promote the right to health of the people and instill health consciousness
5 among them. The State recognizes pandemics and other public health emergencies
6 as threats to public health and national security, which can undermine the social,
7 economic, and political functions of the State. It shall protect the people from
8 pandemics and other public health emergencies. To this end, the State shall:

9 (a) adopt efficient and effective measures that will prevent the overburdening
10 of the healthcare system;

11 (b) develop the healthcare and manufacturing industries and preserve and
12 generate employment during the crisis;

13 (c) ensure adequate and readily available supply of critical products and
14 services for the health workers and the public;

15 (d) protect the interest of the consumers and establish standards of conduct for
16 business and industry; and

17 (e) build strong partnership between the government and the private sector
18 and other stakeholders to deliver these measures quickly and efficiently.

1 Sec. 3. *Coverage.* – This Act shall cover the manufacture or production of critical
2 products, including repurposing of existing manufacturing facilities and supply of
3 critical services. This also covers their entire supply chain including their capital
4 equipment, spare parts and accessories, raw materials, packaging and its raw
5 materials. The benefits under this Act shall be in addition to the incentives provided
6 under existing laws.

7 Sec. 4. *Definition of Terms.* – For the purposes of this Act, the following
8 definitions shall apply:

9 (a) *Accreditation* refers to the process of officially recognizing a person or entity
10 under this Act;

11 (b) *Critical Products* refer to medicines; vaccines; personal protective
12 equipment; medical equipment such as ventilators, testing kits and such
13 other supplies or tools, including its raw materials, required to address the
14 pandemic as may be determined by the Department of Health (DOH) and
15 other relevant government agencies;

16 (c) *Critical Services* refer to services required for the manufacture, production
17 and distribution of critical products. This shall also include testing
18 laboratories; waste management, including but not limited to waste
19 segregation, storage, collection, sorting, treatment and disposal services;
20 and other services as may be determined by the DOH and other relevant
21 government agencies;

22 (d) *Manufacturer* refers to an enterprise duly accredited or registered under
23 Section 7 hereof, engaged in the production of critical products including
24 preparation, processing, compounding, formulating, filling, packing,
25 repacking, altering, ornamenting, finishing and labeling;

26 (e) *Packaging* refers to material used to wrap or protect critical products;

27 (f) *Personal Protective Equipment* (PPE) refers to helmets, masks, goggles,
28 gloves, foot cover, face shields, gowns as well as other garments or
29 equipment designed to protect the user against health or safety risks;

30 (g) *Producer* refers to an enterprise that manufactures, makes, grows, or
31 produces critical products;

1 (h) *Raw Material* refers to materials and inputs from which a critical product
2 and its packaging is made; and

3 (i) *Stockpiling* refers to the acquisition and accumulation of critical products to
4 make them readily available and accessible.

5 Sec. 5. *Conformity to Standards.* – The materials, products, processes, and
6 services shall conform and comply with the guidelines on the standards and
7 requirements issued by the relevant government agencies such as, but not limited
8 to, the DOH, Food and Drug Administration (FDA), and Bureau of Philippine
9 Standards. In the case of other critical services, the equipment, technologies and
10 services should be approved by the Department of Environment and Natural
11 Resources, DOH or other relevant government agencies.

12 For this purpose, said relevant government agencies shall prioritize the
13 issuance of licenses and other requirements to manufacturers and producers
14 covered by this Act.

15 Sec. 6. *Development and Promotion of Healthcare and Manufacturing*
16 *Industries.* – The Board of Investments (BOI) is hereby mandated to develop and
17 promote the healthcare and manufacturing industries to strengthen the country's
18 public health emergency preparedness and response mechanisms during a
19 pandemic.

20 Sec. 7. *Accreditation.* – Prior to the availment of the benefits herein, the
21 manufacturers and producers shall apply for accreditation with the Department of
22 Trade and Industry (DTI) through the BOI: *Provided*, That in lieu of DTI-BOI
23 accreditation, manufacturers and producers that are registered with other
24 Investment Promotion Agencies (IPAs) shall directly apply for authority to import
25 with the IPAs concerned.

26 Sec. 8. *Exemption from Custom Duties, Taxes and Fees.* – Regardless of the
27 country of origin, importation of the capital equipment, spare parts and accessories,
28 raw materials, packaging and its raw materials, or any articles needed in the supply
29 chain of the critical products or services shall be exempt from custom duties, taxes
30 and fees such as import processing fees and fees imposed by the Bureau of
31 Customs, FDA and other relevant agencies: *Provided*, That the exemption from
32 import duties, taxes and other fees on the importation of equipment and supplies

1 that are already considered as finished goods shall only apply upon determination by
2 the DOH or DTI on the non-availability or insufficiency of local supply of the said
3 equipment and supplies: *Provided further*, That exemption under this Section shall
4 terminate upon declaration by the President that the public health emergency has
5 ceased to exist.

6 Sec. 9. *Exemption from Value-Added Tax (VAT) on Local Sales.* – The
7 exemption from VAT shall apply to the local sale of critical products and services.
8 The DTI-BOI shall provide the Bureau of Internal Revenue (BIR) the list of VAT-exempt
9 critical products or services, including the new and/or additional critical products
10 covered under this Act. The list of VAT-exempt critical products or services shall be
11 posted in the BIR website through a Revenue Memorandum Circular.

12 Exemption under this Section shall terminate upon declaration by the President
13 that the public health emergency has ceased to exist.

14 Sec. 10. *Suspension of Export Requirement.* – The export requirement
15 imposed under the laws administered by relevant IPAs may be suspended by the
16 DTI-BOI upon declaration of state of public health emergency. The export enterprises
17 that manufacture the critical products or render critical services shall
18 supply at least eighty percent (80%) of their daily production or service to
19 government institutions, hospitals, and private establishments in the country for
20 local or domestic use.

21 The local sales of critical products and services of such export enterprises
22 shall be deemed and treated as “export sales” in compliance with their export
23 requirement. As such, the corresponding treatment, exemption on duties, taxes and
24 fees, and other incentives warranted under the existing laws governing these export
25 enterprises shall continue to apply: *Provided*, That if such export enterprises are
26 located in special economic zones with the status of separate customs territory
27 under relevant laws, such local sales shall likewise be exempt under Sections 8 and 9
28 hereof. For this purpose, the DTI-BOI or IPAs concerned shall monitor the compliance
29 of said export enterprises.

30 The exemption on duties, taxes and fees under this Section shall subsist for a
31 period of three (3) years after the declaration by the World Health Organization that
32 the pandemic has ended.

1 Sec. 11. *Exemption from the Requirement of Phase IV Clinical Trial under*
2 *Health Technology Assessment of Vaccines and Medicines.* – The vaccines and
3 medicines determined to be critical products under this Act shall be exempt from the
4 requirement of Phase IV clinical trial under Section 34(b)(2) of Republic Act No.
5 11223, otherwise known as the "*Universal Health Care Act*": *Provided, That*
6 *minimum safeguards, systems and infrastructure are put in place by the DOH and*
7 *other relevant agencies.*

8 Sec. 12. *Procurement of Critical Products by the Government.* – To ensure
9 adequate and responsive supply of critical products and services, the government, as
10 the procuring entity shall strictly implement Section 43, Article XII of Republic Act
11 No. 9184, otherwise known as the "*Government Procurement Reform Act*" to give
12 preference to the purchase of domestically-produced and manufactured goods,
13 supplies and materials that meet the specified or desired quality. In the interest of
14 availability, efficiency and timely delivery of critical products and services under this
15 Act, the Department of Budget and Management (DBM)-Procurement Service or the
16 procurement entity concerned shall award to the lowest domestic manufacturer-
17 bidder: *Provided, That* its bid is not more than fifteen percent (15%) in excess of the
18 lowest foreign bid: *Provided further, That* it secures from the DTI a certification that
19 the articles forming part of its bid are substantially composed of articles, materials, or
20 supplies grown, produced, or manufactured in the Philippines.

21 Private enterprises are also encouraged to source their requirements for
22 critical products from the local manufacturers.

23 Sec. 13. *Stockpiling of Critical Products.* – The DOH and the DBM, in
24 coordination with DTI and other relevant agencies, shall stockpile necessary critical
25 products to prepare for an imminent or potential pandemic or public health
26 emergency. The DOH and the DBM shall procure the critical products and services in
27 accordance with the preceding Section.

28 Sec. 14. *Relocation or Expansion of Manufacturing Enterprises in the*
29 *Philippines.* – Manufacturers or producers of critical products that will relocate or
30 expand operations in the Philippines are qualified to avail of the exemptions under
31 this Act provided that they meet the requirements prescribed herein. The
32 manufacturing activities covered under this Act shall be included as a strategic

1 preferred area in the Investment Priorities Plan under Executive Order No. 226, as
2 amended, otherwise known as the "*Omnibus Investments Act of 1987*". The
3 strategic preferred areas listed therein shall be granted pioneer incentives or the
4 maximum incentives allowed under existing laws.

5 Nothing in this Act or any law that may be created to the contrary shall
6 diminish, derogate, nor limit in whatever manner the grant and entitlement to
7 incentives by qualified activities herein, including the option to avail of future
8 incentives that are more relevant and generous.

9 Sec. 15. *Synchronized and Integrated Government Approach.* – All
10 departments, bureaus, agencies or instrumentalities of the government shall ensure
11 the implementation of this Act in a synchronized and integrated manner. No
12 government body shall adopt any policy or take any course of action contrary to or
13 inconsistent with this Act.

14 Sec. 16. *Funding.* – The amount necessary for the implementation of this Act
15 shall be taken from the current appropriations of agencies concerned. Thereafter, such
16 amount as may be necessary for the implementation of this Act shall be included in
17 the General Appropriations Act.

18 Sec. 17. *Penalty for Government Official or Employee.* – Any government official
19 or employee who fails to implement Section 12 of this Act shall be penalized, after due
20 process, by a fine equivalent to the official's or employee's basic salary for a period of
21 one (1) month to six (6) months or by suspension from government service for not
22 more than one (1) year, or both, in addition to any criminal and administrative
23 penalties imposable under existing laws.

24 Sec. 18. *Applicability.* – This Act shall apply and shall remain in force and effect
25 during the existence of a pandemic of national and/or international concerns as
26 declared by the Secretary of Health, or during a state of public health emergency
27 as declared by the President.

28 Sec. 19. *Implementing Rules and Regulations (IRR).* – The DTI and BOI shall,
29 within sixty (60) days after the approval of this Act, prepare and issue the necessary
30 guidelines to implement the provisions of this Act.

1 Sec. 20. *Repealing Clause.* – All laws, issuances, orders, rules and regulations,
2 or parts thereof, which are contrary to or inconsistent with this Act are hereby
3 repealed, amended or modified accordingly.

4 Sec. 21. *Separability Clause.* – If any provision of this Act is declared invalid or
5 unconstitutional, the other provisions not affected thereby shall remain valid and
6 subsisting.

7 Sec. 22. *Effectivity Clause.* – This Act take shall effect fifteen (15) days from
8 the date of its publication in the *Official Gazette* or in a newspaper of general
9 circulation.

Approved,