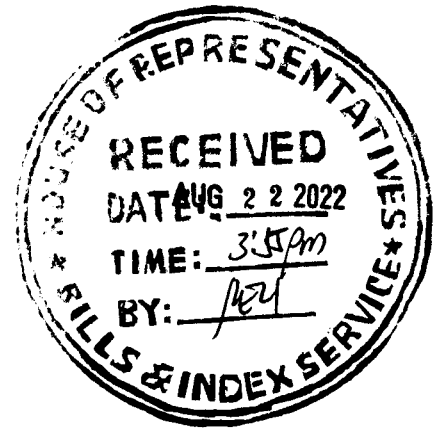


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Nineteenth Congress
First Regular Session

HOUSE BILL NO. 3917



Introduced by: Rep. Ferdinand Alexander A. Marcos &
Rep. Margarita Ignacia B. Nograles

AN ACT
AMENDING SECTIONS 3 AND 4 OF REPUBLIC ACT NO. 10845, OTHERWISE
KNOWN AS THE ANTI-AGRICULTURAL SMUGGLING ACT OF 2016 AND FOR
OTHER PURPOSES

EXPLANATORY NOTE

The unabated smuggling of tobacco products by unscrupulous importers and traders is a growing threat since it deprives the National Government of much needed excise tax revenues and impacts the livelihood of millions of Filipinos.

In some areas in the Philippines namely Zamboanga del Sur and Misamis Occidental, it is estimated that six (6) out of 10 cigarettes sold in the market already come from illegal sources. Almost daily, there are news reports of seized illegal cigarettes by the Bureau of Customs in Mindanao and this is just the tip of the iceberg. Even in the tobacco-producing region of Ilocos, nearly 10% of cigarettes sold are illicit.

Estimates of the National Government's foregone revenues due to the rampant proliferation of illegal cigarettes range from P30 to as much as P60 billion. Global think-tank *Euromonitor* estimates Philippine government revenue losses to reach P26.2 billion in 2022 and another P31 billion by 2023 because of this criminal activity.

Thus, there is an urgent need to combat large-scale tobacco smuggling by imposing more stringent penalties and deter the entry and sale of illegal tobacco in the Philippines. This bill seeks to include tobacco, both in its raw form or as finished products, as among the agricultural commodities the illegal importation of which can be classified as constituting economic sabotage.

This bill is timely as it is urgently needed. At a time when government needed funds for its pandemic response, one of the main sources of substantial and predictable revenues was the tobacco industry. According to the report published by the Oxford Business Group last June 2022 titled "Tobacco in the Philippines," the industry contributed P150 billion in revenues in 2020, the

year the pandemic hit, and another ₱149 billion in excise taxes in 2021 as the country started to recover.

In the same report, the excise tax contribution of the industry in 2020 equaled 6% of revenues collected by the national government totaling ₱2.5 trillion. In the same year, “sin tax” revenues comprised 58% or ₱94 billion of the total health budget – including Universal Healthcare – of ₱172 billion. Tobacco collections are also reinvested into tobacco-producing regions via local government units (LGUs). Nearly ₱25 billion were released to tobacco-producing communities in 2019.

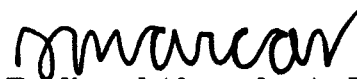
The tobacco industry also generates additional economic activity and revenues for the NG since it financially supports 2.2 million Filipinos who in turn pay income taxes, VAT and other taxes on consumption.

As of end June 2022, the national debt stood at an unprecedented ₱12.79 trillion. The previous government borrowed to boost state coffers to combat the COVID pandemic – infrastructure for testing and isolation, providing cash aid to the most vulnerable sectors and procuring vaccines to immunize the population – even as it implemented lockdowns to stop the spread of the disease, restricting economic activity and revenue collection.

The continued proliferation of smuggled cigarettes is also inconsistent with the government’s concern for public health since the current taxation and regulation only covers the legal tobacco industry but allows illicit cigarettes to run rampant. Aside from directing concerned agencies to strictly implement existing laws, legislators should also enact laws to plug loopholes to control illegal tobacco.

If the entry and sale of smuggled cigarettes continues unrestricted, the National Government stands to lose even more revenues. This will be detrimental to its pandemic recovery efforts. Clearly, this is one of the biggest tax leaks that government needs to plug.

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



Hon. Ferdinand Alexander A. Marcos
District Representative, Ilocos Norte, 1st District



Hon. Margarita Ignacia B. Nograles
Representative, PBA Partylist

Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

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AN ACT
AMENDING SECTIONS 3 AND 4 OF REPUBLIC ACT NO. 10845, OTHERWISE
KNOWN AS THE ANTI-AGRICULTURAL SMUGGLING ACT OF 2016 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 ONE MILLION PESOS (P1,000,000.00),** 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 A broker, **AGENT, FACILITATOR, FORWARDER, OR WAREHOUSE LESSOR** 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) **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 AVOIDED BY THE SMUGGLED TOBACCO, WHETHER MANUFACTURED OR UNMANUFACTURED, INCLUDING FINISHED PRODUCTS SUCH AS CIGARS, CIGARETTES OR HEATED TOBACCO PRODUCTS 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 Tariff and Customs Code and without prejudice to Section 2531 of the same Code, shall be forfeited in favor of the government.

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. *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 4. *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 5. *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,