

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

'04 JUN 30 P5:40

SENATE

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S. No. 455

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

Smuggling has existed for as long as humans have exchanged goods and crossed borders, and will continue to do so for the foreseeable future. Put simply, smuggling is a response to the tariff and non-tariff restrictions that are imposed on the international trade of goods. It is a natural response by certain businesses to rules that they find too restraining and tariffs that are too high.

Smuggling has been a long-standing issue in the Philippines. It does not only deprive the government of vital revenues but also kills local industries. Smuggling is costing the government billions of pesos in unpaid duties and taxes at the same time poses unfair competition to local manufacturers that leave thousands of Filipinos jobless due to plant closures. Smuggled and pirated items continue to proliferate in retail outlets and flea markets all over the country despite increased efforts of the Bureau of Customs to curb smuggling. Industries badly affected by rampant smuggling and dumping include cement, petrochemicals, automotive, steel, among others.

All these have combined to continually increase the budget deficit, forcing the government to resort to borrowing from domestic and foreign sources. The increased demand for domestic loans increases interest rates making Philippine companies less competitive.

No amount of laws or policies will solve the economic ills of the country if smuggling in all forms is not stopped. It is high time that we recognize that smuggling is as dangerous to the economy as illegal drugs, kidnapping, and other heinous crimes.

This bill declares that any act of smuggling is considered as a form of economic sabotage because of its inimical effects on the national interest, economic growth and development. To properly contend with the issue, distinction is made between technical smuggling and outright smuggling.

Technical smuggling refers to the act of importing goods into the Philippines through fraudulent, falsified or erroneous declarations in order to evade payment of applicable duties and taxes as well as existing rules and regulations. Meanwhile, direct or outright smuggling refers to the act of importing goods into the Philippines without the corresponding documents, permits or licenses when these are required by existing law or rules and regulations.

Those found guilty of smuggling shall be penalized with hefty fines, imprisonment, confiscation and cancellation of business permits. If the offender is a government official or employee acting in connivance with private or public individuals or entities, he shall in addition, be disqualified from holding public office.

The Bureau of Customs will be given additional powers such as re-exportation, donation and destruction of the confiscated articles.

All stakeholders, however, should recognize that the government is unlikely to win the "war against smuggling" outright. In essence, smuggling is a long-standing response by select businesses to tariff and non-tariff costs and restrictions that are imposed when moving products across international borders. Smuggling bleeds our economy and society and we should stop the bleeding now.

In view of the foregoing, the approval of this bill is earnestly requested.



SERGIO OSMEÑA III
Senator

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**AN ACT
DECLARING DIRECT AND TECHNICAL SMUGGLING AS ACTS OF
ECONOMIC SABOTAGE, PRESCRIBING PENALTIES THEREFOR AND FOR
OTHER PURPOSES**

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

1 SECTION 1. **Short Title.** – It shall be the policy of the State to contain
2 all forms of economic sabotage the endangers the country's attainment of
3 economic growth and development. The State therefore, declares that any act of
4 smuggling is inimical to national interest and derails economic growth and
5 development. To this end, the State shall institute measures to ensure that any
6 act of smuggling shall be contained and penalized.

7 SEC. 2. **Declaration of Terms.** – Under this Act:

8 (a) "Economic Sabotage" refers to any and all activities that
9 undermines, weakens or renders into disrepute the economic system or viability
10 of the country or tends to bring about such effects.

11 (b) "Smuggling" also known as direct or outright smuggling, refers to
12 the act of importing or bringing into or assisting in importing or bringing into the
13 Philippines, any article, good or product without the corresponding documents,
14 permits or licenses when these are required by existing laws, order, rules and
15 regulations including the receipt, concealment, purchase or sale or in any
16 manner facilitating the transportation, concealment, or sale of such article, after
17 importation, knowing the same to have been imported contrary to law.

1 (c) "Technical Smuggling" refers to the act of importing or bringing into
2 the Philippines, any article, good or product through fraudulent, falsified or
3 erroneous declarations for the purpose of, or which shall result into, evasion of
4 payment of the applicable duties and taxes and/or evasion of the rules and
5 regulations of the Bureau of Customs, the Bureau of Product Standards and the
6 Tariff and Customs Code.

7 (d) "Revision Order" refers to a document issued by the Bureau of
8 Customs indicating the latest values of a product/s arrived at after consultation
9 with industry representatives.

10 SEC. 3. **Smuggling and Technical Smuggling as Acts of Economic**
11 **Sabotage.**- The acts of smuggling and technical smuggling are acts inimical to
12 national interest, economic growth and development. Any person regardless of
13 nationality or citizenship found guilty of engaging in smuggling or technical
14 smuggling or technical smuggling of a minimum aggregate amount of One million
15 pesos (P1,000,000.00) worth of foods or articles as valued by the Bureau of
16 Customs utilizing methods of value verification such as but not limited to Revision
17 Orders and/or appropriate agencies and entities identified, accredited or certified
18 by the Bureau of Customs, shall be guilty of economic sabotage.

19 SEC. 4. **Offenses and Penalties.**- Any person, natural or juridical,
20 regardless of nationality or citizenship, found guilty of engaging in smuggling or
21 technical smuggling of a minimum aggregate amount of One million pesos
22 (P1,000,000.00) worth of goods or articles shall suffer the following penalties:

23 (a) Fine equal to twice the fair value of the smuggled articles;

24 (b) Fine equal to the aggregate amount of the taxes, duties and other
25 charges avoided;

26 (c) Imprisonment of a minimum of eight (8) years and one (1) day up to
27 life imprisonment or death; and

28 (d) Confiscation of the smuggled articles.

1 If the violator is a juridical person, the penalties shall be imposed on the
2 president or chairman and the responsible officers thereof. In addition, the
3 business permits and licenses of the business entity shall be revoked or
4 cancelled.

5 The broker of the importing person or entity shall likewise be liable and
6 shall be charged as principal.

7 If the offender is a government official or employee acting in connivance
8 with private individuals or entities or other government officials or employees, he
9 shall be imposed the same penalty as the principal offender. In addition, he shall
10 be absolutely disqualified from holding any public office, whether by election or
11 appointment.

12 **SEC. 5. *Power of the Bureau of Customs.***- In addition to the existing
13 powers of the Bureau of Customs under the Tariff and Customs Code, as
14 amended, in relation to the disposition of confiscated articles, the following shall
15 apply in the case of confiscated goods or articles under this Act in the following
16 order:

17 (a) Re-exportation of the confiscated articles to the point of origin at the
18 expense of the importer;

19 (b) Donation of the confiscated articles to the Department of Social
20 Welfare and Development except where prohibited by law, and/or to the Armed
21 Forces of the Philippines if the articles are finished products, or to the domestic
22 industry that can make use of the articles, if these are raw materials; or

23 (c) Destruction of the articles in the presence of representatives from the
24 Bureau of Customs, Bureau of Product Standards, Tariff Commission and the
25 relevant industries, if neither of the above-mentioned options are practicable.

26 **SEC. 6. *Implementing Rules.***- The Bureau of Customs in coordination
27 with the appropriate agencies shall promulgate the implementing rules and
28 regulations of this Act within thirty (30) days after its effectivity.

1 SEC. 7. **Repealing Clause.**- All laws, decrees, orders, rules and
2 regulations, or portions thereof, inconsistent with this Act are hereby repealed or
3 modified accordingly.

4 SEC. 8. **Separability Clause.**- If for any reason, any provision of this Act
5 is declared unconstitutional or invalid, the other parts or provisions hereof which
6 are not thereby affected shall continue to be in full force and effect.

7 SEC. 9. **Effectivity Clause.**- This Act shall take effect fifteen (15) days
8 after its complete publication in the Official Gazette or in at least two (2)
9 newspapers of general circulation.

10 Approved,