

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

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SENATE
S. No. 456

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

The Philippines is a signatory of the United Nations Convention of the Child. Article 32 of this Convention provides:

"The States have the obligation to protect children from engaging in work that constituted a threat to their health, education or development, to set minimum wages for employment and to regulate conditions of employment."

The International Labor Organization, in its various conventions has also sought to protect the working child, establishing the minimum working age for children, and specifying the areas of work wherein a child may be employed.

Amid the pressures of global price competition, many industries in developing countries are adopting the "beggar thy neighbor" approach, using child labor to bring down production costs of manufactured goods. Subjected to exploitative conditions, children are deprived of their basic right to nurturing, and opportunities for education.

This bill seeks to reinforce the State's avowed policy and commitment to child welfare by prohibiting the importation of goods produced abroad with child labor.

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

S. Osmeña III
SERGIO OSMEÑA III
Senator

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AN ACT
PROHIBITING THE IMPORTATION OF GOODS PRODUCED ABROAD WITH
CHILD LABOR, AND FOR OTHER PURPOSES

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

1 SECTION 1. *Declaration of Policy.* – It is hereby declared a policy of the
2 State to recognize the right of children to assistance, including proper care and
3 nutrition, and special protection from all forms of neglect, abuse, cruelty,
4 exploitation, and other conditions prejudicial to their development.

5 SEC. 2. *Definitions.* – For the purposes of this Act, the following words
6 and phrases shall have the following meanings:

7 (1) “Manufactured article” – shall be treated as being a product of child
8 labor if the article - -

9 (a) was fabricated, assembled, or processed in whole or part;

10 (b) contains any part that was fabricated, assembled, or
11 processed, in whole part or in part; or

12 (c) was mined, quarried, pumped, or otherwise extracted, by
13 one or more children who engaged in the fabrication, assembly,
14 processing, or extraction ---

15 i) in exchange for remuneration (regardless to whom paid),
16 subsistence, goods or services, or any combination of the
17 foregoing;

- 1 ii) under circumstances tantamount to involuntary servitude; or
2 iii) under exposure to toxic substances or working conditions otherwise
3 posing serious health hazards.

4 (2) “Child” – means an individual who has not attained the age of
5 fifteen (15).

6 (3) “Effective identification period” – means with respect to a foreign
7 industry or country, the period that –

8 (a) begins on the date of the issue of the Official Gazette in which the
9 identification of the foreign industry or country is published; and

10 (b) terminate on the date of that issue on the *Official Gazette* in which
11 the revocation of the identification referred to in this act is
12 published.

13 (4) “Entered” – means entered, or withdrawn from warehouse for
14 consumption, in the customs territory of the Philippines.

15 (5) “Foreign industry” – includes any entity that produces a
16 manufactured article in any possession of territory of a foreign country.

17 (6) “Host country” – means any possession or territory of a foreign
18 country that is administered separately for customs purposes and on which a
19 foreign industry produces a manufactured article.

20 (7) “Manufactured article” – means any good that is fabricated,
21 assembled, or processes. The term also includes any mineral resources
22 (including any mineral fuel) that is entered in a crude state. Any mineral resource
23 that at entry has been subjected to only-washing, crushing, grinding, powdering,
24 levigation, sifting, screening, or concentration by flotation, magnetic separation,
25 or other mechanical or physical processes shall be treated as having been
26 processed for the purposes of this Act.

27 SEC. 3. *Identification of Foreign Industries and their Respective Host*
28 *Countries that Utilize Child Labor in Export of Goods.* – (a) Identification of
29 Industries and Host Countries. – The Secretary of Labor and Employment shall

1 undertake periodic reviews using all available information, including information
2 made available by the International Labor Organization and human rights
3 organizations (the first such review to be undertaken not later than 180 days after
4 the date of the enactment of this Act), to identify any foreign industry and its
5 country that –

6 (1) utilize child labor in the export of products; and

7 (2) has on a continuing basis exported products of child labor to the
8 Philippines.

9 (b) Petitioners Requesting Identification

10 (1) Filing – Any person may file a petition with the Secretary of Labor
11 and Employment requesting that a particular foreign industry and its host country
12 be identified under subsection (a). The petition must set forth the allegations in
13 support of the request.

14 (2) Action on receipt of petition – Not later than 90 days after receiving
15 a petition under paragraph (1), the Secretary of Labor and Employment shall - -

16 (A) decide whether or not the allegations in the petition warrant further
17 action by him in regard to the foreign industry and its host country
18 under subsection (a); and

19 (B) notify the petitioner of the decision under subparagraph (b) and the
20 facts and reasons supporting the decision.

21 (C) Consultation and Comment – Prior to identifying a foreign industry and
22 its host country under subsection (a), the Secretary of Labor and
23 Employment shall - -

24 (1) consult with the Philippine Trade Representative, the
25 Secretary of Foreign Affairs, the Secretary of Trade and Industry and
26 the Secretary of Finance regarding such action;

27 (2) publish notice in the *Official Gazette* that such an
28 identification is being considered and inviting the submission with a
29 reasonable time or written comment from the public; and

1 (3) take into account the information obtained under
2 paragraphs (a) and (2).

3 (d) Revocation of Identification -

4 (1) In general – Subject to paragraph (2), the Secretary of Labor and
5 Employment may revoke the identification of any foreign industry and its host
6 country under subsection (a) if information available to him indicates that such
7 action is appropriate.

8 (2) Report of Secretary of Labor and Employment – No revocation
9 under paragraph (1) may take effect earlier than the 60th days after the date on
10 which the Secretary of Labor and Employment submits to the Congress a written
11 report –

12 (a) stating that in his opinion, the foreign industry and host country
13 concerned does not utilize child labor in the export of products; and

14 (b) stating the facts on which such opinion is base and any other
15 reason why he considers the revocation appropriate.

16 (3) Procedure. – No revocation under paragraph (1) may take effect
17 unless the Secretary of Labor and Employment - -

18 (a) publishes notice in the *Official Gazette* that such a revocation is
19 under consideration and inviting the submission within a reasonable
20 time of written comment from the public on the revocation; and

21 (b) takes into account the information received under subparagraph (A)
22 before preparing the report required under paragraph (2).

23 (e) Publication – The Secretary of Labor and Employment shall -

24 (1) promptly publish in the *Official Gazette*

25 (a) the name of each foreign industry and its host country
26 identified under subsection (a);

27 (b) the text of the decision made under subsection (b) (2) (A)
28 and a statement of the facts and reasons supporting the
29 decision; and

1 (c) the name of each foreign industry and its host country with
2 respect to which an identification has been revoked under
3 subsection (d); and

4 (3) maintain a current list of all foreign industries and their respective
5 host countries identified under subsection (a).

6 SEC. 4. *Prohibition of Entry.* – (a) Prohibition –

7 (1) In general – Except as provided in paragraph 2 of this Section,
8 during the effective identification period for a foreign industry and its host country,
9 the Secretary of Finance may not permit the entry of any manufactured article
10 that is a product of that foreign industry.

11 (2) Exception – Paragraph (1) shall not apply to the entry of a
12 manufactured article ---

13 (a) for which a certification that meets the requirements of subsection
14 (b) is provided;

15 (b) that is entered under any subheading (relating to personal
16 exemptions of Section 105 (f) (g) and (h) of the Tariff and Customs
17 Code of the Philippines;

18 (c) that was exported from the foreign industry and its host country and
19 was en route to the Philippines before the first day of the effective
20 identification period for such industry and its host country.

21 (b) Certification That Article is Not a Product of Child Labor

22 (1) Form and content – The Secretary of Finance shall prescribe the
23 form and content of documentation, for submission in connection
24 with the entry of a manufactured article, that satisfies the Secretary
25 of Finance that the importer of the article has undertaken
26 reasonable steps to ensure, to the extent practicable, that the
27 article is not a produce of a child labor.

28 (2) Written evidence – The documentation required by the Secretary of
29 Finance under paragraph (1) shall include written evidence that the

1 agreement setting further the terms and conditions of the
2 acquisition of provision of the imported article includes the condition
3 that the article not be a product of child labor.

4 SEC. 5. *Penalties.* – (a) Unlawful acts. – It is unlawful

5 (1) during the effective identification period applicable to a foreign
6 industry and its host country, to attempt to enter any manufactured
7 article that is a product of that industry if the entry is prohibited
8 under Section 4(a) (1); or

9 (2) to violate any regulation prescribed under Section 6.

10 (d) Civil Penalty – Any person who commits any unlawful act set
11 forth in subsection (a) is liable for a civil penalty of not to
12 exceed Five million pesos (P5,000,000.00).

13 (e) Criminal Penalty – In addition to being liable for a civil
14 penalty under subsection (b), any person who intentionally
15 commits any unlawful act set forth in subsection (a) is, upon
16 conviction, liable for a fine of not less than Five hundred
17 thousand pesos (P500,000.00) and not more than Five
18 million pesos (P5,000,000.00) or imprisonment for one (1)
19 year, or both.

20 (f) Construction – The violations set forth in subsection (a) shall
21 be treated as violations of the customs laws for purposes of
22 applying the enforcement provisions of the Tariff and
23 Customs Code of the Philippines, including –

24 (1) the search, seizure and forfeiture provisions;

25 (2) Section 3601, 3602, 3603, 3604 relating to penalties for
26 entry by fraud, gross negligence, or negligence;

27 (3) Section 3513 relating to compensation to informers.

28 SEC. 6. *Regulations.* – The Secretary of Finance shall prescribe
29 regulations that are necessary or appropriate to carry out this Act.

1 SEC. 7. *Repealing Clause.* – All laws, decrees, executive orders, letters
2 of instructions, letter of implementation, rules and regulations or part or parts
3 thereof inconsistent with any provisions of this Act are hereby repealed, modified,
4 superseded or amended accordingly.

5 SEC. 8. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
6 after its complete publication in the *Official Gazette* or in at least two (2) national
7 newspapers of general circulation, whichever comes earlier.

Approved,