

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)



Senate
Office of the Secretary

'16 JAN 26 P3 02

SENATE
S. No. 3141

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

AN ACT
PUNISHING VARIOUS FORMS OF SMUGGLING, PRESCRIBING PENALTIES
THEREFOR, GRANTING INCENTIVES AND REWARDS FOR ASSISTANCE OF
WITNESSES AND INFORMANTS LEADING TO SUCCESSFUL PROSECUTION
THEREOF

EXPLANATORY NOTE

Free enterprise has long been considered as the cornerstone of a country's progress. Many developed countries adopt a policy of *laizzes faire* where they minimize government regulation of the private enterprises and allow them to grow on their own. However, in a developing country such as ours, private enterprises still lack the maturity to regulate themselves and are still prone to abuses from both inside the country and overseas.

One such abuse is smuggling. It is a form of unfair trade practice that allows certain people to set the price of imported goods below market prices because they are able to avoid paying customs duties. If we tolerate such practice, we effectively weaken our economy by letting honest businesses die a natural death due to unfair competition from these smugglers.

This bill seeks to establish a crime of smuggling and technical smuggling and provides for certain means to assist the law enforcers to prosecute the offenses.

This is a Senate counterpart bill to the bill filed in the House of Representatives by
Rep. Abraham Mitra.¹

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
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¹ This bill was originally filed in the Fourteenth Congress, Second Regular Session

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

1 SECTION 1. *Short Title.* – This Act shall be known as the “Stop Smuggling Act.”

2 SECTION 2. *Declaration of Policy.* – It is the policy of the State to curb the
3 proliferation of unfair competition and trade practices that threatens the Philippine
4 economy. The State shall ensure that the proper duties and taxes are paid to augment the
5 government’s depleted resources which are urgently needed to meet the society’s basic
6 requirements.

7 SECTION 3. *Definition of Terms.* – As used in this Act, the term:

8 A. "Smuggling" shall mean the act of importing into the Philippines goods or
9 articles of commerce without the complete government required importation documents
10 or the act of bringing in goods or articles into the country and disposing of the same in
11 the local market without having been cleared by the Bureau of Customs or other
12 authorized government agencies, for the purpose of evading payment of the prescribed
13 taxes, duties, and other government charges;

14 B. "Technical Smuggling" shall mean the act of unlawfully importing goods into
15 the Philippines through fraudulent, falsified or erroneous declarations and for the purpose

1 of reducing or totally avoid the payment of the prescribed taxes, duties, and other
2 government charges, usually perpetrated by way of --

- 3 1. misclassification as to nature, quality or value,
- 4 2. undervaluation in terms of price, quality, or weight; or
- 5 3. outrightly misdeclaring the imported articles;

6 C. "Person" shall mean both natural and juridical persons;

7 D. "Vital Information" shall mean any materials, information, documents, written
8 or oral testimonies, or any other evidence necessary to build up the people's case and/or
9 secure the conviction of the criminal perpetrators.

10 SECTION 4. *Prohibited Acts.* – It shall be unlawful to commit acts of smuggling
11 and technical smuggling.

12 SECTION 5. *Penalty.* – Any person found guilty of committing any of prohibited
13 acts shall suffer a penalty based on the aggregate amount of taxes, duties, and other
14 charges of which the government was deprived by reason of said acts, as follows:

15 Aggregate Amount of Taxes	
16 Duties, and other Charges Avoided	16 Penalty
17 Not more than ₱ 100,000.00	17 <i>Prision Correctional</i>
18 ₱ 100,000.00 to ₱ 1,000,000.00	18 <i>Prision Mayor</i>
19 ₱ 1,000,000.00 to ₱ 5,000,000.00	19 <i>Reclusion Temporal</i>
20 More than ₱ 5,000,000.00	20 <i>Reclusion Perpetua to Death</i>

21 In case the offender is a government official or employee acting in connivance
22 with private individuals or other government officials or employees, the penalty next
23 higher in degree shall be imposed, in addition to the accessory penalty of perpetual
24 absolute disqualification from holding public office, whether by election or appointment.

1 In all cases, a fine equivalent to twice the aggregate amount of the taxes, duties,
2 and other charges avoided shall likewise be imposed.

3 In case any of the prohibited acts is committed by a juridical person, the
4 corresponding penalty shall be imposed on the Members of the Board, officers or
5 partners, as the case may be, who responsible for the commission of the said acts.

6 **SECTION 6. *Concealment, Withholding, or Destruction of Pertinent Document***
7 ***and Information.*** – Persons who shall be found guilty of concealment, withholding, or
8 destruction of documents and information pertinent to the institution of or conviction for
9 a criminal action arising from this Act shall suffer a penalty one degree lower than that
10 imposed on the principal offender.

11 **SECTION 7. *Rewards and Incentives.*** – Any informants or witnesses who shall
12 testify or provide vital information regarding the existence or activity of a person
13 involved in any of the prohibited acts shall, upon recommendation of the prosecutor and
14 approval of the Secretary of Justice based on an undertaking previously executed by the
15 said informants or witnesses, be entitled to a reward equivalent to twenty (20%) percent
16 of the total amounts due and actually collected from the offender arising from the unpaid
17 taxes, duties, and other government charges involved. In addition, the said informants and
18 witnesses shall be immune from criminal prosecution for his participation or involvement
19 in any such criminal activity which is the subject of the investigation or prosecution;
20 Provided, however, that immunity from criminal prosecution, in case of a witness, shall
21 attach only upon his actually testifying in court in accordance with his undertaking as
22 approved by the Secretary of Justice; Provided, further, that the following conditions are
23 complied with:

1 That there is absolute necessity for the testimony of the witness and/or the
2 information given by him regarding the existence or a person committing the prohibited
3 acts;

4 A. That there is no other evidence available for the proper prosecution of the
5 offense, other than the information or testimony to be given by the informant
6 or witness;

7 B. That such testimony or information can be substantially corroborated in its
8 material points; and

9 C. That the informant or witness, if he may be involved, does not appear to be the
10 most guilty.

11 The fact that the witnesses stand to benefit from giving their testimony shall not
12 diminish its credibility.

13 **SECTION 8. *Presumption.*** – Any person found in possession of articles or goods
14 which are the subject of any of the prohibited acts shall be presumed to be the perpetrator
15 thereof, unless he can adequately present documents or evidences showing the regularity
16 of the articles' or goods' importation or his lawful acquisition thereof.

17 **SECTION 9. *Separability Clause.*** – If any provision or part hereof, is held invalid
18 or unconstitutional, the remainder of the law or the provision not otherwise affected shall
19 remain valid and subsisting.

20 **SECTION 10. *Repealing Clause.*** – Any law, presidential decree or issuance,
21 executive order, letter of instruction, administrative order, rule or regulation contrary to
22 or is inconsistent with the provision of this Act is hereby repealed, modified, or amended
23 accordingly.

1 SECTION 11. *Effectivity Clause.* – This Act shall take effect after fifteen (15)
2 days following its publication in the *Official Gazette* or in two (2) newspapers of general
3 circulation.

4 Approved,

/ctrs25Nov2015