

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



'22 SEP 19 P3:37

SENATE
S.B. No. 1329

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Introduced by **SENATOR IMEE R. MARCOS**

**AN ACT
IMPOSING A TOTAL BAN ON THE IMPORTATION OF WASTE
AND ITS BY-PRODUCTS OR RESIDUES, AND PROVIDING
PENALTIES THEREFOR**

EXPLANATORY NOTE

The 1987 Constitution mandates the State to protect and promote the right to health of the people, protect, and advance their right to a balanced and healthful ecology, and the promotion of general welfare.

However, recent reports show that the Philippines has become one of the dumping sites of foreign garbage, thereby threatening Filipinos' health and well-being. In previous years, China was the number one destination for waste recycling. China began importing secondary raw materials in the 1980s, eventually becoming the world's largest importer of waste. Finally, on 01 January 2018, it banned the importation of four (4) categories totaling twenty-four (24) types of solid waste including plastic, paper, and textiles through their "*National Sword*" Policy.

Following China's ban, other countries like Indonesia, Malaysia, India, Thailand, Vietnam, and Taiwan, among others, began to receive and "recycle" the world's waste. Citing environmental concerns, however, these Asian countries have also put-up measures to limit or entirely prohibit the importation of waste.

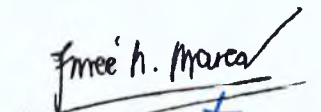
The Philippines has now become the most recent destination for waste coming from developed countries. Last 31 May 2019, 69 containers of Canadian waste, consisting of household trash, plastic bottles, and bags, newspapers, and used adult diapers, which arrived in the country between 2013 and 2014 were returned. In 2018, a total of 6,500 metric tons of garbage from South Korea were seized in Misamis Oriental.

Still, more shipments of waste in other parts of the country, alternately marked as "*recyclable scrap*" or Basic Oxygen Furnace (BOF) slags, have been reported. In August 2019, more than 11,000 metric tons of waste was imported from the United States (US). Another shipment of several containers of mixed trash from the US was recorded to have arrived in Subic in 2020. Some of said waste imports are legal – scrap metals for reprocessing, sorted scrap plastic, and recyclable electronic waste (or "*e-waste*") but smuggled hazardous wastes were also detected.

In a March 2020 Report co-published by EcoWaste Coalition and Greenpeace, policy gaps which make illegal waste trade into the Philippines seem legitimate are identified as the main cause for the why illegal wastes continue to be shipped into the country. Similar regulatory loopholes also persist in Thailand and Malaysia, two of Southeast Asia's top plastic waste importing countries. Although hazardous waste is prohibited from entering the Philippines, trash marked "for recycling" is legal, opening up a loophole that may allow the entry of illegal waste.

Besides the growing importation of waste, official records indicate that at least three (3) companies in Subic and Cagayan de Oro, run by foreigners and employing hundreds of their own nationals (*ie.* Chinese, Taiwanese, etc.), operate under the guise of "recycling". Therefore, apart from the apparent violation of customs and environmental laws, the employment of foreigners by these companies, allegedly without working permits or other documentation, could also bring about violations of the immigration and internal revenue/tax laws and regulations. Neither can security concerns be avoided when a comprehensive directory of these legal or illegally working aliens has not been made available.

The Philippines has, to date, failed to undertake permanent action to end this detrimental practice. Thus, the immediate passage of this bill is sought.


IMEE R. MARCOS

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PENALTIES 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, "*Total Ban of Waste*
2 *Importation Act.*"

3
4 **SEC. 2. Declaration of Policy.** – It is hereby declared the policy of the State to
5 impose a total ban on the importation of waste and its by-products or residues for the
6 protection of the environment, preservation of the peoples' right to a balanced and
7 healthful ecology, and the promotion of health and general welfare of the people.

8
9 **SEC. 3. Total Ban on the Importation of Waste and its By-Products or Residues.**
10 – The importation of all kinds of waste, as defined in Sec. 4 (b) of this Act, is hereby
11 declared unlawful.

12
13 Importer registration and importation clearances issued by government agencies
14 under existing laws and regulations shall be cancelled and no new applications shall be
15 accepted.

16
17 **SEC. 4. Definition of Terms.** – The following are defined in the Act, as:
18

- 1 a. Importation. – Refers to the act of bringing in of waste, as defined in Sec. 4.
2 (a) of this Act, from a foreign territory into Philippine territory and includes
3 the entry, in transit, as well as the keeping or storage, and disposal of waste
4 into the country, for whatever purpose.
5
6 b. Recycling Factory. – Refers to buildings and/or premises wherein or within
7 an area of which, steam, water, or any mechanical power is used to move or
8 work any machinery in preparing and converting waste into new products in
9 such a manner that the original product may lose their identity, and which
10 may be used as raw materials for the production of other goods or services.
11
12 c. Waste. – Refers to the following:
13
14 i. Scrap metals;
15 ii. Metal tailings and other corrosive or toxic residue;
16 iii. Plastic materials;
17 iv. Electronic assemblies and scrap, including used or second-hand
18 electrical and electronic equipment, and electronic components
19 containing hazardous substances;
20 v. Solid plastic waste materials, including homogenous and sorted plastic
21 materials;
22 vi. Infectious wastes;
23 vii. Used oil, including waste oil or oil residues;
24 viii. Nuclear and radioactive wastes;
25 ix. Fly ash from coal-fired power plants;
26 x. Incinerator ash or slag;
27 xi. Municipal wastes/processed engineered fuel (PEF);
28 xii. Refuse derived fuel (RDF);
29 xiii. Solid recovered fuel (SRF);
30 xiv. Neutralized phosphogypsum;
31 xv. Other hazardous, toxic and hazardous wastes as defined under
32 Republic Act No. 6969 otherwise known as Toxic Substances and
33 Hazardous and Nuclear Waste Control Act;
34 xvi. Other solid waste, as defined under FRA 9003 or Ecological Solid
35 Waste Management Act; and
36 xvii. Other similar waste, as may be defined by the Department of
37 Environment (DENR).
38

1 The DENR shall release a list of banned materials within thirty (30) days from
2 the effectivity of this Act, which may be updated periodically. *Provided that*, the failure
3 of the Secretary of DENR to promulgate the said list shall not prevent the
4 implementation of this Act.

5
6 **SEC. 5. *Fines and Penalties.*** – Any person, natural or juridical, including
7 recycling factories, who imports, brings into the Philippines, or misdeclares any
8 waste covered by this Act, or assists in so doing, or shall receive, conceal, buy,
9 sell, or in any manner facilitate the transportation, concealment, or sale of such
10 after importation, or violates any other provision of this Act or the rules and
11 regulations issued pursuant thereto, shall be penalized by imprisonment of not
12 less than eight (8) years and one (1) day but not more than twelve (12) years, or
13 a fine of not less than one million five hundred thousand pesos (P 1,500,000.00)
14 but not more than fifteen million pesos (P15,000,000.00), or both.

15
16 If the offender is a foreigner, the offender shall be immediately deported
17 after serving the sentence.

18
19 The maximum penalty shall be imposed if the offender is a public official
20 or employee. Further, the offender shall be dismissed from service and
21 disqualified from public office and from exercising the right to vote and to
22 participate in any public election for ten (10) years.

23
24 The relevant penal provisions of environmental and customs law, including
25 but not limited to Republic Act No. 6969 or the "Toxic Substances and Hazardous
26 and Nuclear Wastes Control Act of 1990", Republic Act No. 10863 or the "Customs
27 Modernization and Tariff Act", and Republic Act No. 8749 or the "Philippine Clean
28 Air Act of 1999", shall also apply as penalties to violations of this Act.

29
30 **SEC. 6. *Additional Liabilities.*** – The imported waste shall be shipped back
31 to the port of origin, at the expense of the parties liable for such importation,
32 within thirty (30) calendar days.

33
34 In addition, the penalty shall include confiscation and forfeiture, in favor of
35 the government, of factory, including improvements thereon, equipment, as well
36 as, proceeds from the commission of the offense. The shipper of the imported
37 illegal waste cargo shall be permanently banned from shipping or causing the
38 transport of any cargo into the Philippines.

1
2 **SEC. 7. *Strict Enforcement and Implementation.*** – The DENR, together
3 with the Bureau of Customs (BOC), shall ensure the enforcement and
4 implementation of the provisions of this Act and a strict monitoring system of all
5 importation shall be conducted to ensure that no waste is brought in the Philippine
6 territory under misdeclarations or otherwise, in violation of this Act and R.A. No.
7 10648, otherwise known as the "*Customs Modernization and Tariff Act*".

8
9 **SEC. 8. *Appropriations.*** – The amount necessary to carry out the
10 provisions of this Act shall be included in the annual General Appropriations Act
11 (GAA).

12
13 **SEC. 9. *Implementing Rules and Regulations.*** – Within sixty (60) days from
14 the effectivity of this Act, the DENR, Department of Foreign Affairs (DFA), BOC,
15 and Bureau of Immigration (BI) shall formulate and promulgate the necessary
16 implementing rules and regulations of this Act.

17
18 **SEC. 10. *Repealing Clause.*** – All laws, decrees, orders, rules and
19 regulations or other issuances or parts thereof inconsistent with the provisions of
20 this Act are hereby repealed or modified accordingly.

21
22 **SEC. 11. *Separability Clause.*** – If any portion or provision of this Act is
23 declared unconstitutional, the remainder of this Act or any provision not affected
24 thereby shall remain in force and effect.

25
26 **SEC. 12. *Effectivity.*** – This Act shall take effect after fifteen (15) days
27 following the completion of its publication either in the Official Gazette or in a
28 newspaper of general circulation in the Philippines.

Approved,