

FOURTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

SENATE
OFFICE OF THE SECRETARY

7 JUL -3 P6:21

SENATE

S. B. No. 905

RECEIVED BY: 

Introduced by SENATOR EDGARDO J. ANGARA

EXPLANATORY NOTE

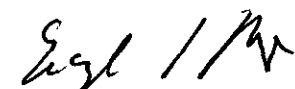
Efforts of the Government to suppress smuggling and other frauds upon the customs have been stymied by the indiscriminate issuance of temporary restraining orders and injunctive reliefs by judicial authorities. While the provisions of the Tariff and Customs Code on administrative proceedings leading to forfeiture and disposition of smuggled goods and the instruments used for smuggling seem fairly adequate, the provisions allowing judicial intervention have oftentimes rendered ineffective the serious efforts to go after the smugglers, the goods fraudulently imported, and the instruments of smuggling.

The disposition and forfeiture of goods seized by the Bureau of Customs will be strengthened under this bill. To expedite the disposition of these goods, the Secretary of Finance, upon recommendation of the Commissioner of Customs, is empowered to summarily seize and sell the same. Moreover, no temporary restraining order shall lie against the seizure and disposition of the subject goods as well as the aircraft or vessel used in transporting the same.

Administrative summary proceedings appear to be the most effective vehicle to curb smuggling. Judicial intervention should be invoked only at the level of the Supreme Court, doing away with the present state of the law where even Regional Trial Courts can stop the sale of forfeited smuggled property or even allow the posting of bonds for those whose vessels or aircraft were used in smuggling.

Smugglers themselves should not be allowed to profit from their own violation of our customs laws. They should be barred from involvement in auction sales of the very items or goods they brought in fraudulently.

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


EDGARDO J. ANGARA
Senator

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AN ACT RATIONALIZING THE FORFEITURE AND DISPOSITION
OF PROPERTY SEIZED BY THE BUREAU OF CUSTOMS,
AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF THE
TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS
AMENDED

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

1 SECTION 1. Section 2601 of the Tariff and Customs Code of the
2 Philippines, as amended, is hereby further amended to read as follows:

3 "SECTION 2601. *Property Subject to Sale.* - Property in customs
4 custody shall be subject to sale under the conditions hereinafter
5 provided:

6 "a. Abandoned articles;

7 "b. Articles entered under warehousing entry not withdrawn nor
8 the duties and taxes paid thereon within the period prescribed under
9 Sections 1908 of this Code;

10 "c. Seized property, other than contraband, after liability to sale
11 shall have been established by proper administrative [or judicial]
12 proceedings in conformity with the provision of this Code; and

13 "d. Any article subject to a valid lien for customs duties, taxes or
14 other charges collectible by the Bureau of Customs, after the
15 expiration of the period allowed for the satisfaction of the same."
16

17 SECTION 2. Section 2604 of the Tariff and Customs Code of the
18 Philippines, as amended, is hereby further amended to read as follows:

19 "SECTION 2604. *Disqualification to Participate in Auction Sale.*
20 - No Customs official or employee; THE OWNERS, OR OTHER
21 AGENTS, OF THE PROPERTY SUBJECT TO SALE; AND, THE
22 IMPORTER OR CONSIGNEE OF THE PROPERTY SUBJECT TO

1 SALE; THE OWNERS, OR THEIR AGENTS, OF THE VESSEL OR
2 AIRCRAFT SUBJECT TO SALE shall be allowed to bid directly or
3 indirectly in any customs auction.”
4

5 **SEC 3.** Section 2607 of the Tariff and Customs Code of the
6 Philippines, as amended, is hereby further amended to read as follows:

7 “Section. 2607. *Disposition of Articles Liable to Deterioration.* -
8 Perishable articles shall be deposited in any appropriate bonded
9 warehouse; and, if not immediately entered for export or for
10 transportation from the vessel or aircraft in which imported or entered
11 for consumption and the duties and the taxes paid thereon, such
12 articles SHALL [may] be sold at auction [, after such public notice,
13 not exceeding three days,] as the necessities of the case permit.

14 “When seizure shall be made of property which, in the opinion of
15 the Collector, is liable to perish or be wasted or to depreciate greatly in
16 value by keeping, or which cannot be kept without great
17 disproportionate expense, whether such property consists of live
18 animals or of any article, the appraiser shall so certify his appraisal,
19 the Collector SHALL [may] proceed to advertise and sell the same at
20 auction, upon notice as he shall deem to be reasonable.

21 “The same disposition SHALL [may] be made of any
22 warehoused article when in the opinion of the Collector it is likely that
23 the cost of depreciation, damage, leakage or other causes, may so
24 reduce its value as to be insufficient to pay the duties, taxes and other
25 charges thereon, if it should be permitted to be so kept and be
26 subjected to sale in the usual course.

27 “PROVIDED, THAT IN ALL CASES INVOLVING ARTICLES
28 LIABLE TO DETERIORATION, THE DETERMINATION THEREON
29 SHALL BE EXCLUSIVE TO THE COLLECTOR AND SHALL BE
30 FINAL ON THE MATTER; PROVIDED FURTHER, THAT THE
31 AUCTION SALE SHALL BE HELD NOT LATER THAN TWO (2)
32 DAYS AFTER THE PUBLIC NOTICE SET BY THE COLLECTOR.”
33

34 **SECTION 4.** Section 2610 of the Tariff and Customs Code of the
35 Philippines, as amended, is hereby further amended to read as follows:

1 “Section. 2610. *Disposition of Unsold Articles for Want of*
2 *Bidders.* - Articles subject to sale at public auction by customs
3 authorities shall be sold at a price not less than the wholesale value
4 price in the domestic market of these or similar articles in the usual
5 wholesale quantities and in the ordinary course of trade as determined
6 in accordance with section twenty-three hundred and five of this code.

7
8 “When any article remains unsold in at least two public biddings
9 for want of bidders or for lack of an acceptable bid, and the article is
10 perishable and/or suitable for official use, then the Collector shall
11 report the matter immediately to the Commissioner of Customs who
12 SHALL [may, subject to the approval of the Secretary of Finance,]
13 authorize the official use of that article by the Bureau of Customs to
14 promote the intensive collection of taxes and/or to help prevent or
15 suppress smuggling and other frauds upon the Customs, and if the
16 article is not suitable for such use, then it may be channeled to the
17 official use of other offices of the National Government AS THE
18 COMMISSIONER OF CUSTOMS MAY DETERMINE. If the article is
19 suitable for shelter or consists of foodstuffs, clothing materials or
20 medicines then that article shall be given to government charitable
21 institutions through the Department of Social WORK Services] and
22 Development. AGRICULTURAL PRODUCTS SHALL BE GIVEN TO
23 THE DEPARTMENT OF AGRICULTURE FOR PROPER
24 DISPOSITION.

25 “If the article offered for sale is not suitable either for official use
26 or charity, then the same may be re-exported as government property,
27 through the Department of Trade AND INDUSTRY or any other
28 government entity through barter or sale. If the article cannot be
29 disposed of as provided above, the Collector shall report the matter
30 immediately to the Commissioner who SHALL [may, subject to the
31 approval of the Secretary of Finance] dispose of the article to the best
32 advantage of the government in a negotiated private sale which shall
33 be consummated in the presence of a representative of the Commission
34 of Audit., in the manner provide for by this Code.”

1 **SECTION 5.** Section 2612 of the Tariff and Customs Code of the
2 Philippines, as amended, is hereby further amended to read as follows:

3 “Section 2612. *Disposition of Smuggled Articles.* - Smuggled
4 articles, after liability to seizure or forfeiture shall have been
5 established by proper administrative [or judicial] proceedings in
6 conformity with the provisions of this Code, shall be disposed of as
7 provided for in Section 26 10: Provided, That articles whose
8 importation is prohibited under Section 102, sub-paragraphs b, c, d, c
9 and j shall, upon order to the Collector in writing, be burned or
10 destroyed, in such manner as the case may require as to render them
11 absolutely worthless, in the presence of a representative each from the
12 Commission on Audit, [Ministry] Department of Justice, Bureau of
13 Customs, and if possible, any representative of the private sector.”

14
15 **SECTION 6.** A new section, to be referred to hereafter as Section
16 3613[A], is hereby inserted to the Tariff and Customs Code of the Philippines,
17 the said new section to read as follows:

18 “SECTION. 3613[A]. SUMMARY PROCEDURE FOR SEIZURE
19 AND FORFEITURE. - NOTWITHSTANDING THE PROVISIONS OF
20 TITLE VI OF THIS CODE, PROPERTY WHICH ARE IMPORTED OR
21 BROUGHT IN TO THE PHILIPPINES WITHOUT THE NECESSARY
22 PERMIT AND/OR PAYMENT OF THE RELEVANT AND
23 APPLICABLE TAXES, FEES AND CHARGES, SHALL BE
24 SUMMARILY SEIZED AND FORFEITED IN FAVOR OF THE
25 GOVERNMENT. ANY VESSEL OR AIRCRAFT USED TO BRING IN
26 SAID IMPORTED GOODS INTO THE PHILIPPINES SHALL
27 LIKEWISE BE SUBJECT TO SUMMARY SEIZURE AND
28 FORFEITURE.

29 “THE DECISION OF THE SECRETARY OF FINANCE, UPON
30 THE RECOMMENDATION OF THE COMMISSIONER OF
31 CUSTOMS, UNDER THIS SECTION SHALL BE FINAL AND
32 UNAPPEALABLE.

33 “NO COURT, EXCEPT THE SUPREME COURT, SHALL
34 ISSUE ANY TEMPORARY RESTRAINING ORDER OR ANY
35 INJUNCTIVE RELIEF AGAINST THE SEIZURE, FORFEITURE OR

1 SALE OF ANY OF THE GOODS OR ARTICLES COVERED BY THIS
2 SECTION.

3 "THE OWNER OR OPERATOR OF ANY SEIZED VESSEL OR
4 AIRCRAFT UNDER THIS SECTION SHALL BE BLACKLISTED
5 FROM OPERATING AND/OR FROM ENGAGING IN TRADE IN THE
6 PHILIPPINES."

7
8 **SECTION 7. *Separability Clause.*** - If any part or parts of this Act
9 should, for any reason, be held to be invalid or unconstitutional, the
10 remaining parts thereof shall remain in full force and effect.

11
12 **SECTION 8. *Repealing Clause.*** - All laws, decrees, executive orders,
13 rules and regulations and other issuances inconsistent with this Act are
14 hereby repealed or modified accordingly.

15
16 **SECTION 9. *Effectivity.*** - This Act shall take effect after fifteen (15)
17 days from the date of publication in at least two (2) newspapers of general
18 circulation.

19
20 *Approved,*