

FOURTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Second Regular Session )

OFFICE OF

9 FEB -4 P2:13

SENATE  
S. No. 3041

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Introduced by Senator Miriam Defensor Santiago

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#### 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.

*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO

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1 AN ACT  
2 PUNISHING VARIOUS FORMS OF SMUGGLING, PRESCRIBING PENALTIES  
3 THEREFOR, GRANTING INCENTIVES AND REWARDS FOR ASSISTANCE OF  
4 WITNESSES AND INFORMANTS LEADING TO SUCCESSFUL PROSECUTION  
5 THEREOF  
6

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

9 SECTION 1. *Short Title.* – This Act shall be known as the “Stop Smuggling Act of  
10 2009.”

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

15 SECTION 3. *Definition of Terms.* As used in this Act, the term -

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

22 B. "Technical Smuggling" shall mean the act of unlawfully importing goods into the  
23 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 or oral  
8 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 and  
11 technical smuggling.

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

15 Aggregate Amount of Taxes

16 Duties, and other Charges Avoided

Penalty

17 Not more than P 100,000.00

*Prision Correctional*

18 P 100,000.00 to P 1,000,000.00

*Prision Mayor*

19 P 1,000,000.00 to P 5,000,000.00

*Reclusion Temporal*

20 More than P 5,000,000.00

*Reclusion Perpetua to Death*

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

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

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

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

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

21 A. That there is absolute necessity for the testimony of the witness and/or the  
22 information given by him regarding the existence or a person committing the  
23 prohibited acts;

24 B. That there is no other evidence available for the proper prosecution of the offense,  
25 other than the information or testimony to be given by the informant or witness;

26 C. That such testimony or information can be substantially corroborated in its material  
27 points; and

1 D. That the informant or witness, if he may be involved, does not appear to be the most  
2 guilty.

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

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

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

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

15 SECTION 11. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its  
16 publication in at least two (2) newspapers of general circulation.

17 Approved,

/apm012909