

9 MAR 17 P4:35

SENATE

S. No. 3134

Introduced by Senator JUAN MIGUEL F. ZUBIRI

EXPLANATORY NOTE

It is a policy of the state, under Article II of the 1987 Philippine Constitution, to "protect and promote the right to health of the people" and to "protect and advance the right of the people to a balanced and healthful ecology". In view thereof, the State, through P.D. 1144, "Creating the Fertilizer and Pesticide Authority And Abolishing the Fertilizer Industry Authority", has already recognized that improper usage of pesticides poses a health risk to the general public as well as its containing substances which may be potential environmental contaminants.

However, in spite of the regulation provided by the Fertilizer and Pesticide Authority, in terms of regulating the sale and use of pesticides, there is as yet no sufficient regulation as to the agricultural practice of crop dusting or aerial spraying, whereby fungicide, pesticides or other substances harmful to health and the environment is sprayed on crops with the use of aircraft. Although pilots are required to observe buffer zones of 20 or 30 meters distance from plantations in order to avoid affecting human, animal and plant life with the harmful spray, it seems that such rule is still insufficient to protect the residents and farmers whose lives and livelihoods have been affected by this practice.

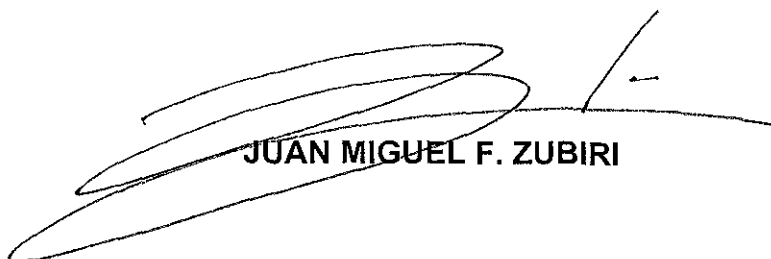
Reports of the harmful effects of crop-dusting or aerial spraying of pesticides have surfaced in the past year, including specific effects on the health of residents who live in close proximity to agricultural areas that practice this method of pest control. According to news reports, "anyone caught outdoors during an aerial spray is likely to experience skin itching, eye irritation and nausea." Furthermore, water exposed to fungicide may end up in the water supply, affecting not only water used for utility, but drinking water as well.

Agricultural activities in affected areas also show the ill effects of aerial spraying. Cattle grazing on grass hit by pesticide spray have shown signs of disease, and vegetables and other plants exposed to the spray are rendered inedible. As a result, self sufficient farms have had to purchase what they could have consumed from their own backyards.

These effects on the general public who reside in affected areas are compounded by the possible environmental repercussions to the continuation of this hazardous agricultural practice.

Thus, in line with state policy, and in answer to issues affecting the health and livelihood of the general public in affected areas, as well as the possible environmental impact of the said agricultural practice, it is necessary to pass a bill which bans crop dusting or aerial spraying.

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



JUAN MIGUEL F. ZUBIRI

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S. No. 3134

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**AN ACT
PROVIDING FOR THE BAN OF AERIAL SPRAYING OF HAZARDOUS
SUBSTANCES AND FOR OTHER PURPOSES**

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

1 **SECTION 1. TITLE** - This law shall be known as "Aerial Spray Ban Act of 2009".
2

3 **SECTION 2. DECLARATION OF POLICY** - It is hereby declared the policy of the
4 state to uphold the constitutional rights to health and to a balanced and healthful
5 ecology as stated in Art. II Sections 15 and 16 of the 1987 Constitution; and pursuant
6 thereto, eliminate the method of aerial spraying of hazardous substances, including
7 pesticides, in all agricultural activities.
8

9 **SECTION 3. DEFINITION OF TERMS** - The following terms are herein defined
10 for purposes of this Act:

11 **a. Aerial Spraying** - refers to application of hazardous substances, including, but
12 not limited to pesticides, through the use of any form of aircraft which dispenses
13 the said substances in the air;

14 **b. Agricultural Activity** - refers to the cultivation of the soil, planting of crops,
15 growing of fruit trees, including but not limited to land preparation, seeding,
16 planting, cultivation, harvesting, bagging and other activities and practices
17 performed by a farmer in conjunction with farming operations;

18 **c. Agricultural Entity** - refers to any person, whether natural or juridical, who is
19 involved in agricultural activities;

20 **d. "Pesticide"** – refers to any substance or product, or mixture thereof, including
21 active ingredients, adjuvants and pesticide formulations, intended to control,
22 prevent, destroy, repel or mitigate directly or indirectly, any pest. The term shall
23 be understood to include insecticide, fungicide, bactericide, nematocide,

1 herbicide, molluscicide, avicide, rodenticide, plant regulator, defoliant, desiccant
2 and the like, as defined in Section 3(a) of Presidential Decree 1144;

3 **e. "Hazardous substance"** - refers to those substances which present either: (1)
4 short-term acute hazards such as acute toxicity by ingestion, inhalation, or skin
5 absorption, corrosivity or other skin or eye contact hazard or the risk of fire
6 explosion; or (2) long-term toxicity upon repeated exposure, carcinogenicity (which
7 in some cases result in acute exposure but with a long latent period), resistance
8 to detoxification process such as biodegradation, the potential to pollute
9 underground or surface waters, as defined in Section 5(j) of Republic Act 8749 or
10 the Philippine Clean Air Act;

11 **f. "Persistent Organic Pollutant" (POPS)** – refers to the organic compounds
12 that persist in the environment, bioaccumulate through the food web, and pose a
13 risk of causing adverse effects to human health and the environment. These
14 compounds resist photolytic, chemical and biological degradation, which shall
15 include but not be limited to dioxin, furan, Polychlorinated Biphenyls (PCBs),
16 organochlorine pesticides, such as aldrin, dieldrin, DDT, hexachlorobenzene,
17 lindane, toxaphere and chlordane, as defined in Section 5(s) Republic Act 8749
18 or the Philippine Clean Air Act.

19
20 **SECTION 4. SCOPE AND APPLICABILITY** - The provisions of this law shall
21 apply to all agricultural activities.

22
23 **SECTION 5. BAN ON AERIAL SPRAYING** - The aerial spraying of hazardous
24 substances and persistent organic pollutant as defined under Republic Act No. 8749 or
25 the Philippine Clean Air Act, including, but not limited to, fungicides and pesticides
26 shall be prohibited in all agricultural activities within the Philippines six months (6) from
27 the effectivity of this Act.

28
29 **SECTION 6. LEAD AGENCY** - The Environmental Management Bureau
30 (EMB) of the Department of Environment and Natural Resources (DENR) shall be the
31 primary government agency responsible for the implementation and enforcement of
32 this Act.

33 The EMB shall promulgate the implementing rules and regulations for this Act
34 within sixty (60) days from the effectivity of this Act.

35
36 **SECTION 7. PENAL PROVISION** - Violation of any provision of this Act shall
37 be penalized as follows:

- 1 a. First Offense: Fine of P50,000.00 and imprisonment of not less than one
2 (1) month but not more than three (3) months;
3 b. Second Offense: Fine of P100,000.00 and imprisonment of not less than
4 three (3) months but not more than six (6) months;
5 c. Third Offense: Fine of P150,000.00 and imprisonment of not less than six
6 (6) months but not more than one (1) year.

7 If the offense is committed by an association, the members, officers, directors
8 or trustees of the association who have actually participated in, authorized, or ratified
9 the prohibited act shall be held criminally liable.
10

11 **SECTION 8. REPEALING CLAUSE** - Any law, presidential decree or issuance,
12 executive order, letter of instruction, administrative rule or regulation contrary to or
13 inconsistent with the provisions of this Act is hereby repealed, modified or amended
14 accordingly.
15

16 **SECTION 9. SEPARABILITY CLAUSE.** – If, for any reason or reasons, any
17 part or provision of this Statute shall be held to be unconstitutional or invalid, other
18 parts or provisions hereof which are not affected thereby shall continue to be in full
19 force and effect.
20

21 **SECTION 10. EFFECTIVITY** - This Act shall take effect fifteen (15) days after
22 its publication in at least two (2) newspapers of general circulation.
23

24 Approved,