

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



Senate  
Office of the Secretary

'13 AUG 15 P3 :24

SENATE  
S. No. 1328

RECEIVED BY: *ja*

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Introduced by Senator Miriam Defensor Santiago

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#### EXPLANATORY NOTE

As the international community continues to plunge into economic depression, our government should engage in a two-pronged effort in order to survive such phenomenon. First, we must maintain our economic viability; and second, we must ensure that the effects are minimized.

Our country is dependent on certain commodities, such as oil and petroleum products, which are essential to the functioning of our economy and to the public welfare. A shortage or threatened shortage or increase in the price of such commodities can significantly injure or threaten our economy or public welfare, thereby endangering the national security.

Some suppliers of these essential commodities can use abnormal market disruptions, including unexpected changes in weather conditions, acts of nature, civil disorders, war or other military actions, catastrophic loss of an energy source, or other extraordinary adverse circumstances, to profit in these essential products, even when these actions may undermine our economy or otherwise threaten public health, safety, and welfare.

Existing laws as presently enforced do not sufficiently control such profiteering in emergency situations. Profiteering can occur and injure our economy even in the absence of a provable violation of the antitrust or unfair trade practice laws. We need to discourage such practice and punish these economic saboteurs.

We also need to help our citizens to properly anticipate and prepare to weather out economic emergencies by keeping the prices of basic commodities stable thereby allowing them to maximize their limited resources.

This bill seeks to give the President limited power to declare a state of economic emergency and punish profiteers from injuring our country by unduly capitalizing on abnormal market disruptions.\*

*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO  
*act*

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\* This bill was originally filed in the Fourteenth Congress, Second Regular Session.



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SENATE  
S. No. 1328

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1 AN ACT  
2 TO PROTECT THE NATIONAL SECURITY BY PROHIBITING PROFITEERING OF  
3 ESSENTIAL COMMODITIES DURING PERIODS OF NATIONAL EMERGENCY

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

4 SECTION 1. *Short Title.* – This Act shall be known as the “National Emergency Anti-  
5 Profiteering Act.”

6 SECTION 2. *Definition.* – For purposes of this Act, the term:

7 A. “National economic emergency” means, as determined by the President, an  
8 abnormal market disruption (whether actual or imminently threatened) resulting from  
9 extraordinary weather conditions, acts of nature, catastrophic failure of a source of energy, strike,  
10 civil disorder, war or other military action, or national emergency, that—

- 11 1. causes an actual or threatened shortage, or an actual or threatened increase in  
12 the price of an essential commodity, and  
13 2. is likely to significantly injure the economy of the Philippines or the public  
14 health, safety or welfare.

15 When the President declares a national economic emergency, the President shall  
16 designate the essential commodities with respect to which that national economic emergency  
17 exists. Notice of the President's determination that a national economic emergency exists and the  
18 designation of the essential commodities with respect to which that national economic  
19 emergency exists shall be given by immediate publication of a Presidential proclamation.

20 B. “Essential commodity” is –

1           1. crude oil, propane, gasoline, diesel fuel, kerosene, home heating oil, aviation  
2           fuel, or other petroleum distillate, or

3           2. a commodity that the President determines to be a commodity—

4                 a. of significant importance to the Philippine economy, or

5                 b. vital or necessary to the public health, safety, or welfare, a disruption

6                     in the supply, or sudden increase in the price, of which is likely to

7                     significantly injure the economy of the Philippines or public health,

8                     safety, or welfare, and thereby threaten the national security. Notice

9                     of such determination shall be given by publication of a Presidential

10                    proclamation.

11           C.    “Listed essential commodity” means any essential commodity with respect to  
12           which the President has designated that a national economic emergency exists.

13           D.    “Profiteer” means to offer for sale, sell, transport, or deliver an essential  
14           commodity at an excessive price, or to place excessive restrictions or conditions upon the sale,  
15           delivery or transportation of an essential commodity.

16           E.    “Excessive price” is one that is not justified by the seller's actual costs of  
17           acquiring, producing, selling, transporting, and delivering the actual product sold, plus a  
18           reasonable profit. In calculating the seller's actual costs, no allowance shall be made for the  
19           replacement costs of an essential commodity if the seller is reasonably assured of recouping the  
20           replacement costs as a part of the price of subsequent sales of an essential commodity. It shall be  
21           *prima facie* evidence of an excessive price that the increase in the seller's price for a listed  
22           essential commodity during a national economic emergency exceeds the increase in the seller's  
23           actual costs for actual product sold.

24           SECTION 3. *Prohibited Act.* — Following publication of a Presidential proclamation  
25           declaring a national economic emergency and designating the essential commodities with respect  
26           to which that national economic emergency exists, for the duration of that national economic  
27           emergency, no person shall profiteer with respect to any listed essential commodity.

1           SECTION 4. *Penalty.* – Any person who profiteers on a listed essential commodity in  
2 violation of Section 3, shall suffer a penalty of to up to five (5) years imprisonment and a fine of  
3 up to five hundred thousand pesos (₱500,000), or both, and shall be required to disgorge all  
4 profits earned on essential commodities with respect to which profiteering occurred.

5           SECTION 5. *Limitation on Length of Emergency; Extension.* – A national economic  
6 emergency, as declared by the President pursuant to Section 3 of this Act, shall be in effect for  
7 not more than one hundred eighty (180) days from the date such emergency is declared, unless  
8 extended by Presidential declaration that a national economic emergency continues to exist,  
9 notice of which shall be immediately published as a Presidential proclamation. Each extension  
10 thereof shall last for not more than ninety (90) days, but there shall be no limit on the number of  
11 times the President may extend a national economic emergency.

12           A national economic emergency, or a designation of one or more essential commodities  
13 with respect to which the national economic emergency exists, may be terminated by passage of  
14 a joint resolution of Congress. Nothing in this section shall prohibit the President, through  
15 published Presidential proclamation, from terminating a national economic emergency or a  
16 designation of one or more essential commodities with respect to which said emergency exists.

17           SECTION 6. *Separability Clause.* – If any provision or part hereof is held invalid or  
18 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain  
19 valid and subsisting.

20           SECTION 7. *Repealing Clause.* – Any law, presidential decree or issuance, executive  
21 order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent  
22 with the provisions of this Act is hereby repealed, modified, or amended accordingly.

23           SECTION 8. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its  
24 publication in at least two (2) newspapers of general circulation.

Approved,