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SENATE

Senate Bill No. 1360

RECEIVED BY: *ji*

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Article II, Section 15 of the 1987 Constitution provides that: "The State shall protect and promote the right to health of the people and instill health consciousness among them." Further, Section 16 of the same article states that "The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature."

Pursuant to the above-quoted constitutional mandates, Republic Act No. 6969, otherwise known as the "Toxic Substance and Hazardous and Nuclear Wastes Control Act of 1990 was promulgated. Presently, R.A. No. 6969 regulates, restricts and prohibits the importation, manufacture, processing, sale, distribution, use and disposal of chemical substances, toxic and hazardous wastes and substances, and other harmful mixtures that present unwarranted risks to the environment and/or injuries to the people. It penalizes acts like causing, aiding or facilitating, directly or indirectly, in the storage, importation, or bringing into the Philippine territory, toxic and hazardous wastes and substances.

Unfortunately, the penalties and fines provided for under the present RA 6969 are not commensurate to the gravity and seriousness of the dangers that toxic substances and hazardous and nuclear wastes bring to health and environment. It is, therefore, imperative that R.A. No. 6969 be amended to impose stricter and stiffer penalties and fines in order to give more teeth to the said law.

Thus, this bill seeks to amend R.A. No. 6969 by increasing the penalties and fines provided for in the said law, to wit:

- (i) Imprisonment of 6 years and 1 day to 12 years and fine of Php250,000-Php500,000 for any person committing any of the following acts:
 - a. Knowingly use in chemical substance or mixture which is imported, manufactured, processed or distributed in violation R.A. No. 6969;
 - b. Failure or refusal to submit data or information required by R.A. No. 6969;
 - c. Failure or refusal to comply with the pre-manufacture and pre-importation requirements under R.A. No. 6969;

- (ii) Imprisonment of 20 years and 1 day to 40 years and fine of Php5 Million-Php10 Million for any person bringing into Philippine territory any amount of hazardous and nuclear wastes.

The bill also provides for the imposition of treble costs or the payment of three (3) times the value of damages for acts causing damage to persons and/or to the environment. Such treble costs shall be allocated to a Special Fund, which shall exclusively be used as reparations for the aforesaid damages, without prejudice to the filing of the appropriate civil and criminal cases.

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



JINGGOY EJERCITO ESTRADA
Senator



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AN ACT
TO FURTHER PROTECT THE ENVIRONMENT FROM TOXIC SUBSTANCES
AND HAZARDOUS AND NUCLEAR WASTES BY IMPOSING STIFFER
PENALTIES FOR VIOLATIONS OF REPUBLIC ACT NO. 6969, AMENDING
FOR THE PURPOSE SECTIONS 14 AND 15 THEREOF, AND FOR OTHER
PURPOSES

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

SECTION 1. Section 14 of Republic Act No. 6969 is hereby amended to read as follows:

“Section 14 - Criminal Offenses and Penalties

a) X X X

i. The penalty of imprisonment of [six (6) months and one day to six (6) years and one day and a fine ranging from Six hundred pesos (P600.00) to Four thousand pesos (P4,000.00)] SIX (6) YEARS AND ONE (1) DAY TO TWELVE (12) YEARS AND A FINE RANGING FROM TWO HUNDRED FIFTY THOUSAND PESOS (P250,000.00) TO FIVE HUNDRED THOUSAND PESOS (P500,000.00) shall be imposed upon any person who shall violate section 13(a) to (c) of this Act and shall not be covered by the Probation Law. If the offender is a foreigner, he or she shall be deported and barred from any subsequent entry into the Philippines after serving his or her sentence;

ii. X X X;

iii. In case the offender is a government official or employee, he or she shall, in addition to the above penalties, be deemed automatically dismissed from office and permanently disqualified from holding any elective or appointive position. *PROVIDED, THAT THIS SHALL BE WITHOUT PREJUDICE TO OTHER CRIMINAL AND/OR ADMINISTRATIVE CHARGES FOR WHICH HE OR SHE MAY BE HELD LIABLE.*

b) X X X

i. The penalty of imprisonment of [twelve (12) years and one day to twenty (20) years] TWENTY (20) YEARS AND ONE (1) DAY TO FORTY (40) YEARS AND A FINE RANGING FROM FIVE MILLION PESOS (P5,000,000.00) TO TEN MILLION PESOS (P10,000,000.00), shall be imposed upon any person who shall violate section 13(d) of this Act. If the offender is a foreigner, he or she shall be deported and barred from any subsequent entry into the Philippines after serving his or her sentence;

ii. In case of corporations or other associations, the above penalty shall be imposed upon the managing partner, president or chief executive in addition to an exemplary damage of at least [Five hundred thousand pesos (P500,000.00)] TWENTY MILLION PESOS (P20,000,000.00). If it is a foreign firm, the director and all officers of such foreign firm shall be barred from entry into the Philippines, in addition to the cancellation of its license to do business in the Philippines;

iii. In case the offender is a government official or employee, he or she shall in addition to the above penalties be deemed automatically dismissed from office and permanently disqualified from holding any elective or appointive position. *PROVIDED, THAT THIS SHALL BE WITHOUT PREJUDICE TO OTHER APPROPRIATE CRIMINAL AND/OR ADMINISTRATIVE CHARGES THAT MAY BE FILED.*

C. X X X

D. EVERY PERSON WHO VIOLATES ANY OF THE PROHIBITED ACTS PROVIDED FOR UNDER SECTION 13 RESULTING TO DAMAGE TO PERSONS AND/OR ENVIRONMENT, SHALL IN ADDITION TO THE PENALTIES PROVIDED IN THIS ACT, SHALL FURTHER BE LIABLE TO PAY TREBLE COSTS OF THREE (3) TIMES THE VALUE OF THE DAMAGES CAUSED. *PROVIDED, THAT ALL TREBLE COST PAYMENTS MADE UNDER THIS ACT SHALL AUTOMATICALLY BE ALLOCATED TO A SPECIAL FUND, WHICH SHALL EXCLUSIVELY BE USED FOR THE REPARATIONS OF THE DAMAGES CAUSED BY REASON OF THE VIOLATIONS OF THIS ACT; PROVIDED, FURTHER, THAT RECOVERY BY ANY PERSON FROM THE SPECIAL FUND CONTAINING THE TREBLE COST PAYMENTS SHALL BE WITHOUT PREJUDICE TO THE INSTITUTION OF THE APPROPRIATE CIVIL AND/OR CRIMINAL CASES.*

[d.] E. The person or firm responsible or connected with the bringing or importation into the country of hazardous or nuclear wastes shall be under obligation to transport or send back said prohibited wastes;

Any and all means of transportation, including all facilities and appurtenances that may have been used in transporting to or in the storage in the Philippines of any significant amount of hazardous or nuclear wastes shall at the option of the government be forfeited in its favor."

SEC. 2. Section 15 of Republic Act No. 6969 is hereby amended to read as follows:

"Section 15. Administrative Fines. - In all cases of violations of this Act, including violations of implementing rules and regulations which have been duly promulgated and published in accordance with Section 16 of this Act, the Secretary of Environment and Natural Resources is hereby authorized to impose a fine of not less than Ten thousand pesos (P10,000.00), but not more than [Fifty thousand pesos (P50,000.00)] ONE HUNDRED THOUSAND (P100,000.00) upon any person or entity found guilty thereof. The administrative fines imposed and collected by the Department of Environment and Natural Resources shall accrue to a special fund to be administered by the Department exclusively for projects and research activities relative to toxic substances and mixtures."

SEC. 3. A new Section 15-A shall be inserted to Republic Act 6969 which shall read as follows:

"AUTOMATIC ADJUSTMENT OF FINES. - THE FINES PRESCRIBED IN THIS ACT SHALL AUTOMATICALLY BE INCREASED BY TEN PERCENT (10%) EVERY THREE (3) YEARS FROM THE EFFECTIVITY OF THIS ACT."

SEC. 4. Separability Clause. - If, for any reason, any part or provision of this Act is declared invalid, such declaration shall not affect the other provisions of this Act.

SEC. 5. Repealing Clause. - All laws, decrees, executive orders, issuances, rules or regulations or parts thereof, which are inconsistent with the provisions of this Act, are hereby deemed repealed, amended or modified accordingly.

SEC. 6. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in two national newspapers of general circulation.

Approved,