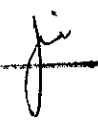


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SENATE

Senate Bill No. 1385

RECEIVED BY: 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

The trade of used and secondhand goods traces back its roots from the era of barter trade. A large volume of these kinds of goods are being sold both by individual sellers and in the market, including the bazaars, trade fairs and flea markets. And with the advent of internet shopping, buying and selling secondhand goods have become more accessible, much easier and cheaper.

Some of the most traded secondhand items are cars, cellular phones and electronics such as computers and other gadgets. Other valuable items such as jewelries and even signature bags can be found for sale in the various buy and sell markets and websites today. Republic Act 7394 otherwise known as the "Consumer Act of the Philippines" provides standards, procedures and safeguards for the consumers in general. Unfortunately, the existing laws and regulations are not focused on secondhand goods trade. They do not adequately ensure the consumers the quality and source of secondhand goods being traded, thus exposing the buyers to defective items or stolen goods, among others.

This bill covers a number of items most traded, including electronics and jewelries. Patterned after Secondhand Dealers law of other Asian countries, it seeks to regulate the trade of secondhand goods by requiring the secondhand goods dealers to secure license from the licensing officer appointed by the Secretary of the Department of Trade and Industry. It also provides for the record-keeping and reporting by the dealers to ensure the reliability of source and to prevent the sale and circulation of lost or stolen items.

The form of regulation proposed by this measure intends to protect both the buyers and the sellers or dealers. The fact that the goods being traded are secondhand does not mean that this should be given lesser attention; the quality of goods bought by the consumers, regardless of their price, should not be sacrificed.

The immediate passage of this bill is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator

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SENATE

Senate Bill No. 1385

RECEIVED BY: 

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AN ACT
TO PROVIDE FOR THE LICENSING AND CONTROL OF DEALERS IN
SECONDHAND GOODS AND FOR MATTERS CONNECTED THEREWITH

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

1 **SECTION 1. Short Title.** – This Act shall be known as the “**Secondhand Goods**
2 **Dealers Act of 2013**”.

3
4
5 **SEC. 2. Declaration of State Policy.** – It shall be the policy of the State to protect
6 the rights and welfare of the consumers and to ensure a healthy commercial
7 environment, including the trade of secondhand goods.

8
9
10 **SEC. 3. Definition of Terms.** – As used in this Act:

11
12 (a) “**goods**” in the term “secondhand goods” means any of the following
13 goods:

- 14
15 i.) cameras, videographic and photographic equipment including
16 lenses;
17 ii.) computers including desktop computers, tablet personal
18 computers, laptops, palmtops, personal digital assistants and
19 computer accessories;
20 iii.) handphones, personal digital assistant handphones and
21 smartphones;
22 iv.) compact disc (CD), digital video/versatile disc (DVD) and blu-ray
23 disc players;
24 v.) jewelry set with precious stones including, but not limited to,
25 diamonds, jade, rubies, sapphires and emeralds;
26 vi.) jewelry made from platinum, gold and white gold without
27 precious stones;
28 vii.) pawn tickets;
29 viii.) watches;
30 ix.) cables and wires made of copper;

31
32 (b) “**license**” means a license issued under Section 5 of this Act;
33

1 (c) "**licensing officer**" refers to the Licensing Officer and Assistant Licensing
2 Officer from the Department of Trade and Industry appointed under
3 Section 3 of this Act;

4
5 (d) "**second hand goods dealer**" refers to any person who deals in
6 secondhand goods, including a person in the Philippines who deals in
7 secondhand goods through the Internet; further, every person in whose
8 shop secondhand goods are found apparently exposed for sale, or who is
9 found in possession of secondhand goods of an unusual quantity, shall
10 be deemed, until the contrary is proven, to be a person who deals in
11 secondhand goods;

12
13 (e) "**Secretary**" refers to the Secretary of the Department of Trade and
14 Industry;

15
16 (f) "**shop**" includes a stall, house, flat, place of business, place of storage of
17 secondhand goods, an administrative office or any other premises from
18 which the business of a secondhand goods dealer is being carried out,
19 whether electronically or otherwise;

20
21 (g) "**stolen property**" means property, the possession of which has been
22 transferred by theft, extortion or robbery, which has been criminally
23 misappropriated or in respect of which criminal breach of trust or cheating
24 has been committed, whether the transfer has been made or the
25 misappropriation or breach of trust or cheating has been committed within
26 or out of the Philippines; but does not include such property which
27 subsequently comes into the possession of a person legally entitled to the
28 possession thereof;

29
30
31 **SEC. 4. Appointment of Licensing Officer and Assistant Licensing Officers.** –
32 The Secretary of the Department of Trade and Industry (DTI) shall appoint a
33 Licensing Officer for the purposes of this Act and may similarly appoint such
34 number of Assistant Licensing Officers as may be necessary.

35
36
37 **SEC. 5. Dealing in Secondhand Goods.** – No person shall deal in secondhand
38 goods except under and in accordance with the conditions of a license issued
39 under Section 6 of this Act.

40
41
42 **SEC. 6. Issuance, Renewal and Conditions of License.** – An application for a
43 license shall be –

- 44
45 (a) made to the Licensing Officer in such form or manner as the Licensing
46 Officer may require; and,
47 (b) accompanied by –
48 i.) such particulars, information and documents as the Licensing
49 Officer may require; and,
50 ii.) the prescribed fee and any other prescribed charge.

51
52 Upon receipt of an application, the Licensing Officer may, in his discretion, issue
53 a license to the applicant subject to such conditions as the Licensing Officer may
54 deem fit to impose.

55
56 The Licensing Officer may at any time add to, vary or revoke any condition of a
57 license imposed under the preceding paragraph.

1 The Licensing Officer shall, before adding to, varying or revoking any condition of
2 a license, give the licensee –

- 3
4 (a) notice in writing of his intention to do so; and,
5 (b) an opportunity to be heard, within such time as may be specified in the
6 notice, as to why the condition should not be added to, varied or revoked.
7

8 Any person who is aggrieved by the decision of the Licensing Officer under this
9 Section may, within fourteen (14) days of being notified of the decision of the
10 Licensing Officer, appeal in writing to the Secretary of the DTI whose decision
11 shall be final.

12
13 A license may be renewed upon its expiry, with the necessary modifications, to
14 an application for the renewal of a license.
15

16 Any person who, in making an application for a license –

- 17
18 (a) makes any statement or furnishes any particulars, information or
19 document which he knows to be false or does not believe to be true; or,
20 (b) by the intentional suppression of any material fact, furnishes any
21 information which is misleading
22 shall be guilty of an offense.
23

24
25 **SEC. 7. Form and Validity of License.** – A license shall –

- 26
27 (a) be in such form as the Licensing Officer shall determine;
28 (b) contain the conditions subject to which it is issued; and,
29 (c) be valid for such period as may be specified therein.
30

31
32 **SEC. 8. Transfer of License.** – No person shall transfer his license to another
33 person except with the consent of the Licensing Officer and upon payment of the
34 prescribed fee.

35
36 Any person who contravenes this provision shall be guilty of an offense.
37

38
39 **SEC. 9. Revocation or Suspension of License.** – The Licensing Officer may
40 revoke a license or suspend a license for such period as he deems fit –

- 41
42 (a) if he is satisfied that the license –
43
44 i) has ceased to carry on the business for which he has been
45 licensed or, if the licensee being a company, has gone into
46 liquidation or is wound up or otherwise dissolved;
47 ii) has improperly obtained his license contrary to the provisions of
48 this Act;
49 iii) is no longer a fit and proper person to continue to hold a license;
50 iv) has been convicted of any offense involving dishonesty or, if the
51 licensee is a company, any of its officers holding a managerial
52 or an executive position has been convicted of any offense
53 involving dishonesty;
54 v) is carrying on or has carried on the business of a secondhand
55 goods dealer in such a manner as to render him unfit to
56 continue to hold a license;
57 vi) has failed to comply with any condition of his license;

- 1 vii) is contravening or has contravened any of the provision of this
2 Act; or,
3 viii) has been convicted of any offense under this Act or, if the
4 licensee is a company, any of its officers holding a managerial
5 or an executive position has been convicted of any offense
6 under this Act; or
7

8 (b) if he considers it in the public interest to do so.
9

10 The Licensing Officer shall, before revoking or suspending any license under this
11 Section, give the licensee notice in writing of his intention to do so, specifying a
12 date, not less than fourteen (14) days after the date of the notice, upon which the
13 revocation or suspension shall take effect and calling upon the licensee to show
14 cause to the Licensing Officer why the license should not be revoked or
15 suspended.
16

17 When the Licensing Officer has revoked or suspended a license, he shall
18 immediately inform the licensee by notice in writing of the revocation or
19 suspension.
20

21 Any person whose license has been revoked or suspended may, within fourteen
22 (14) days of the receipt of the notice or such extended period of time as the
23 Secretary of the DTI may allow, appeal in writing against the revocation or
24 suspension to the Secretary whose decision shall be final.
25

26 Any revocation or suspension of a license shall not take effect until the expiration
27 of a period of fourteen (14) days after the Licensing Officer has informed the
28 licensee of the revocation or suspension in accordance with this Section, and if
29 within that period, the licensee gives due notice that an appeal has been made to
30 the Secretary, the revocation or suspension order shall not take effect unless the
31 revocation or suspension order is confirmed by the Secretary or the appeal is for
32 any reason dismissed by the Secretary.
33

34 Where any license has been suspended, the Licensing Officer may, at any time
35 and subject to such conditions as he may deem fit to impose, lift the suspension
36 if he considers it appropriate to do so.
37

38
39 **SEC. 10. *Effect of Revocation or Suspension of License.*** – Where any
40 revocation or suspension of a license becomes effective, the licensee shall cease
41 to carry on the business of a secondhand goods dealer.
42

43 This Section shall not prejudice the enforcement by any person of any right or
44 claim against the licensee or by the licensee of any right or claim against any
45 person arising out of or concerning any matter or thing done prior to the
46 revocation or suspension of the license.
47

48
49 **SEC. 11. *Keeping Proper Records.*** – Every secondhand goods dealer shall
50 keep in his shop –
51

- 52 (a) records of the particulars of all goods bought by him, including the dates
53 of purchase, the names and addresses of the persons from whom he
54 bought the goods and such other particulars as may be prescribed; and,
55

1 (b) records of the particulars of all goods sold by him, including the dates of
2 sale, the names and addresses of the persons whom he sold the goods
3 to and such other particulars as may be prescribed.
4

5 Every secondhand goods dealer shall submit to the Licensing Officer the records
6 at such time and in such format and through such medium (whether electronic or
7 otherwise) as the Licensing Officer may require.
8

9 Every secondhand goods dealer shall retain the records for a period of not less
10 than five (5) years from the end of the financial year in which the transactions or
11 operations to which those records related are completed.
12

13 Every secondhand goods dealer shall produce the records for examination at any
14 time on demand by the Licensing officer, any court, a police officer or any
15 concerned and competent authority.
16

17 Any person who –

18 (a) contravenes the provisions of this Section; or,

19 (b) in compliance or purported compliance with the provisions of this Section
20 fabricates, keeps, submits or produces to the Licensing Officer, any court,
21 a police officer or any concerned and competent authority, any record
22 which he knows is false or misleading,
23

24 shall be guilty of an offense.
25
26

27 **SEC. 12. Information of Stolen and Lost Property to be Given to Secondhand**
28 **Goods Dealers.** – Where a police officer has received any information as to any
29 stolen property or as to any property which has been lost, he may, if he deems it
30 necessary or expedient to assist in the recovery of the property, disseminate the
31 information to all secondhand goods dealers, with lists and descriptions of the
32 stolen or lost property.
33

34 If any secondhand goods dealer possesses any property fitting such lists and
35 descriptions referred to in the preceding paragraph or such property is thereafter
36 offered to or shown to any secondhand goods dealer –
37

38 (a) he shall, without necessary delay, make a report to any police
39 officer, with the name and address of the person in whose
40 possession the property was seen; and,
41

42 (b) he may detain the person offering or showing him such property
43 until the arrival of a police officer.
44
45

46 **SEC. 13. Power to Enter and Search Secondhand Goods Dealer's Shop, etc.** –
47 Any police officer may enter the shop of any secondhand goods dealer at any
48 time and may, without a warrant, search the shop for any property which he has
49 reason to suspect to be therein and to be stolen property or property that has
50 been lost.
51

52 Any police officer may at any time enter and search without a warrant any shop
53 where he has reason to suspect that any person is dealing in secondhand goods
54 without a license issued under this Act.
55

56 For the purposes of exercising his powers under this Section, a police officer
57 may, with such assistance as he considers necessary, break open any door,

1 window, lock, fastener, floor, wall, ceiling, compartment, box, container or any
2 other object.

3
4 Any police officer may seize any secondhand goods found in any shop referred
5 to in this Act.

6
7
8 **SEC. 14. Power to Arrest Persons Loitering Suspiciously About Secondhand**
9 **Goods Dealer's Shop.** – Any police officer, having reason to believe that a
10 person in or loitering about the shop of any secondhand goods dealer under
11 suspicious circumstances has with him any stolen property, may arrest that
12 person and require him to produce any property which he has with him.

13
14 Where any property is produced by any person and if the police officer has
15 reason to suspect that property to be stolen property, the police officer may take
16 the person and the property, or cause the person and property to be taken, to a
17 police station to be dealt with according to law.

18
19
20 **SEC. 15. Delivery to Owner of Property.** – If any person is convicted in any court
21 of an offense under the Title Ten, "Crimes Against Property" of the Revised
22 Penal Code in respect of any property, and it appears to the court that the
23 property has been sold to a secondhand goods dealer, the court may, on proof of
24 the ownership of the property and if it thinks fit, order the delivery thereof to the
25 owner either on payment to the secondhand goods dealer of the amount of the
26 purchase price or any part thereof, or without payment thereof or of any part
27 thereof, as to the court according to the conduct of the owner and the other
28 circumstances of the case seems just and fitting.

29
30 The court may also adjourn the proceedings for the attendance of the
31 secondhand goods dealer and may summon the secondhand goods dealer to
32 attend at the adjourned hearing.

33
34 If after hearing the secondhand goods dealer the court is satisfied that the
35 secondhand goods dealer, before purchasing the property –

36
37 (a) ought reasonably to have known or suspected that the property was
38 stolen property; and,

39
40 (b) did not exercise due care and diligence to ascertain that the property was
41 not stolen property,

42
43 the court may order the secondhand goods dealer to pay a financial penalty not
44 exceeding One Hundred Thousand Pesos (P100,000.00).

45
46
47 **SEC. 16. Offenses by Bodies Corporate, etc.** –

48 (1) Where an offense under this Act committed by a body corporate is proven
49 –

50
51 (a) to have been committed with the consent or connivance of an
52 officer; or,

53 (b) to be attributable to any neglect on his part,

54
55 the officer as well as the body corporate shall be guilty of the offense and
56 shall be liable to be proceeded against and penalized accordingly.

57

1 (2) Where the affairs of a body corporate are managed by its members,
2 subsection (1) shall apply in relation to the acts and defaults of a member
3 in connection with his functions of management as if he were a director of
4 the body corporate.
5

6 (3) Where an offense under this Act committed by a partnership is proven –

- 7
8 (a) to have been committed with the consent or connivance of a
9 partner; or,
10 (b) to be attributable to any neglect on his part,

11
12 the partner as well as the partnership shall be guilty of the offense and
13 shall be liable to be proceeded against and punished accordingly.
14

15 (4) Where an offense under this Act is committed by an unincorporated
16 association (other than a partnership) is proven –

- 17
18 (a) to have been committed with the consent or connivance of an
19 officer of the unincorporated association or a member of its
20 governing body; or,
21 (b) to be attributable to any neglect on the part of such an officer or
22 member,

23
24 the officer or member as well as the unincorporated association shall be
25 guilty of the offense and shall be liable to be proceeded against and
26 punished accordingly.
27

28 (5) In this Section –

29
30 (a) “**body corporate**” includes a limited liability partnership;

31
32 (b) “**officer**” –

- 33 i) in relation to a body corporate, means any director,
34 partner, member of the committee of management, chief
35 executive, manager, secretary or other similar officer of
36 the body corporate and includes any person purporting to
37 act in any such capacity; or,
38 ii) in relation to an unincorporated association (other than a
39 partnership), means the president, the secretary, or any
40 member of the committee of the unincorporated
41 association, or any person holding a position analogous
42 to that of president, secretary or member of a committee
43 and includes any person purporting to act in any such
44 capacity;

45
46 (c) “**partner**” includes a person purporting to act as a partner
47
48

49 **SEC. 17. Liability for Offenses.** – Where an offense under this Act is committed
50 by any person acting as an agent or employee of another person, or being
51 otherwise subject to the supervision or instruction of another person for the
52 purposes of any employment in the course of which the offense was committed,
53 that other person shall, without prejudice to the liability of the first-mentioned
54 person, be liable under this Act in the same manner and to the same extent as if
55 he had personally committed the offense if it is proven that the act which
56 constituted the offense was committed with his consent or connivance or that it
57 was attributable to any neglect on his part.

1
2 Where any person, being an agent or employee employed by a secondhand
3 goods dealer in the course of his business as such secondhand goods dealer,
4 willfully does any act or commits any omission that constitutes an offense under
5 this Act, that person shall also be guilty of the offense and shall be liable to the
6 fine or punishment prescribed for that offense, as if he were the person carrying
7 on such business as a secondhand goods dealer.
8
9

10 **SEC. 18. Penalties.** – Any person who is guilty of an offense under this Act shall
11 be liable on conviction to a fine not exceeding One Hundred Thousand Pesos
12 (P100,000.00) or to imprisonment not exceeding one (1) year, or both at the
13 discretion of the court.
14
15

16 **SEC. 19. Composition of Offenses.** – The Licensing Officer may, in his discretion
17 compound any offense under this Act which is prescribed as a compoundable
18 offense by collecting from a person reasonably suspected of having committed
19 the offense a sum not exceeding One Hundred Thousand Pesos (P100,000.00).
20

21 On payment of such sum of money, no further proceedings shall be taken
22 against that person in respect of the offense.
23

24 The Secretary may make rules to prescribe the offenses which may be
25 compounded.
26
27

28 **SEC. 20. Exemption.** – The Secretary may, with or without conditions, exempt
29 any person or class of persons from any or all of the provisions of this Act.
30

31 If any exemption is granted under this Section with conditions, the exemption
32 operates only if the conditions are complied with.
33
34

35 **SEC. 21. Implementing Rules and Regulations.** – The Secretary of the
36 Department of Trade and Industry, together with the other concerned agencies
37 and private organizations, shall promulgate the implementing rules and
38 regulations of this Act within ninety (90) days from the approval of this Act.
39

40 Such rules may include the following:

- 41 (a) prescribed fees and charges payable for the purposes of this Act;
- 42 (b) prescribed forms to be used for the purposes of this Act; and,
- 43 (c) prescribed records to be kept by secondhand goods dealers and the
44 particulars to be entered therein.
45
46

47 **SEC. 22. Repealing Clause.** – All laws, acts, presidential decrees, executive
48 orders, administrative orders, rules and regulations inconsistent with or contrary
49 to the provisions of this Act are deemed amended, modified or repealed
50 accordingly.
51
52

53 **SEC. 23. Separability Clause.** – If any part or provision of this Act is declared
54 invalid or unconstitutional, the other parts thereof not affected thereby shall
55 remain valid.
56
57

1 **SEC. 24. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days upon
2 completion of its publication in at least two (2) national newspapers of general
3 circulation.
4
5
6
7
8

9 *Approved,*