

SENATE OF THE PHILIPPINES
SIXTEENTH CONGRESS
Second Regular Session

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Senate
Office of the Secretary

15 MAY 13 P3:14

SENATE

Senate Bill No. **2765**

RECEIVED BY: _____

Introduced by SENATOR CYNTHIA A. VILLAR

AN ACT DECLARING CERTAIN ACTS OF AGRICULTURAL SMUGGLING AS ECONOMIC SABOTAGE, PRESCRIBING PENALTIES THEREFOR AND FOR OTHER PURPOSE

EXPLANATORY NOTE

While the government is working on agricultural sustainability and security, policies must also be put in place, to protect the agricultural industries we currently have. Part of which is to ensure that our small scale and subsistence farmers are able to compete in the market without unjust distraction and interference from smuggled goods which necessarily affect and manipulate the prevailing market prices.

While some acts of smuggling are already punishable under the Tariff and Customs Code, some acts of smuggling, however, are too ruthless by its very scope making it tantamount to economic sabotage. Smuggling which includes agricultural products of at least 5,000,000 Php worth, more so that of agricultural political commodity which is rice, of at least 10,000,000 Php worth, effectively put our local industries and food producers in a very dangerous and vulnerable situation.

The unauthorized presence of smuggled agricultural products, if done in bulk, saturate the market, thereby manipulating the prices, at some point it unjustly lowers the market price, making it almost impossible for locally produced goods to compete. With such scenario, small scale farmers become highly discouraged to further produce with fear that they might not be able to get back their investments. With that, farmers and small time food producers might totally give up food production in favor of more lucrative endeavors.

Hence, it is necessary for the State to protect our local agricultural industry and farmers from unscrupulous traders and importers, who by the sheer volume of their illegal importation significantly affect the production, stability of our agricultural products.

Now that ASEAN Integration has begun, trade filters must be created to avoid our agriculture sector becoming a casualty of trade liberalization.

Agricultural smuggling involves misdeclaration, undervaluation, misclassification, and use of falsified documents. It has robbed the government of much-needed revenues and promote unfair competition to local farmers and the entry of pests and diseases endangering the health of our local consumers.

According to the Southeast Asia Regional Center for Graduate Study and Research in Agriculture (SEARCA), from 1986 to 2008, in terms of volume in metric tons, the top five agricultural products smuggled into the country are milled rice, refined sugar, beef meat, dry onion, and pork, in that order. In terms of value the order of selected agricultural commodities technically smuggled from 1986 to 2009 are milled rice, beef eat, sugar, pork, and chicken meat.

Over that 22-year period, according to the said report, the amount of smuggled rice reached \$1.96 billion. Apart from rice, other farm products that were smuggled and the amounts involved are as follows: Refined sugar, \$448.2 million; Beef, \$428.8 million; Onion \$259.55 million; Pork, \$117.45 million; Chicken, \$27.8 million; Ginger, \$7.8 million; and Carrots and turnips, \$6.5 million.

SEARCA said farm products smuggling in the mid-1980s was valued at \$6 billion a year, increasing every year to reach at least \$10 billion in 2008.

In one of the recent investigation conducted the Committee on Agriculture and Food, the problem of rice smuggling is going on specifically in Zamboanga. Rice is being brought in not in containers, but in motor launches. Such activities is pulling down the price of palay. The palay farm-gate price has gone down to P18.50 per kilo this harvest from P25 in November 2014. In December 2014, the Bureau of Customs (BoC) intercepted P200 million worth of smuggled Vietnamese rice, misdeclared as tiles and stonewares, at the Mindanao Container Terminal. Apart from glutinous rice, some container vans were filled with imported sugar.

The Philippine government lost close to P4 billion in revenues in 2013 and almost a million Filipinos dependent on hog raising lost their livelihood in the last four years due to outright and technical smuggling of pork meat, according to the Samahang Industriya ng Agrikultura (SINAG).

Data from the Bureau of Animal Industry (BAI) indicate that 199 million kilos of pork were imported in 2013. However, a United Nations Commodity Trade Division (UN ComTrade) report of countries that exported pork meat to the Philippines showed pork importation at 237 million kilos – a difference of 38 million kilos that are presumed smuggled to the country. If we multiplying the 38 million kilos unaccounted for with the correct duties for prime cuts which was misdeclared as pork fats or offal, the result is a staggering P3.85-billion in lost revenues for government.

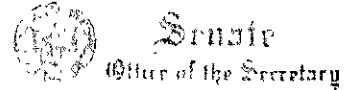
There is a need for a relevant legislation to stop agriculture products smuggling in the country. A law which shall provide safeguards and indirectly increase income opportunities to local producers which shall help alleviate poverty among farmers and agricultural households in the country, is earnestly sought.

Lastly, in order to ensure food security and stability, higher sanctions for certain acts of agricultural smuggling, tantamount to economic sabotage must be imposed. Certainly, harsher punishments to smugglers, traders, government officers, if enacted will curtail such acts which compromise the country's level of food security and income generation.



SEN. CYNTHIA A. VILLAR

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Senate Bill No. 2765

Introduced by Senator Cynthia A. Villar

AN ACT
DECLARING CERTAIN ACTS OF AGRICULTURAL SMUGGLING AS
ECONOMIC SABOTAGE, PRESCRIBING PENALTIES THEREFOR
AND FOR OTHER PURPOSES

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 “Anti-
2 Agricultural Smuggling Act of 2015”.

3 **SEC. 2.** *Declaration of Policy* – It is the policy of the State to protect and
4 promote the productivity of the agriculture sector and farmers from
5 unscrupulous traders and importers, who by the sheer volume of their
6 illegal importation of agricultural products significantly affect the
7 production, availability of supply and stability of prices.

8 Graver penalties for large-scale smuggling of rice shall be
9 imposed. Rice, as political commodity determines the level of our
10 country’s food security. It is in rice production too, that farmers are
11 highly dependent for their income.

12 It is also the policy of the State to accord subsistence farmers’
13 protection, being the front-liners of food production. Large-scale
14 presence of smuggled products effectively manipulates the prices by
15 lowering it down, therefore discouraging food producers to continue
16 their production, due to lack of satisfactory return on investment. Such
17 situation, will eventually lead to the demise of our local industries
18 thereby constituting economic sabotage.

19 The State, therefore, shall impose higher sanctions for large-scale
20 smuggling, tantamount to economic sabotage of agricultural products
21 in order to protect the livelihood of our farmers.

22 **SEC. 3.** *Definition of Terms.* – As used in this Act, the following terms
23 shall mean:

1 (1) "Economic Sabotage" – any act or activity which undermines,
2 weakens or renders into disrepute the economic system or
3 viability of the country or tends to bring out such effects and shall
4 include, among others, price manipulation to the prejudice of the
5 public especially in the sale of basic necessities and prime
6 commodities.

7
8 (2) "Agricultural Products" – any agricultural commodity or product,
9 whether plant based, animal based, raw or processed, including
10 any commodity or product derived from livestock that is available
11 for human or livestock consumption. This definition includes
12 fish, forestry, seeds, poultry and dairy products that have
13 undergone various degrees of processing;

14
15 (3) "Agricultural Political Commodity" – for purposes of this Act, rice
16 shall be classified as agricultural political commodity.

17
18 (4) "Smuggling" – also known as direct or outright smuggling, refers
19 to the act of importing or bringing into or assisting in importing
20 or bringing into the Philippines, any article, good or product
21 without the corresponding documents, permits or licenses when
22 these are required by existing laws, order, rules and regulations,
23 including the receipt, concealment, purchase or sale or in any
24 manner, facilitating the transportation, after importation,
25 knowing the same to have been imported contrary to law;

26
27 (5) "Technical Smuggling" – pertains to misdeclaration,
28 misclassification or undervaluation of imported goods or products
29 in violation of the Tariff and Customs Code of the Philippines and
30 other related laws.

31 **SEC. 4. Definition of Crime of Agricultural Smuggling.** – Any person who
32 shall import or bring into the Philippines agricultural products without
33 the required import permit from the implementing agency, or any person
34 who shall import agricultural products by means of fraud or by illegally
35 obtaining the required import permit shall be guilty of the crime of
36 smuggling, including those acts which are within the purview of
37 technical smuggling.

38 **SEC. 5. Agricultural Smuggling as Act of Economic Sabotage.** – The acts
39 of agricultural smuggling, including technical smuggling thereof, are
40 acts inimical to the national interest, economic growth and
41 development.

42 Any person regardless of nationality or citizenship found guilty of
43 engaging in agricultural smuggling, or technical smuggling thereof, of a
44 minimum aggregate amount of One Million Pesos (Php1,000,000.00)
45 worth of agricultural products or has been found guilty of engaging in

1 agricultural smuggling of rice, or technical smuggling thereof, with a
2 minimum aggregate amount of Fifteen Million Pesos (Php
3 15,000,000.00), as valued by the Bureau of Customs, utilizing methods
4 of value verification such as, but not limited to, Revision Orders and/or
5 by appropriate agencies and entities identified, accredited or certified by
6 the Bureau of Customs, shall be guilty of economic sabotage.

7 **SEC. 6. Penalties.** – Any person, natural or juridical, regardless of
8 nationality or citizenship, found guilty of engaging in smuggling or
9 technical smuggling of a minimum aggregate amount of One Million
10 Pesos (Php 1,000,000.00) worth of agricultural products and Fifteen
11 Million Pesos (Php 15,000,000.00) of rice, shall suffer the following
12 penalties:

- 13 a. Fine equal to twice the fair value of the smuggled articles;
- 14 b. Fine equal to the aggregate amount of the taxes, duties and other
15 charges avoided;
- 16 c. Imprisonment of a minimum of six (6) years and one (1) day up to
17 twelve (12) years imprisonment;
- 18 d. Confiscation of the smuggled articles.
- 19 e. Cancellation and revocation of business license, import permits
20 and other pertinent documents for importation
- 21 f. Perpetual disqualification to import agricultural products

22 When the offender is a juridical person, criminal liability shall
23 attach to its president, chief operating officer or manager. In addition,
24 the business permit or licenses of the business entity shall be revoked
25 or cancelled.

26 The following shall be considered as principals to the crime of
27 economic sabotage;

- 28 • Traders who prey on cooperatives and by using their permits for
29 purposes of smuggling;
- 30 • The officers of the cooperatives who knowingly sell, lend, lease,
31 assign, allow the unauthorized usage of their import permits for
32 purposes of smuggling ;
- 33 • Traders who deliberately use dummy corporations, non-
34 government organizations, associations for purposes of
35 smuggling;
- 36 • The officers of dummy corporations, non-government
37 organizations, associations, who knowingly sell, lend, lease,
38 assign, allow the unauthorized usage of their import permits for
39 purposes of smuggling and;
- 40 • The broker of violating importers.

1 When the offender is a government official or employee acting in
2 connivance with private individuals or entities or other government
3 officials or employee, he shall be charged as principal without prejudice
4 to administrative, civil and criminal cases which may be filed against
5 him.

6 **SEC. 7. *Implementing Rules and Regulations.*** – The Bureau of Customs
7 in coordination of appropriate agencies shall promulgate the
8 implementing rules and regulations of this Act within thirty (30) days
9 after its effectivity.

10 **SEC. 8. *Prescription of Crimes.*** – The crime punishable under this Act
11 shall prescribe in twenty (20) years.

12 **SEC. 9. *Separability Clause.*** – The provision of this Act are hereby
13 declared to be separable from, and independent of, one another and that
14 should one or more of such provisions be declared unconstitutional, the
15 validity of the remaining provisions shall not be affected thereby.

16 **SEC. 10. *Repealing Clause.*** – All laws, decrees, executive issuances,
17 rules and regulations inconsistent with this Act are hereby repealed
18 and/or modified accordingly.

19 **SEC. 11. *Effectivity Clause.*** – This Act shall take effect immediately
20 upon its approval.

21 *Approved,*