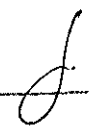




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SENATE

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Senate Bill No. 2923
(In Substitution of Senate Bill Nos. 2082 and 2765)

Prepared and submitted jointly by the Committees on Agriculture and Food, Ways and Means, and Justice and Human Rights, with Senators Ejercito and Villar as authors

AN ACT
DECLARING LARGE-SCALE 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-Agricultural
2 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 unscrupulous
5 traders and importers, who by their illegal importation of agricultural products,
6 especially rice, significantly affect the production, availability of supply and stability of
7 prices, and thereby threatens the food security of the State.

8 The State shall impose higher sanctions for large-scale smuggling of
9 agricultural products, as a self-preservation measure to shield itself from the
10 manipulative scheme of economic saboteurs, and to protect the livelihood of our
11 farmers and to ensure their economic well-being.

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

14 (1) “Agricultural Products subject to economic sabotage” – shall cover rice,
15 sugar, corn, pork, poultry, garlic, onion, carrots, dried fish, and cruciferous

1 vegetables, in its raw state, or which have undergone the simple processes
2 of preparation or preservation for the market; and

3 (2) "Person" – shall mean natural and juridical persons.

4 **SEC. 4. Definition of the Crime of Agricultural Smuggling.** – Any person
5 who shall import or bring into the Philippines agricultural products without the
6 required import permit from the regulatory agencies, or use of import permits of
7 persons, natural or juridical, other than those persons specifically named in the
8 permit, or any person who shall import agricultural products by means of fraud or by
9 illegally obtaining the required import permit shall be guilty of the crime of smuggling,
10 including those acts which are within the purview of technical smuggling.

11 For purposes of this Act, import permits, issued by the regulatory agency, shall
12 be named to a particular person, natural or juridical, and shall be effective only within
13 a specific time and place therein stated.

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

17 Any person, natural or juridical, found guilty of engaging in agricultural
18 smuggling, or technical smuggling thereof, of a minimum aggregate amount of One
19 Million Pesos (Php1,000,000.00) worth of agricultural products subject to economic
20 sabotage as defined herein, except rice, or has been found guilty of engaging in
21 agricultural smuggling of rice, or technical smuggling thereof, with a minimum
22 aggregate amount of Ten Million Pesos (Php 10,000,000.00), as valued by the
23 Bureau of Customs, utilizing methods of value verification by the Bureau of Customs,
24 shall be guilty of economic sabotage.

25 **SEC. 6. Elements of the Crime of Agricultural Smuggling as Economic**
26 **Sabotage.** – In the determination of the crime of agricultural smuggling as economic
27 sabotage, the following elements are present:

28 A. By Means of Technical Smuggling:

- 1 1. That an act of misclassification, undervaluation or misdeclaration has been
2 committed upon the filing of Import Entry and Revenue Declaration with the
3 Bureau of Customs in order to evade the payment of rightful taxes and
4 duties due to the government; or
- 5 2. That the smuggled agricultural products subject to economic sabotage
6 were entered into the Customs jurisdiction by means of any of the
7 following: without the required permits, use of fake or fictitious permits, or
8 use of fake shipping documents; or
- 9 3. Excessive importation of what was allowed in the permit, non-use or
10 inability to produce the required permits; and
- 11 4. That the amount of smuggled agricultural product subject to economic
12 sabotage is equal or more than Ten Million Pesos for rice and equal or
13 more than One Million Pesos for other agricultural products defined herein,
14 based on the transaction value assessed by the Bureau of Customs.

15 B. By Means of Outright Smuggling:

- 16 1. That an act of importation of agricultural products subject to economic
17 sabotage without the complete government required importation
18 documents has been committed in an area outside the Customs jurisdiction
19 such as, but not limited to, private ports, fish ports, fish landing, resorts,
20 airports; and
- 21 2. That the amount of smuggled agricultural product subject to economic
22 sabotage is equal or more than Ten Million Pesos for rice, and equal or
23 more than One Million Pesos for other agricultural products defined herein,
24 based on the appraised value assessed by the Bureau of Customs.

25 **SEC. 7. Persons Liable as Principals to the Crime of Agricultural**
26 **Smuggling as Economic Sabotage.** – The following shall be deemed as principals
27 to the crime of agricultural smuggling as economic sabotage:

- 28 a. Any person found violating the provision of Section 5 of this Act;

- 1 b. Any person who prey on cooperatives and by using their permits for
2 purposes of smuggling, shall be punished as principals;
- 3 c. Any person who deliberately use dummy corporations, non-government
4 organizations, or associations for purposes of smuggling shall be punished
5 as principals;
- 6 d. The officers of dummy corporations, non-government organizations,
7 associations, who knowingly sell, lend, lease, assign, consent and allow
8 the unauthorized use of their import permits for purposes of smuggling
9 shall also be punished as principals;
- 10 e. The officers of cooperatives who knowingly sell, lend, lease, assign,
11 consent and allow the unauthorized use of their import permits for
12 purposes of smuggling shall also be punished as principals; and
- 13 f. The broker of violating importers shall likewise be liable and shall be
14 charge as *principal*.

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

19 **SEC. 8. Other Persons Liable as Principals to the Crime of Agricultural**
20 **Smuggling as Economic Sabotage.** – The following shall likewise be deemed as
21 principals to the crime of agricultural smuggling as economic sabotage:

22 a. Forwarders, Charterers, Transporters of Smuggled Agricultural Products
23 Subject to Economic Sabotage

24 a. 1. The registered owner and its lessee or charterer, in case of lease, of a
25 chartered boat, motorized commercial vessel of more than three
26 gross tonnage who was caught knowingly transporting the agricultural
27 product subject to economic sabotage regardless of quantity, shall be
28 held liable as principal by direct participation; and

1 a. 2. The registered owner and its lessee, in case of lease, of six or more
2 wheeler trucks, vans and other means of transportation, who was
3 caught knowingly transporting the agricultural product subject to
4 economic sabotage regardless of quantity, shall be held liable as
5 principal by direct participation.

6 b. Warehouse Owners and Lessees

7 The registered owner and lessee of a warehouse, or any property
8 who knowingly store the smuggled agricultural product subject to economic
9 sabotage, with a value equal or more than Ten Million Pesos for rice, and
10 equal or more than One Million Pesos for other agricultural products as
11 defined under this Act, shall be held liable as principal by direct
12 participation.

13 c. Private port owners, fish ports, fish landing sites, resorts, airports

14 The registered owner, lessee, president or chief executive officer of
15 the private port, fish port, fish landing sites, resorts, airports who knowingly
16 let the agricultural product to be smuggled into the country shall be held
17 liable as principal by indispensable cooperation.

18 Those guilty of the abovementioned acts, but knowledge of the crime is not
19 established, shall be held liable as an accomplice to the crime of agricultural
20 smuggling as economic sabotage.

21 **SEC. 9. Persons Liable as Accomplices to the Crime of Agricultural**
22 **Smuggling as Economic Sabotage.** – The following shall be deemed as
23 accomplices to the crime of agricultural smuggling as economic sabotage:

24 a. Forwarders, Charterers, Transporters of Smuggled Agricultural Products
25 Subject to Economic Sabotage

26 a. 1. The registered owner with its lessee or charterer, in case of lease, of
27 a chartered motorized vessel of equal or less than three gross
28 tonnage who was caught transporting the agricultural product subject
29 to economic sabotage regardless of quantity, shall be held liable as

1 an accomplice to the crime of agricultural smuggling as economic
2 sabotage;

3 a. 2. The registered owner with its lessee, in case of lease, of trucks, vans
4 and other means of transportation with less than six wheels, who was
5 caught transporting the agricultural product subject to economic
6 sabotage regardless of quantity, shall be held liable as accomplice to
7 the crime of agricultural smuggling as economic sabotage.

8 b. Warehouse Owners and Lessees

9 The registered owner and lessee of a warehouse, or any property
10 where the smuggled agricultural products, with a value equal or more than
11 Ten Million Pesos for rice, and equal or more than One Million Pesos for
12 other agricultural products as defined under this Act, are stored shall be
13 held liable as accomplice by direct participation.

14 **SEC. 10. Penalties.** – Any person, natural or juridical, found guilty as principal
15 under Sections 5, 6, 7 and 8 of this Act shall suffer the following penalties:

- 16 a. *Reclusion perpetua*;
- 17 b. A fine of twice the fair value of the smuggled agricultural product, or fine
18 equal to the aggregate amount of the taxes, duties and other charges
19 avoided, whichever is higher;
- 20 c. Confiscation of the smuggled agricultural product;
- 21 d. Cancellation and revocation of business license, import permits and other
22 pertinent documents for importation;
- 23 e. *Forfeiture of property used in agricultural smuggling, consistent with*
24 *Section 2530 of the Tariff and Customs Code and without prejudice to*
25 *Section 2531 of the same Code; and*
- 26 f. Perpetual absolute disqualification to engage in any business of
27 importation.

28 Any person, natural or juridical, found guilty as accomplice under Sections 5,
29 6, and 9 of this Act shall suffer the following penalties:

- 1 a. *Reclusion temporal*;
- 2 b. A fine equal to the fair value of the smuggled agricultural product subject
- 3 to economic sabotage, or a fine equal to the aggregate amount of the
- 4 taxes, duties and other charges avoided, whichever is higher;
- 5 c. Confiscation of the smuggled agricultural product;
- 6 d. Cancellation and revocation of business license, import permits and other
- 7 pertinent documents for importation;
- 8 e. Forfeiture of property used in agricultural smuggling, consistent with
- 9 Section 2530 of the Tariff and Customs Code and without prejudice to
- 10 Section 2531 of the same Code; and
- 11 f. Perpetual absolute disqualification to engage in any business of
- 12 importation.

13 In applying the abovementioned penalties, if the offender is an alien and the

14 prescribed penalty is not *reclusion perpetua*, he shall be deported after serving the

15 sentence without further proceedings for deportation. If the offender is a government

16 official or employee, the penalty shall be the maximum as hereinabove prescribed

17 and the offender shall suffer an additional penalty of perpetual disqualification from

18 public office, to vote and to participate in any public election.

19 When, upon trial for violation of this Section, the defendant is shown to have

20 had possession of the agricultural product in question, possession shall be deemed

21 sufficient evidence to authorize conviction unless the defendant shall explain the

22 possession to the satisfaction of the court: *Provided, however, that payment of the*

23 *tax due after apprehension shall not constitute a valid defense in any prosecution*

24 *under this Section.*

25 When the offender is a juridical person, criminal liability shall attach to its

26 president, chief operating officer or manager. In addition, the business permit or

27 licenses of the business entity shall be revoked or cancelled.

28 **SEC. 11. *Presumption of Agricultural Smuggling.*** – Mere possession of

29 rice or any agricultural product under this Act, which has been the subject of

1 smuggling, entered into the Philippines other than the Customs controlled ports or
2 without the necessary permits shall be *prima facie* evidence of smuggling.

3 **SEC. 12. *Implementing Rules and Regulations.*** – The Bureau of Customs,
4 in consultation with concerned agencies, shall promulgate the implementing rules
5 and regulations of this Act within thirty (30) days upon its effectivity.

6 **SEC. 13. *Prescription of Crimes.*** – The crime punishable under this Act shall
7 prescribe in twenty (20) years.

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

12 **SEC. 15. *Repealing Clause.*** – All laws, decrees, executive issuances, rules
13 and regulations inconsistent with this Act are hereby repealed and/or modified
14 accordingly.

15 **SEC. 16. *Effectivity Clause.*** – This Act shall take effect immediately upon its
16 approval.

Approved,