

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

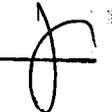


Senate
Office of the Secretary

'16 AUG 17 P3:10

SENATE

SENATE BILL No. 1039

RECEIVED BY: 

Introduced by **SENATOR LEILA M. DE LIMA**

**AN ACT
TO RATIONALIZE OUR PENAL LAWS AGAINST SMUGGLING,
AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 1464,
OTHERWISE KNOWN AS THE TARIFF AND CUSTOMS CODE OF THE
PHILIPPINES, TO INCREASE THE PENALTY FOR SMUGGLING,
DEFINE THE CRIME OF ECONOMIC SABOTAGE, AND FOR OTHER
PURPOSES**

EXPLANATORY NOTE

The Constitution, Article 2, Sections 5, provides:

SECTION 5. The maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.

Smuggling is a crime that affects our country in many fronts. First, it deprives our government with much needed revenue to fund its activities. Secondly, it destroys our market by distorting the price of commodities through unregulated activities that affect the supply and demand of goods. Thirdly, it furthers illicit activities by providing avenues of entry for illegal products.

Our laws at present do not impose the proper penalty on the smugglers. R.A. No. 1937, later incorporated under P.D. No. 1464, still penalizes smuggling and technical smuggling with fine ranging from ₱600 to ₱5,000 and imprisonment from six months to two years. While it was a significant penalty back in 1957 when this law was written, it is basically a slap in the wrist under our present circumstances.

It is incumbent upon us to punish the smugglers with penalties that are commensurate to the crime, taking into consideration the grave effects the smuggling has done to our economy. We must first adjust the amount of fine to current market standards then provide a stiffer penalties for large-scale offenders.

This bill amends the Tariff and Customs Code to increase the penalty on direct and technical smuggling. This bill likewise defines and imposes higher penalty on large-scale smuggling as economic sabotage.

Only with proper legislation do we sufficiently deter those who dare commit economic sabotage against our country. Thus, the passage of this bill is earnestly sought.


LEILA M. DE LIMA

1 ARTICLES/GOODS INVOLVED AND THE AGGREGATE
2 AMOUNT OF THE TAXES, DUTIES AND OTHER
3 CHARGES AVOIDED, WHICH SHALL NOT BE LESS THAN
4 FIFTY THOUSAND PESOS (P50,000) [~~six hundred pesos~~
5 ~~nor more than five thousand pesos~~] and by imprisonment for
6 not less than ONE (1) YEAR AND ONE DAY NOR MORE
7 THAN SIX (6) YEARS [~~not less than six months nor more~~
8 ~~than two years~~]. If the offender is an alien, he shall be
9 deported after serving the sentence.

10 IF THE OFFENDER IS A PUBLIC OFFICIAL, HE
11 SHALL SUFFER AN ADDITIONAL PENALTY OF
12 ABSOLUTE PERPETUAL DISQUALIFICATION TO HOLD
13 PUBLIC OFFICE, TO VOTE AND TO PARTICIPATE IN ANY
14 PUBLIC OFFICE ELECTION.

15 When, upon trial for a violation of this section, the
16 defendant is shown to have or to have had possession of the
17 article in question, such possession shall be deemed
18 sufficient evidence to authorize conviction, unless the
19 defendant shall explain the possession to the satisfaction of
20 the court.

21 SEC. 3. Section 3602 of Presidential Decree No. 1464 is hereby amended to
22 read as follows:

23 Sec. 3602. *Various Fraudulent Practices Against*
24 *Customs Revenue.* - Any person who makes or attempts to

1 make any entry of imported or exported article by means of
2 any false or fraudulent invoice, declaration, affidavit, letter,
3 paper, or by means of any false statement, written or verbal
4 or by means of any false or fraudulent practice whatsoever,
5 or shall be guilty of any willful act or omission by means of .
6 whereof the Government might be deprived of the lawful
7 duties, taxes and other charges, or any portion thereof,
8 accruing from the article or any portion thereof, embraced or
9 referred to in such invoice, declaration, affidavit, letter,
10 paper, or statement, or affected by such act or omission,
11 shall, for each offense, be punished by a fine EQUAL TO THE
12 SUM OF THE AGGREGATE FAIR MARKET VALUE OF
13 THE ARTICLES/GOODS INVOLVED AND THE
14 AGGREGATE AMOUNT OF THE TAXES, DUTIES AND
15 OTHER CHARGES AVOIDED, WHICH SHALL NOT BE
16 LESS THAN FIFTY THOUSAND PESOS (P50,000) [~~six~~
17 ~~hundred pesos nor more than five thousand pesos~~] and by
18 imprisonment for not less than ONE (1) YEAR AND ONE
19 DAY NOR MORE THAN SIX (6) YEARS[~~not less than six~~
20 ~~months nor more than two years~~]. If the offender is an alien,
21 he shall be deported after serving the sentence.

22 IF THE OFFENDER IS A PUBLIC OFFICIAL, HE
23 SHALL SUFFER AN ADDITIONAL PENALTY OF
24 ABSOLUTE PERPETUAL DISQUALIFICATION TO HOLD

1 PUBLIC OFFICE, TO VOTE AND TO PARTICIPATE IN ANY
2 PUBLIC OFFICE ELECTION.

3 When, upon trial for a violation of this section, the
4 defendant is shown to have or to have had possession of the
5 article in question, such possession shall be deemed
6 sufficient evidence to authorize conviction, unless the
7 defendant shall explain the possession to the satisfaction of
8 the court.

9 SEC. 4. Insert a new Section 3602-A in P.D. No. 9346, which shall read as
10 follows:

11 SECTION 3602-A. *ECONOMIC SABOTAGE.* - ANY
12 VIOLATION OF SECTIONS 3601 AND 3602 OF THIS ACT,
13 WHICH INVOLVES GOODS AND/OR ARTICLES WITH
14 THE AGGREGATE FAIR MARKET VALUE OF ONE
15 MILLION PESOS (₱1,000,000), AS DETERMINED BY THE
16 BUREAU OF CUSTOMS, SHALL CONSTITUTE AS
17 ECONOMIC SABOTAGE. ANY VIOLATION OF SECTIONS
18 3601 AND 3602 OF THIS ACT THAT CONSTITUTES
19 ECONOMIC SABOTAGE, SHALL BE PENALIZED AS
20 FOLLOWS:

21 (A) FINE EQUAL TO TWICE THE FAIR MARKET
22 VALUE OF THE GOODS AND/OR ARTICLES INVOLVED;

1 (B) FINE EQUAL TO THE AGGREGATE AMOUNT
2 OF THE TAXES, DUTIES AND OTHER CHARGES
3 AVOIDED;

4 (C) IMPRISONMENT OF A MINIMUM OF EIGHT
5 (8) YEARS AND ONE (1) DAY UP TO LIFE
6 IMPRISONMENT; AND

7 (D) CONFISCATION OF THE GOODS AND/OR
8 ARTICLES INVOLVED.

9 SEC. 5. Insert a new Section 3602-B in P.D. No. 9346, which shall read as
10 follows:

11 SECTION 3602-B. *LIABILITY IN CASES INVOLVING*
12 *JURIDICAL PERSONS.* – IF THE PROHIBITED ACTS
13 DEFINED IN SECTIONS 3601, 3602, AND 3602-B ARE
14 COMMITTED BY A JURIDICAL ENTITY, THE PENALTY
15 SHALL BE IMPOSED ON THE PRESIDENT AND THE
16 RESPONSIBLE OFFICERS THEREOF.

17 IN ADDITION, THE BUSINESS PERMITS AND
18 LICENSES OF THE BUSINESS ENTITY SHALL BE
19 REVOKED OR CANCELLED.

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

1 SEC. 7. *Repealing Clause.* – Any law, presidential decree or issuance,
2 executive order, letter of instruction, administrative order, rule or regulation
3 contrary to or is inconsistent with the provision of this Act is hereby repealed,
4 modified, or amended accordingly.

5 SEC. 8. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
6 publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,