

SENATE
S.B. No. 408

'19 JUL 11 P 4:36

Introduced by **SENATOR IMEE R. MARCOS**

AN ACT
IMPOSING A TOTAL BAN ON THE IMPORTATION OF WASTE
AND ITS BY-PRODUCTS OR RESIDUES, AND PROVIDING
PENALTIES THEREFOR

EXPLANATORY NOTE

The 1987 Constitution mandates the State to protect and promote the right to health of the people, protect and advance their right to a balanced and healthful ecology, and the promotion of general welfare.

However, recent reports that the Philippines has become one of the dumping sites of foreign garbage now threatens Filipinos' health and well-being. In previous years, China was the number one destination for waste recycling. China began importing secondary raw materials in the 1980s, eventually becoming the world's largest importer of waste. Finally, on 01 January 2018, it banned the importation of four (4) categories totaling to twenty-four (24) types of solid waste including plastic, paper, and textiles through their "National Sword" Policy.

Following China's ban, other countries like Indonesia (second to China), Malaysia, India, Thailand, Vietnam, and Taiwan, among others, began to receive and "recycle" the world's waste.

Citing environmental concerns however, these Asian countries have also put up measures to limit or entirely prohibit the importation of waste.

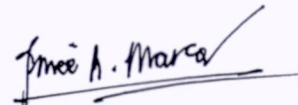
The Philippines, has now become the most recent destination for waste coming from developed countries. Last 31 May 2019, 69 containers of Canadian waste, consisting of household trash, plastic bottles, and bags, newspapers, and used adult diapers, which arrived in the country between 2013 and 2014 were returned. Further, in 2018, a total of 6,500 metric tons of garbage from South Korea were seized in Misamis Oriental. More shipments in other parts of the country, alternately marked as "recyclable scrap" or Basic Oxygen Furnace (BOF) slags have since been reported.

Worse, besides the growing importation of waste, official records indicate that at least three (3) companies in Subic and Cagayan de Oro, run by foreigners and employing hundreds of their own nationals (ie. Chinese, Taiwanese, etc.) operate under the guise of "recycling".

Therefore, apart from the apparent violation of customs and environmental laws, the employment of foreigners by these companies, allegedly without working permits or

other documentation, could also bring about violations of the immigration and internal revenue/tax laws and regulations. Neither can security concerns be avoided when a comprehensive directory of these legal or illegally working aliens has not been made available.

The Philippines has to date failed to undertake permanent action to end this detrimental practice. Thus, the immediate passage of this bill is sought.


IMEE R. MARCOS
Senator

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**AN ACT
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PENALTIES THEREFOR**

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, "*Total Ban of Waste*
2 *Importation Act of 2019.*"

3 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to
4 impose a total ban on the importation of waste and its by-product or residues for the
5 protection of the environment, preservation of the peoples' right to a balanced and
6 healthful ecology, and the promotion of health and general welfare of the people.

7 Sec. 3. *Total Ban on the Importation of Waste and its By-Product or Residues.* –
8 The importation of all kinds of waste, as defined on Sec. 4 (b) of this Act, is hereby
9 declared unlawful.

10 Importer registration and importation clearances issued by government agencies
11 under existing laws and regulations shall be cancelled and no new applications shall be
12 accepted.

13 Sec. 4. *Definition of Terms.* – The following are defined in the Act, as:

- 14 a. *Importation.* – Refers to the act of bringing in of waste, as defined in Sec. 4.
15 (b) of this Act, from a foreign territory into Philippine territory and includes
16 the entry, in transit, as well as the keeping or storage, and disposal of waste
17 into the country, for whatever purpose.
- 18 b. *Recycling Factory.* – Refers to buildings and/or premises wherein or within an
19 area of which, steam, water, or any mechanical power is used to move or
20 work any machinery in preparing and converting waste into new products in
21 such a manner that the original product may lose their identity, and which
22 may be used as raw materials for the production of other goods or services.

23

- 1 c. Waste. – Refers to the following:
- 2 i. Scrap metals;
- 3 ii. Metal tailings and other corrosive or toxic residue;
- 4 iii. Plastic materials;
- 5 iv. Electronic assemblies and scrap, including used or second-hand electrical
- 6 and electronic equipment, and electronic components containing
- 7 hazardous substances;
- 8 v. Solid plastic waste materials, including homogenous and sorted plastic
- 9 materials;
- 10 vi. Infectious wastes;
- 11 vii. Used oil, including waste oil or oil residues;
- 12 viii. Nuclear and radioactive wastes;
- 13 ix. Fly ash from coal-fired power plants;
- 14 x. Incinerator ash or slag;
- 15 xi. Municipal wastes/processed engineered fuel (PEF);
- 16 xii. Refuse derived fuel (RDF);
- 17 xiii. Solid recovered fuel (SRF);
- 18 xiv. Neutralized phosphogypsum;
- 19 xv. Other hazardous, toxic and hazardous wastes as defined under Republic
- 20 Act No 6969 otherwise known as Toxic Substances and Hazardous and
- 21 Nuclear Waste Control Act;
- 22 xvi. Other solid waste, as defined under RA 9003 or Ecological Solid Waste
- 23 Management Act; and
- 24 xvii. Other similar waste, as may be defined by the Department of Environment
- 25 (DENR).

26 The DENR shall release a list of banned materials within thirty (30) days from the

27 effectivity of this Act, which may be updated periodically. *Provided that*, the failure of

28 the Secretary of DENR to promulgate the said list shall not prevent the implementation

29 of this Act.

30 *Sec. 5. Fines and Penalties.* – Any person, natural or juridical, including recycling

31 factories, who imports, brings into the Philippines, or misdeclares any waste covered by

32 this Act, or assist in so doing, or shall receive, conceal, buy, sell, or in any manner

33 facilitate the transportation, concealment, or sale of such after importation, or violates

34 any other provision of this Act or the rules and regulations issued pursuant thereto,

35 shall be penalized by imprisonment of not less than eight (8) years and one (1) day but

36 not more than twelve (12) years, or a fine of not less than one million five hundred

1 thousand pesos (P 1,500,000.00) but not more than fifteen million pesos
2 (P15,000,000.00), or both.

3 If the offender is a foreigner, the offender shall be immediately deported after
4 serving the sentence.

5 The maximum penalty shall be imposed if the offender is a public official or
6 employee. Further, the offender shall be dismissed from service and disqualified from
7 public office and from exercising the right to vote and to participate in any public
8 election for ten (10) years.

9 *Sec. 6. Additional Liabilities.* – The imported waste shall be shipped back to the
10 port of origin, at the expense of the parties liable for such importation, within thirty (30)
11 calendar days.

12 In addition, the penalty shall include confiscation and forfeiture, in favor of the
13 government, of factory, including improvements thereon, equipment, as well as,
14 proceeds from the commission of the offense.

15 *Sec. 7. Strict Enforcement and Implementation.* - The DENR, together with the
16 Bureau of Customs (BOC), shall ensure the enforcement and implementation of the
17 provisions of this Act and a strict monitoring system of all importation shall be made to
18 ensure that no waste is brought in the Philippine territory under misdeclarations or
19 otherwise, in violation of this Act and R.A. No. 10648, otherwise known as the "Customs
20 Modernization and Tariff Act".

21 *Sec. 8. Appropriations.* – The amount necessary to carry out the provisions of
22 this Act shall be included in the annual General Appropriations Act (GAA).

23 *Sec. 9. Implementing Rules and Regulations.* – Within sixty (60) days from the
24 effectivity of this Act, the DENR, Department of Foreign Affairs (DFA), BOC, and Bureau
25 of Immigration shall formulate and promulgate the necessary implementing rules and
26 regulations of this Act.

27 *Sec. 10. Repealing Clause.* – All laws, decrees, orders, rules and regulations or
28 other issuances or parts thereof inconsistent with the provisions of this Act are hereby
29 repealed or modified accordingly.

30 *Sec. 11. Separability Clause.* – If any portion or provision of this Act is declared
31 unconstitutional, the remainder of this Act or any provision not affected thereby shall
32 remain in force and effect.

33 *Sec. 12. Effectivity.* – This Act shall take effect after fifteen (15) days following
34 the completion of its publication either in the Official Gazette or in a newspaper of
35 general circulation in the Philippines.

36 Approved,