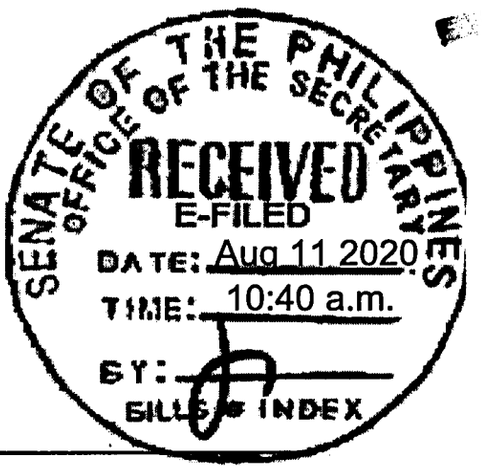
EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE

S. No. 1766

Introduced by Senator Ralph G. Recto

AN ACT
PROVIDING FOR THE DEVELOPMENT OF THE HEALTHCARE AND MANUFACTURING INDUSTRIES TO STRENGTHEN THE COUNTRY'S PROTECTION AGAINST PANDEMICS AND PROVIDING FUNDS THEREFOR

EXPLANATORY NOTE

With the rapid spread of COVID-19, the world experienced a sudden surge in the demand for critical medical supplies and equipment, hence, causing shortages and disruption in the global supply chain of personal protective equipment (PPE). In April 2020, the Asian Development Bank determined that there is a backlog of 4 to 6 months for PPE supply orders globally.[1] Unfortunately, during this pandemic, the shortage of PPE is leaving doctors, nurses and other frontline workers dangerously ill-equipped in protecting themselves while taking care of COVID-19 patients.[2]

At the onset of the pandemic, many economies implemented an export ban on PPE and its key raw materials and reserved their respective production for their domestic use. In March 2020, just when the Philippine government declared the imposition of Enhanced Community Quarantine, the total import value of PPE amounted to USD 15.5 million, which dropped at an annual rate of 11.4 percent.[3] This is not due to the lack of demand for imported PPE but because there is hardly

[1] Asian Development Bank. (April 2020). *"Global Shortage of Personal Protective Equipment amid COVID-19: Supply Chains, Bottlenecks, and Policy Implications"*. Information retrieved at https://www.adb.org/sites/default/files/publication/579121/ppe-covid-19-supply-chains-bottlenecks-policy.pdf
[2] World Health Organization. (March 3, 2020). *"Shortage of personal protective equipment endangering health workers worldwide"*. Information retrieved at https://www.who.int/news-room/detail/03-03-2020-shortage-of-personal-protective-equipment-endangering-health-workers-worldwide
[3] Philippine Statistics Authority. (June 10, 2020). *"Highlights of the Philippine Export and Import Statistics"*. Information retrieved from https://psa.gov.ph/press-releases/id/162591

any supply available in the international market. In effect, countries experiencing shortage in sourcing PPE, including the Philippines, started looking inwards to supply its own needs. Notwithstanding the international demand slowing down later, the overriding concern and policy direction of each country is to ensure that the steady long-term supply of PPE is locally guaranteed, and not reliant on international sources.

The Philippine health system does not have a local supply base of medical grade PPE. Philippine hospitals and health systems do not stockpile PPE for emergency situations, but use just-in-time procurement and supply to limit excess inventory. The reliance on imports coupled with lack of local testing facilities and regulatory approvals gave rise to substandard PPE, thereby putting at risk the lives of the Filipino frontline health care workers during the pandemic.

As of August 8, 2020, the Department of Health reported that 32 health care workers died from COVID-19 while a total number of 5,924 healthcare workers were infected with the same. At that time, 4.67% of the total number of COVID-19 cases were healthcare workers. One side of the spectrum brings forth the need to strengthen our local industry to produce medical grade PPE of international health and safety standard. At the opposite end of the spectrum, local manufacturers employing Filipino workers and producing medical grade PPE need the support of government to establish its competitiveness and provide a level playing field in the local market. The sustainability of this emerging sector needs to be supported with a steady long-term local market demand allowing it to build up its capacity and supply chain.

Thus, with the local manufacturers of medical grade PPE ready and products available, it becomes a matter of utmost urgency and necessity for Congress to enact a law that will adequately and effectively support and prioritize the purchase of critical products produced by local manufacturers to: 1) retain employment of these skilled workers during this time of crisis; and 2) assure the local availability of such critical products to meet current demand and for stockpiling requirements.

This bill provides for the accreditation of manufacturers and producers of critical products; exemption from custom duties, value-added tax, and fees; suspension of export requirement; preferential procurement of critical products by the Government; exemption from the requirement of Phase IV clinical trial under Health Technology Assessment of vaccines and medicines; stockpiling of critical products; and, relocation or expansion of manufacturing enterprises in the Philippines.

It is for this reason that the immediate approval of this bill is earnestly sought.

RALPH G. RECTO

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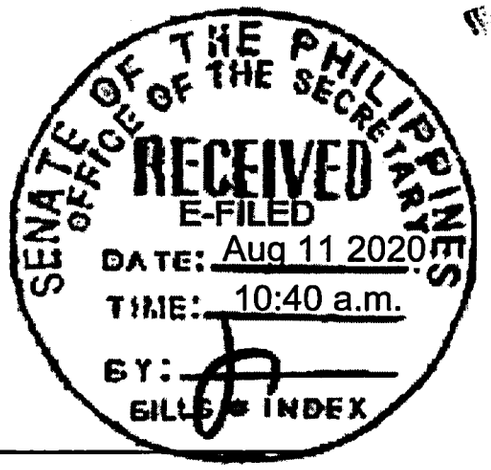

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AN ACT
PROVIDING FOR THE DEVELOPMENT OF THE HEALTHCARE AND MANUFACTURING INDUSTRIES TO STRENGTHEN THE COUNTRY'S PROTECTION AGAINST PANDEMICS AND PROVIDING FUNDS THEREFOR

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

SECTION 1. *Short Title.* – This Act shall be known as the "*Pandemic Protection Act of 2020*".

SEC. 2. *Declaration of Policy.* – It is hereby the declared policy of the State to protect and promote the right to health of the people and instill health consciousness among them. The State recognizes pandemics and other public health emergencies as threats to public health and national security, which can undermine the social, economic, and political functions of the State. It shall protect the people from pandemics and other public health emergencies. To this end, the State shall:

(a) adopt efficient and effective measures that will prevent the overburdening of the healthcare system;

(b) develop the healthcare and manufacturing industries and preserve and generate employment during the crisis;

(c) ensure adequate and readily available supply of critical products and services for the health workers and the public;

(d) protect the interest of the consumers and establish standards of conduct for business and industry; and

(e) build strong partnership between the government and the private sector and other stakeholders to deliver these measures quickly and efficiently.

SEC. 3. *Coverage.* – This Act shall cover the manufacture or production of critical products, including repurposing of existing manufacturers, and supply of critical services. This also covers their entire supply chain including their capital equipment, spare parts and accessories, raw materials, packaging and its raw materials. The benefits under this Act shall be in addition to the incentives provided under existing laws.

SEC. 4. *Definition of Terms.* – For the purposes of this Act, the following definitions shall apply:

(a) *Accreditation* refers to the process of officially recognizing a person or entity under this Act;

(b) *Critical Products* refer to medicines; vaccines; personal protective equipment; medical equipment such as ventilators, testing kits and such other supplies or tools, including its raw materials, required to address the pandemic as may be determined by the Department of Health (DOH) and other relevant government agencies;

(c) *Critical Services* refer to services required for the manufacture, production and distribution of critical products. This shall also include testing laboratories; waste management, including but not limited to waste segregation, storage, collection, sorting, treatment and disposal services; and other services as may be determined by the DOH and other relevant government agencies.

(d) *Manufacturer* refers to an enterprise duly accredited or registered under Section 7 hereof, engaged in the production of critical products including preparation, processing, compounding, formulating, filling, packing, repacking, altering, ornamenting, finishing and labeling;

(e) *Packaging* refers to material used to wrap or protect critical products;

(f) *Personal Protective Equipment* (PPE) refers to helmets, masks, goggles, gloves, foot cover, face shields, gowns as well as other garments or equipment designed to protect the user against health or safety risks;

(g) *Producer* refers to an enterprise that manufactures, makes, grows, or produces critical products;

(h) *Raw Material* refers to materials and inputs from which a critical product and its packaging is made; and

(i) *Stockpiling* refers to the acquisition and accumulation of critical products to make them readily available and accessible.

SEC. 5. *Conformity to Standards.* – The materials, products, processes, and services shall conform and comply with the guidelines on the standards and requirements issued by the relevant government agencies such as, but not limited to, the DOH, Food and Drug Administration (FDA), and Bureau of Philippine Standards. In the case of other critical services, the equipment, technologies and services should be approved by the Department of Environment and Natural Resources, DOH or other relevant government agencies.

For this purpose, said relevant government agencies shall prioritize the issuance of licenses and other requirements to manufacturers and producers covered by this Act.

SEC. 6. *Development and Promotion of Healthcare and Manufacturing Industries.* – The Board of Investments (BOI) is hereby mandated to develop and promote the healthcare and manufacturing industries to strengthen the country's public health emergency preparedness and response mechanisms during a pandemic.

SEC. 7. *Accreditation.* – Prior to the availment of the benefits herein, the manufacturers and producers shall apply for accreditation with the Department of Trade and Industry (DTI) through the BOI: *Provided,* That in lieu of DTI-BOI accreditation, manufacturers and producers that are registered with other Investment Promotion Agencies (IPAs) shall directly apply for authority to import with the IPAs concerned.

SEC. 8. *Exemption from Custom Duties, Taxes and Fees.* – Regardless of the country of origin, importation of the capital equipment, spare parts and accessories, raw materials, packaging and its raw materials, or any articles needed in the supply chain of the critical products or services shall be exempt from custom duties, taxes and fees such as import processing fees and fees imposed by the Bureau of Customs, FDA and other relevant agencies: *Provided,* That the exemption from import duties, taxes and other fees on the importation of equipment and supplies

that are already considered as finished goods shall only apply upon determination by the DOH or DTI on the non-availability or insufficiency of local supply of the said equipment and supplies: *Provided further,* That exemption under this Section shall terminate upon declaration by the President that the public health emergency has ceased to exist.

SEC. 9. *Exemption from Value-Added Tax (VAT) on Local Sales.* – The exemption from VAT shall apply to the local sale of critical products and services. The DTI-BOI shall provide the Bureau of Internal Revenue (BIR) the list of VAT-exempt critical products or services, including the new and/or additional critical products covered under this Act. The list of VAT-exempt critical products or services shall be posted in the BIR website through a Revenue Memorandum Circular.

Exemption under this Section shall terminate upon declaration by the President that the public health emergency has ceased to exist.

SEC. 10. *Suspension of Export Requirement.* – The export requirement imposed under the laws administered by relevant IPAs may be suspended by the DTI-BOI upon declaration of state of public health emergency. The export enterprises that manufacture the critical products or render critical services shall supply at least eighty percent (80%) of their daily production or service to government institutions, hospitals, and private establishments in the country for local or domestic use.

The local sales of critical products and services of such export enterprises shall be deemed and treated as "export sales" in compliance with their export requirement. As such, the corresponding treatment, exemption on duties, taxes and fees, and other incentives warranted under the existing laws governing these export enterprises shall continue to apply*: Provided,* That if such export enterprises are located in special economic zones with the status of separate customs territory under relevant laws, such local sales shall likewise be exempt under Sections 8 and 9 hereof. For this purpose, the DTI-BOI or IPAs concerned shall monitor the compliance of said export enterprises.

The exemption on duties, taxes and fees under this Section shall subsist for a period of three (3) years after the declaration by the World Health Organization that the pandemic has ended.

SEC. 11. *Exemption from the requirement of Phase IV clinical trial under Health Technology Assessment of vaccines and medicines.* – The vaccines and medicines determined to be critical products under this Act shall be exempt from the requirement of Phase IV clinical trial under Section 34(b)(2) of Republic Act No. 11223, otherwise known as the "*Universal Health Care Act*": *Provided,* That minimum safeguards, systems and infrastructure are put in place by the DOH and other relevant agencies.

SEC. 12. *Procurement of Critical Products by the Government.* – To ensure adequate and responsive supply of critical products and services, the government, as the procuring entity shall strictly implement Section 43, Article XII of Republic Act No. 9184, otherwise known as the "*Government Procurement Reform Act*" to give preference to the purchase of domestically-produced and manufactured goods, supplies and materials that meet the specified or desired quality. In the interest of availability, efficiency and timely delivery of critical products and services under this Act, the Department of Budget and Management (DBM)-Procurement Service or the procurement entity concerned shall award to the lowest domestic manufacturer-bidder: *Provided,* That its bid is not more than fifteen percent (15%) in excess of the lowest foreign bid: *Provided further,* That it secures from the DTI a certification that the articles forming part of its bid are substantially composed of articles, materials, or supplies grown, produced, or manufactured in the Philippines.

Private enterprises are also encouraged to source their requirements for critical products from the local manufacturers.

SEC. 13. *Stockpiling of Critical Products.* – The DOH and the DBM, in coordination with DTI and other relevant agencies, shall stockpile necessary critical products to prepare for an imminent or potential pandemic or public health emergency. The DOH and DBM shall procure the critical products and services in accordance with the preceding Section.

SEC. 14. *Relocation or Expansion of Manufacturing Enterprises in the Philippines.* – Manufacturers or producers of critical products that will relocate or expand operations in the Philippines are qualified to avail of the exemptions under this Act provided that they meet the requirements prescribed herein. The manufacturing activities covered under this Act shall be included as a strategic

preferred area in the Investment Priorities Plan under Executive Order No. 226, as amended; otherwise known as the "*Omnibus Investments Act of 1987*". The strategic preferred areas listed therein shall be granted pioneer incentives or the maximum incentives allowed under existing laws.

Nothing in this Act or any law that may be created to the contrary shall diminish, derogate, nor limit in whatever manner the grant and entitlement to incentives by qualified activities herein, including the option to avail of future incentives that are more relevant and generous.

SEC. 15. *Synchronized and Integrated Government Approach.* – All departments, bureaus, agencies or instrumentalities of the government shall ensure the implementation of this Act in a synchronized and integrated manner. No government body shall adopt any policy or take any course of action contrary to or inconsistent with this Act.

SEC. 16. *Funding.* – The amounts necessary for the implementation of this Act shall be taken from current appropriations of agencies concerned. Thereafter, such amount as may be necessary for the implementation of this Act shall be included in the General Appropriations Act.

SEC. 17. *Penalty for Government Official or Employee.* – Any government official or employee who fails to implement Section 12 of this Act shall be penalized, after due process, by a fine equivalent to the official's or employee's basic salary for a period of one (1) month to six (6) months or by suspension from government service for not more than one (1) year, or both, in addition to any criminal and administrative penalties imposable under existing laws.

SEC. 18. *Applicability.* – This Act shall apply and shall remain in force and effect during the existence of a pandemic of national and/or international concerns as declared by the Secretary of Health, or during a state of public health emergency as declared by the President.

SEC. 19. *Implementing Rules and Regulations (IRR).* – The DTI and BOI shall, within sixty (60) days after the approval of this Act, prepare and issue the necessary guidelines to implement the provisions of this Act.

SEC. 20. *Repealing Clause.* – All laws, issuances, orders, rules and regulations, or parts thereof, which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 21. *Separability Clause.* – If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

SEC. 22. *Effectivity Clause.* – This Act take shall effect fifteen (15) days from the date of its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,