

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



SENATE

S. No. 1840

(In Substitution of SB Nos. 14, 921, 1113 and 1349, taking into consideration HB No. 59)

Prepared by the Committee on Trade, Commerce and Entrepreneurship with Senators Drilon, Gatchalian, Marcos, Zubiri and Pimentel III, as authors thereof.

**AN ACT
AMENDING REPUBLIC ACT NO. 8762, OTHERWISE KNOWN AS THE
"RETAIL TRADE LIBERALIZATION ACT OF 2000", BY LOWERING THE
REQUIRED PAID-UP CAPITAL FOR FOREIGN RETAIL ENTERPRISES, AND
FOR OTHER PURPOSES**

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

1 **Section 1.** Section 3 of Republic Act No. 8762 is hereby amended to read as
2 follows:

3 "SEC. 3. Definition. – As used in this Act.

4 (1) "*Retail Trade*" shall mean any act, occupation, or calling of
5 habitually selling direct to the general public merchandise, commodities
6 or goods for consumption, but the restriction of this law shall not apply
7 to the following:

8 xxx xxx xxx

9

10 **(E) ACTIVITIES OF A RETAIL E-COMMERCE PLATFORM**
11 **OPERATOR: *PROVIDED*, THAT THE RETAIL E-COMMERCE**
12 **PLATFORM OPERATOR IS NOT ENGAGED IN ACTIVITIES**

1 **AS AN INDEPENDENT PLATFORM E-COMMERCE**
2 **RETAILER AS DEFINED UNDER THIS ACT.**

3 ~~[(2) "High end or luxury goods" shall refer to goods which are~~
4 ~~not necessary for life maintenance and whose demand is generated in~~
5 ~~large part by the higher income groups. Luxury goods shall include, but~~
6 ~~are not limited to products such as; jewelry, branded or designer~~
7 ~~clothing and footwear, wearing apparel, leisure and sporting goods,~~
8 ~~electronics and other personal effects.]~~

9 **(2) "COMMERCIAL ESTABLISHMENT OPERATOR" SHALL**
10 **REFER TO ANY PERSON, PARTNERSHIP, OR CORPORATION**
11 **WHICH OPERATES ANY BUILDING OR SPACE USED FOR**
12 **CONDUCTING RETAIL TRADE TRANSACTIONS SUCH AS**
13 **MALLS, ARCADES, MARKETS, AND SHOPPING CENTERS.**

14 **(3) "RETAIL E-COMMERCE" SHALL MEAN THE ACTIVITY**
15 **OF ENGAGING IN RETAIL TRADE VIA THE INTERNET OR**
16 **OTHER INFORMATION NETWORK.**

17 **(4) "RETAIL E-COMMERCE PLATFORM OPERATOR"**
18 **SHALL REFER TO ANY PERSON, PARTNERSHIP, OR**
19 **CORPORATION WHICH, IN A RETAIL E-COMMERCE CONTEXT,**
20 **PROVIDES PARTIES TO TRANSACTIONS WITH SERVICES**
21 **SUCH AS OFFERING ONLINE BUSINESS PREMISES, DEAL**
22 **MAKING, AND RELEASING INFORMATION, FOR THEM TO**
23 **INDEPENDENTLY CONDUCT RETAIL ACTIVITIES: PROVIDED,**
24 **THAT, IF THE RETAIL E-COMMERCE PLATFORM OPERATOR**
25 **ENGAGES IN RETAIL TRADE, IT SHALL BE CLASSIFIED AS AN**
26 **INDEPENDENT PLATFORM E-COMMERCE RETAILER.**

27 **(5) "INDEPENDENT PLATFORM E-COMMERCE**
28 **RETAILER" SHALL REFER TO ANY PERSON, PARTNERSHIP, OR**
29 **CORPORATION THAT ENGAGES IN RETAIL TRADE VIA A SELF-**
30 **BUILT RETAIL E-COMMERCE PLATFORM.**

31 **(6) "ONLINE PLATFORM" SHALL REFER TO A DIGITAL**
32 **SERVICE THAT FACILITATES INTERACTIONS BETWEEN TWO**

1 OR MORE DISTINCT BUT INTERDEPENDENT SETS OF USERS,
2 WHETHER FIRMS OR INDIVIDUALS, WHO INTERACT
3 THROUGH THE SERVICE VIA THE INTERNET AND OTHER
4 INFORMATION NETWORK.

5 (7) "ON-PLATFORM E-COMMERCE RETAILER" SHALL
6 REFER TO ANY PERSON, PARTNERSHIP, OR CORPORATION
7 THAT ENGAGES IN RETAIL TRADE VIA A RETAIL E-COMMERCE
8 PLATFORM OPERATED BY A RETAIL E-COMMERCE PLATFORM
9 OPERATOR OR VIA AN ONLINE PLATFORM.

10 x x x"

11 **Sec. 2.** *Section 5 of Republic Act No. 8762* is hereby amended to read as
12 follows:

13 "SEC. 5. *Foreign Equity Participation.* – Foreign-owned
14 partnerships, associations and corporations formed and organized under
15 the laws of the Philippines may, upon registration with the Securities and
16 Exchange Commission (SEC) [~~and the Department of Trade and Industry~~
17 (~~DTI~~)], or in case of foreign-owned single proprietorships, **UPON**
18 **REGISTRATION** with the [~~DTI~~] **DEPARTMENT OF TRADE AND**
19 **INDUSTRY (DTI)**, engage or invest in the retail trade business: [~~7~~
20 ~~subject to the following categories:~~] **PROVIDED, THAT SUCH**
21 **FOREIGN-OWNED PARTNERSHIPS, CORPORATIONS, OR**
22 **SINGLE PROPRIETORSHIPS COMPLY WITH THE FOLLOWING**
23 **CONDITIONS:**

24 "(A) A FOREIGN RETAILER SHALL HAVE A MINIMUM
25 PAID-UP CAPITAL OF THE EQUIVALENT IN PHILIPPINE PESOS
26 OF THREE HUNDRED THOUSAND US DOLLARS (USD
27 \$300,000.00);

28 "(B) THE FOREIGN RETAILER'S COUNTRY OF ORIGIN
29 ALLOWS THE ENTRY OF FILIPINO RETAILERS;

30 "(C) IN THE CASE OF FOREIGN RETAILERS ENGAGED IN
31 RETAIL TRADE THROUGH MORE THAN ONE PHYSICAL STORE,
32 THE INVESTMENT FOR EACH STORE MUST BE EQUIVALENT IN

1 PHILIPPINE PESOS OF AT LEAST ONE HUNDRED FIFTY
2 THOUSAND US DOLLARS (USD \$150,000.00); AND

3 "(D) IN THE CASE OF FOREIGN INDEPENDENT PLATFORM
4 E-COMMERCE RETAILERS, FOREIGN ON-PLATFORM E-
5 COMMERCE RETAILERS, OR ANY OTHER FOREIGN RETAILER
6 WITHOUT A PHYSICAL STORE IN THE PHILIPPINES, THEY
7 MUST HAVE A FIXED PLACE OF BUSINESS IN THE PHILIPPINES
8 SUCH AS A PLACE OF MANAGEMENT, A PHYSICAL OFFICE
9 HOUSING THEIR STAFF OR EMPLOYEES, OR A WAREHOUSE.

10 [~~Category A — Enterprises with paid-up capital of the equivalent
11 in Philippine Pesos of less than Two million five hundred thousand US
12 dollars (US\$2,500,000) shall be reserved exclusively for Filipino citizens
13 and corporations wholly owned by Filipino citizens.~~]

14 [~~Category B — Enterprises with a minimum paid-up capital of the
15 equivalent in Philippine Pesos of Two million five hundred thousand US
16 dollars (US\$2,500,000) but less than Seven million five hundred
17 thousand US dollars (US\$7,500,000) may be wholly owned by foreigners
18 except for the first two (2) years after the effectivity of this Act wherein
19 foreign participation shall be limited to not more than sixty percent
20 (60%) of total equity.~~]

21 [~~Category C — Enterprises paid-up capital of the equivalent in
22 Philippine Pesos of Seven million five hundred thousand US dollars
23 (US\$7,500,000) or more may be wholly owned by foreigners: *Provided,*
24 *however,* that in no case shall the investments for establishing a store
25 in Categories B and C be less than the equivalent in Philippine Pesos of
26 Eight hundred thirty thousand US dollars (US\$830,000).]~~

27 [~~Category D — Enterprises specializing in high-end or luxury
28 products with a paid-up capital of the equivalent in Philippine Pesos of
29 Two hundred fifty thousand US dollars (US\$250,000) per store may be
30 wholly owned by foreigners.~~]

31 "The foreign [~~investor~~] **RETAILER** shall be required to maintain
32 in the Philippines **AT ALL TIMES** the [~~full amount of the prescribed~~

1 ~~minimum~~] **PAID-UP** capital **OF THREE HUNDRED THOUSAND US**
2 **DOLLARS (USD \$300,000.00)**, unless the foreign [~~investor~~]
3 **RETAILER** has notified the SEC [~~and~~] **OR** the DTI **IN THE CASE OF**
4 **FOREIGN-OWNED SINGLE PROPRIETORSHIPS** of its intention to
5 repatriate its capital and cease operations in the Philippines. The actual
6 use in Philippine operations of the [~~inwardly remitted~~] minimum **PAID-**
7 **UP** capital [~~requirement~~] shall be monitored by the SEC **IN THE CASE**
8 **OF FOREIGN-OWNED CORPORATIONS OR PARTNERSHIPS OR**
9 **BY THE DTI IN THE CASE OF FOREIGN-OWNED SINGLE**
10 **PROPRIETORSHIPS.**

11 "Failure to maintain **IN THE PHILIPPINES** [~~the full amount of~~
12 ~~the prescribed minimum capital~~] **THE PAID-UP CAPITAL REQUIRED**
13 **IN THE PRECEDING PARAGRAPH**, prior to notification of the SEC
14 [~~and~~] **OR** the DTI, **WHICHEVER IS APPROPRIATE**, shall subject the
15 foreign [~~investor~~] **RETAILER** to penalties or restrictions on any future
16 trading activities/business in the Philippines.

17 "**FOR PURPOSES OF REGISTRATION WITH THE SEC OR**
18 **THE DTI, THE** foreign [~~retail stores~~] **RETAILER** shall [~~secure a~~
19 ~~certification from the *Bangko Sentral ng Pilipinas* (BSP) and the DTI~~
20 ~~which will verify or confirm~~] **SUBMIT PROOF OF** inward remittance of
21 **ITS** [~~the minimum required~~] capital investment **TO ITS ACCOUNT**
22 **WITH A BANK IN THE PHILIPPINES, SUCH AS THE BANGKO**
23 **SENTRAL REGISTRATION DOCUMENT OR A CERTIFICATE OF**
24 **INWARD REMITTANCE OF FOREIGN EXCHANGE ISSUED BY THE**
25 **BANK IN THE FORM PRESCRIBED BY THE *BANGKO SENTRAL NG***
26 ***PILIPINAS (BSP).*"**

27
28 **Sec. 3.** Section 6 of Republic Act No. 8762 is hereby amended to read as
29 follows:

30 "SEC. 6. [~~*Foreign Investors Acquiring Shares of Stock of Local*~~
31 ~~*Retailers.*~~ Foreign investors acquiring shares from existing retail stores
32 whether or not publicly listed whose net worth is in the excess of the

1 ~~peso equivalent of Two million five hundred thousand US dollars~~
2 ~~(US\$2,500,000.00) may purchase only up to a maximum of sixty~~
3 ~~percent (60%) of the equity thereof within the first two (2) years from~~
4 ~~the effectivity of this Act and thereafter, they may acquire the remaining~~
5 ~~percentage consistent with the allowable foreign participation as herein~~
6 ~~provided.]~~ **RESPONSIBILITIES OF COMMERCIAL**

7 **ESTABLISHMENT OPERATORS, RETAIL E-COMMERCE**
8 **PLATFORM OPERATORS, ONLINE PLATFORM OPERATORS,**
9 **AND ANY OTHER OPERATORS OF PLATFORMS USED BY**
10 **FOREIGN RETAILERS. – FOR THE PURPOSE OF MONITORING**
11 **COMPLIANCE WITH THIS ACT, ALL COMMERCIAL**
12 **ESTABLISHMENT OPERATORS IN THE PHILIPPINES AS WELL**
13 **AS RETAIL E-COMMERCE PLATFORM OPERATORS, ONLINE**
14 **PLATFORM OPERATORS, AND OPERATORS OF ANY OTHER**
15 **PLATFORMS USED BY FOREIGN RETAILERS SHALL:**

16 **“(A) ENSURE THAT THEIR FOREIGN RETAILERS ARE**
17 **REGISTERED WITH THE SEC OR THE DTI, WHICHEVER IS**
18 **APPROPRIATE. IN THE CASE OF RETAIL E-COMMERCE**
19 **PLATFORM OPERATORS, ONLINE PLATFORM OPERATORS,**
20 **AND OPERATORS OF ANY OTHER PLATFORMS USED BY**
21 **FOREIGN RETAILERS, SUCH INFORMATION SHALL BE**
22 **DISPLAYED IN THEIR PLATFORMS; AND**

23 **“(B) SUBMIT TO THE SEC OR THE DTI, WHICHEVER IS**
24 **APPROPRIATE, A LIST OF ALL FOREIGN RETAILERS ON A**
25 **QUARTERLY BASIS.**

26 **“THE SEC AND THE DTI SHALL REVIEW THE LIST**
27 **SUBMITTED BY THE COMMERCIAL ESTABLISHMENT**
28 **OPERATORS, RETAIL E-COMMERCE PLATFORM OPERATORS,**
29 **ONLINE PLATFORM OPERATORS, AND OPERATORS OF ANY**
30 **OTHER PLATFORMS USED BY FOREIGN RETAILERS, AND**
31 **ENSURE THAT FOREIGN RETAILERS COMPLY WITH THE**
32 **REQUIREMENTS OF THIS ACT.”**

1 **Sec. 4.** Section 7 of Republic Act No. 8762 is hereby amended to read as
2 follows:

3 ~~"SEC. 7. [*Public Offering of Shares of Stock.*—All retail trade~~
4 ~~enterprises under Categories B and C in which foreign ownership~~
5 ~~exceeds eighty percent (80%) of equity shall offer a minimum of thirty~~
6 ~~percent (30%) of their equity to the public through any stock exchange~~
7 ~~in the Philippine within eight (8) years from their start of operations.]~~

8 **REVIEW OF THE MINIMUM PAID-UP CAPITAL REQUIREMENT.**
9 **– THE DTI, SEC, BSP AND THE NATIONAL ECONOMIC AND**
10 **DEVELOPMENT AUTHORITY (NEDA) SHALL REVIEW THE**
11 **REQUIRED MINIMUM PAID-UP CAPITAL EVERY FIVE (5)**
12 **YEARS FROM THE EFFECTIVITY OF THIS ACT. THE**
13 **RECOMMENDATION OF THE DTI, SEC, BSP AND NEDA SHALL**
14 **BE SUBMITTED TO CONGRESS."**

15 **Sec. 5.** Section 8 of Republic Act No. 8762 is hereby amended to read as
16 follows:

17 ~~"SEC. 8. [*Qualification of Foreign Retailers.*—No foreign retailer shall~~
18 ~~be allowed to engage in retail trade in the Philippine unless all the following~~
19 ~~qualifications are met:~~

20 ~~(a) A minimum of Two hundred million US dollar~~
21 ~~(US\$200,000,000.00) net worth in its parent corporation for~~
22 ~~Categories B and C, and Fifty million US dollar~~
23 ~~(US\$50,000,000.00) net worth in its parent corporation for~~
24 ~~category D;~~

25 ~~(b) (5) retailing branches or franchises in operation anywhere~~
26 ~~around the word unless such retailer has at least one (1) store~~
27 ~~capitalized at a minimum of Twenty five million US dollars~~
28 ~~(US\$25,000,000.00);~~

29 ~~(c) Five (5) year track record in retailing; and~~

1 ~~(d) Only nationals from, or juridical entities formed or~~
2 ~~incorporated in Countries which allow the entry of Filipino retailers~~
3 ~~shall be allowed to engage in retail trade in the Philippines.~~

4 ~~The DTI is hereby authorized to pre-qualify all foreign retailers, subject~~
5 ~~to the provisions of this Act, before they are allowed to conduct business in the~~
6 ~~Philippine.~~

7 ~~The DTI shall keep a record of Qualified foreign retailers who may, upon~~
8 ~~compliance with law, establish retail stores in the Philippine. It shall ensure that~~
9 ~~parent retail trading company of the foreign investor complies with the~~
10 ~~qualifications on capitalization and track record prescribed in this section]~~

11 ***PENALTY CLAUSE. – ANY COMMERCIAL ESTABLISHMENT OPERATOR,***
12 **RETAIL E-COMMERCE PLATFORM OPERATOR, ONLINE PLATFORM**
13 **OPERATOR OR ANY OTHER PLATFORM OPERATOR USED BY FOREIGN**
14 **RETAILERS THAT FAILS OR REFUSES TO COMPLY WITH THE**
15 **OBLIGATIONS UNDER SECTION 6 OF THIS ACT SHALL PAY A PENALTY**
16 **OF NOT LESS THAN FIFTY THOUSAND PESOS (P50,000.00) BUT NOT**
17 **MORE THAN FIVE HUNDRED THOUSAND (P500,000.00) FOR EACH**
18 **VIOLATION AND A SIMILAR AMOUNT OF PENALTY FOR EACH DAY**
19 **THEREAFTER UNTIL THE REPORTORIAL OBLIGATION IS COMPLIED**
20 **WITH. A SIMILAR FINE SHALL BE IMPOSED ON ANY COMMERCIAL**
21 **ESTABLISHMENT OPERATOR, RETAIL E-COMMERCE PLATFORM**
22 **OPERATOR, OR ONLINE PLATFORM OPERATOR WHICH SHALL,**
23 **INTENTIONALLY OR NEGLIGENTLY, SUPPLY INCORRECT OR**
24 **MISLEADING INFORMATION IN ITS REPORT.**

25 **“VIOLATION OF ANY OTHER PROVISION OF THIS ACT SHALL**
26 **BE PUNISHABLE BY IMPRISONMENT OF NOT LESS THAN SIX (6)**
27 **YEARS AND ONE (1) DAY BUT NOT MORE THAN EIGHT (8) YEARS,**
28 **AND A FINE OF NOT LESS THAN ONE MILLION PESOS (P1,000,000.00)**
29 **BUT NOT MORE THAN TWENTY MILLION PESOS (P20,000,000.00). IN**
30 **THE CASE OF ASSOCIATIONS, PARTNERSHIPS OR CORPORATIONS,**
31 **THE PENALTY SHALL BE IMPOSED UPON ITS PARTNERS, PRESIDENT,**

1 **GENERAL MANAGER AND OTHER OFFICERS RESPONSIBLE FOR THE**
2 **VIOLATION. IF THE OFFENDER IS NOT A CITIZEN OF THE**
3 **PHILIPPINES HE SHALL BE DEPORTED IMMEDIATELY AFTER**
4 **SERVICE OF SENTENCE. IF THE FILIPINO OFFENDER IS A PUBLIC**
5 **OFFICER OR EMPLOYEE, HE SHALL, IN ADDITION TO THE PENALTY**
6 **PRESCRIBED HEREIN, SUFFER DISMISSAL AND PERMANENT**
7 **DISQUALIFICATION FROM PUBLIC OFFICE”**

8 **Sec. 6.** Section 9 of Republic Act No. 8762 is hereby deleted and succeeding
9 sections renumbered accordingly.

10 **Sec. 7.** Sections 12 to 15 of Republic Act No. 8762 are hereby deleted.

11 **Sec. 8. *Repealing Clause.*** – All laws, decrees, executive orders, proclamations,
12 rules and regulations, and issuances or parts thereof which are inconsistent with the
13 provisions of this Act, are hereby repealed, amended or modified accordingly.

14 **Sec. 9. *Separability Clause.*** – If any provision of this Act is held invalid or
15 unconstitutional, the other provisions not affected thereby shall remain in full force
16 and effect.

17 **Sec. 10. *Effectivity.*** – This Act shall take effect fifteen (15) days after its
18 publication in the Official Gazette or in at least two (2) newspapers of general
19 circulation in the Philippines.

Approved,