

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

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SENATE  
Senate Bill. No. 1414

RECEIVED BY: \_\_\_\_\_

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Introduced by SENATOR JUAN PONCE ENRILE

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**EXPLANATORY NOTE**

Republic Act No. 1125, the "Law Creating the Court of Tax Appeals" as amended by Republic Act No. 9282, expands the jurisdiction of the Court of Tax Appeals (CTA) and grants the same court jurisdiction to hear civil and criminal action arising from violations of the Tariff and Customs Code, with the end in view of fulfilling the constitutional principle of efficient and speedy disposition of justiciable cases. However, the efforts of the Bureau of Customs to collect taxes by effectively prosecuting various customs cases remain hampered due to bureaucratic processes currently existing in our justice system.

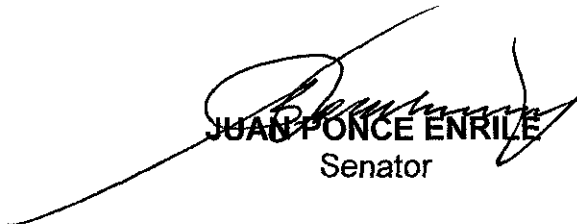
Republic Act 9135, Section 6, amending Section 2401 of Presidential Decree No. 1464, otherwise known as the Tariff and Customs Code of the Philippines, provides that "civil and criminal actions and proceedings instituted in behalf of the government under the authority of this Code or other law enforced by the Bureau, shall be brought in the name of the Government of the Philippines and shall be conducted by customs officers but no civil or criminal action for the recovery of duties or the enforcement of any fine, penalty or forfeiture under this Code shall be filed in court without the approval of the Commissioner." On the other hand, Section 5, Rule 110 of the Rules of Court, as amended by *Administrative Matter No. 02-2-07-SC* provides that "all criminal actions either commenced by a complaint or information shall be prosecuted under the direction and control of a public prosecutor." Likewise, Section 1 of Presidential Decree 478, Defining the Powers and Functions of the Office of the Solicitor General provides that "the Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer."

Under current procedure, criminal cases involving violation of Tariff and Customs Laws are referred to the Department of Justice for the determination of probable cause, while customs-related civil cases are prosecuted or defended through the Office of the Solicitor General. Hence, there is a resulting confusion or ambiguity as to which agency has the power and authority to handle and prosecute customs cases, not to mention the bureaucratic red tape.

By experience, many customs cases were dismissed and/or resolved against the State due to technicality, e.g. failure to prosecute and/or insufficiency of evidence, among other things. In fact, many customs-related cases were lost because government lawyers who may be well-versed in the general practice of law lack technical knowledge and understanding of Tariff and Customs Laws – a highly specialized technical field of law that may best be left to the Bureau of Customs' lawyers to handle.

This Bill, which seeks to amend Section 2401 of Presidential Decree No. 1464, as amended by Section 6 of Republic Act No. 9135, intends to authorize the Bureau of Customs through its lawyers to exclusively investigate, prosecute, file and handle customs-related cases. This will hasten the resolution of customs-related cases as another bureaucratic layer will be removed, which is the practice of referring such cases to the Department of Justice and the Office of the Solicitor General.

In view of this, the immediate passage of this Bill is earnestly sought.



**JUAN PONCE ENRILE**  
Senator

FOURTEENTH CONGRESS OF THE REPUBLIC )  
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SENATE  
Senate Bill. No. 1414

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Introduced by SENATOR JUAN PONCE ENRILE

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**AN ACT**  
**MANDATING THE BUREAU OF CUSTOMS TO EXCLUSIVELY INVESTIGATE, PROSECUTE AND HANDLE CUSTOMS CASES, AMENDING SECTION 2401 OF PRESIDENTIAL DECREE NO. 1464, OTHERWISE KNOWN AS THE TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, AS AMENDED BY SECTION 6 OF REPUBLIC ACT NO. 9135, AND FOR OTHER PURPOSES**

1        **Section 1.** Section 1. Section 2401, Book II, Title VI, Part III, of P.D. 1464,  
2 otherwise known as the Tariff and Customs Code of the Philippines, as further  
3 amended by Section 6 of R.A. 9135, is hereby amended to read as follows:

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5        **"Sec. 6. Supervision and control over criminal and civil**  
6 **proceedings.** – Civil and criminal actions and proceedings  
7 instituted in behalf of the government under the authority of this  
8 Code or other law enforced by the Bureau shall be brought in the  
9 name of the government [of the Philippines] and shall be  
10 [conducted] **INVESTIGATED, PROSECUTED AND HANDLED**  
11 **EXCLUSIVELY** by [customs officers] **LAWYERS OF THE**  
12 **BUREAU OF CUSTOMS,** [but] **AND** no civil or criminal action for  
13 the recovery of duties or the enforcement of any fine, penalty or  
14 forfeiture under this Code shall be filed in court without the approval  
15 of the Commissioner. **FOR THIS PURPOSE, THE BUREAU OF**  
16 **CUSTOMS SHALL BE PRIMARILY AND EXCLUSIVELY**  
17 **RESPONSIBLE FOR THE CONDUCT OF PRELIMINARY**  
18 **INVESTIGATION AND PROSECUTION OF CUSTOMS-RELATED**  
19 **CASES, AS WELL AS THE PROSECUTION AND DEFENSE OF**  
20 **CUSTOMS-RELATED CIVIL CASES, TO THE EXCLUSION OF**  
21 **ALL OTHER GOVERNMENT AGENCIES INVOLVED THEREIN.**  
22 **THE BUREAU OF CUSTOMS SHALL HAVE EXCLUSIVE**  
23 **AUTHORITY TO FILE ANY CRIMINAL OR CIVIL CASE**  
24 **DIRECTLY WITH THE PROPER COURT FOR PROSECUTION**  
25 **OF VIOLATORS OF THE TARIFF AND CUSTOMS CODE, AND**  
26 **THE COLLECTION, RECOVERY OR ENFORCEMENT OF ANY**  
27 **FINE, PENALTY OR FORFEITURE UNDER THE CODE."**

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30        **Section 2. Implementing Rules and Regulations.** – Within Sixty (60)  
31 days from the approval of this Act, the Bureau of Customs shall promulgate such  
32 Rules and Regulations as may be necessary to carry out the provisions of this Act,  
33 subject to the approval of the Secretary of Finance.  
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1           **Section 3. Repealing Clause.** – All laws, orders, issuances, circulars, rules  
2 and regulations or parts thereof, which are inconsistent with the provisions of this  
3 Act are hereby repealed or modified accordingly.

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6           **Section 4. Separability Clause.** – If any provision of this Act is declared  
7 unconstitutional or invalid, other parts or provisions hereof not affected shall  
8 continue in full force and effect.

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11           **Section 5. Effectivity.** – This Act shall take effect after Fifteen (15) days  
12 following its publication in at least Two (2) newspapers of general circulation.

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15           *Approved.*