

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

OFFICE OF THE CLERK

9 JAN 20 1979

SENATE
S. No. **2998**

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

As the international community continues to plunge into economic depression, our government should engage in a two-pronged effort in order to survive such phenomenon. First, we must maintain our economic viability and second, we must ensure that the effects to our citizens are minimized.

Our country is dependent on certain commodities, such as oil and petroleum products, which are essential to the functioning of our economy and to the public health, safety and welfare. A shortage or threatened shortage or increase in the price of such commodities can significantly injure or threaten our economy or public health, safety or welfare, thereby endangering the national security.

Some suppliers of these essential commodities can use abnormal market disruptions, including unexpected changes in weather conditions, acts of nature, civil disorders, war or other military actions, catastrophic loss of an energy source or other extraordinary adverse circumstances, to profiteer in these essential products, even when these actions may undermine our economy or otherwise threaten public health, safety and welfare.

Existing laws as presently enforced do not sufficiently control such profiteering in emergency situations. Profiteering can occur and injure our economy even in the absence of a provable violation of the antitrust or unfair trade practice laws. We need to discourage such practice and punish these economic saboteurs.

We also need to help our citizens to properly anticipate and prepare to weather out economic emergencies by keeping the prices of basic commodities stable thereby allowing them to maximize their limited resources.

This bill seeks to give the President limited power to declare a state of economic emergency and punish profiteers from unduly injuring our country by unduly capitalizing on abnormal market disruptions.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

9 JAN 20 12 49

SENATE
S. No. 2998

RECEIVED

Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 TO PROTECT THE NATIONAL SECURITY BY PROHIBITING PROFITEERING OF
3 ESSENTIAL COMMODITIES DURING PERIODS OF NATIONAL EMERGENCY

4 *Be it enacted by the Senate and the House of representatives of the Philippines in*
5 *Congress assembled:*

6 SECTION 1. *Short Title.* – This Act shall be known as the “National Emergency Anti-
7 Profiteering Act of 2009.”

8 SECTION 2. *Definition.* – For purposes of this Act, the term –

9 A. National economic emergency - means, as determined by the President, an abnormal
10 market disruption (whether actual or imminently threatened) resulting from
11 extraordinary weather conditions, acts of nature, catastrophic failure of a source of
12 energy, strike, civil disorder, war or other military action, or national emergency,
13 that—

- 14 1. causes an actual or threatened shortage, or an actual or threatened increase in
15 the price of an essential commodity, and
16 2. is likely to significantly injure the economy of the Philippines or the public
17 health, safety or welfare.

18 When the President declares a national economic emergency, he shall designate the
19 essential commodities with respect to which that national economic emergency exists.

20 Notice of the President’s determination that a national economic emergency exists and
21 his designation of the essential commodities with respect to which that national
22 economic emergency exists shall be given by immediate publication of a Presidential
23 proclamation.

24 B. Essential commodity – is –

- 1 1. crude oil, propane, gasoline, diesel fuel, kerosene, home heating oil, aviation
2 fuel, or other petroleum distillate, or
- 3 2. a commodity that the President determines to be a commodity—
 - 4 a. of significant importance to the Philippine economy , or
 - 5 b. vital or necessary to the public health, safety or welfare, a disruption
6 in the supply, or sudden increase in the price, of which is likely to
7 significantly injure the economy of the Philippines or public health,
8 safety or welfare, and thereby threaten the national security. Notice
9 of such determination shall be given by publication of a Presidential
10 proclamation.

11 C. Listed essential commodity - means any essential commodity with respect to which
12 the President has designated that a national economic emergency exists.

13 D. Profiteer - means to offer for sale, sell, transport, or deliver an essential commodity at
14 an excessive price, or to place excessive restrictions or conditions upon the sale,
15 delivery or transportation of an essential commodity.

16 E. Excessive price - is one that is not justified by the seller's actual costs of acquiring,
17 producing, selling, transporting, and delivering the actual product sold, plus a
18 reasonable profit. In calculating the seller's actual costs, no allowance shall be made
19 for the replacement costs of an essential commodity if the seller is reasonably assured
20 of recouping the replacement costs as a part of the price of subsequent sales of an
21 essential commodity. It shall be prima facie evidence of an excessive price that the
22 increase in the seller's price for a listed essential commodity during a national
23 economic emergency exceeds the increase in the seller's actual costs for actual
24 product sold.

25 SECTION 3. *Prohibited Act.* – Following publication of a Presidential proclamation
26 declaring a national economic emergency and designating the essential commodities with respect
27 to which that national economic emergency exists, for the duration of that national economic
28 emergency, no person shall profiteer with respect to any listed essential commodity.

1 SECTION 4. *Penalty.* – Any person who profiteers in a listed essential commodity in
2 violation of Section 3, shall suffer a penalty of to up to 5 years imprisonment and a fine of up to
3 five hundred thousand pesos (Php 500,000) or both, and shall be required to disgorge all profits
4 earned on essential commodities with respect to which profiteering occurred.

5 SECTION 5. *Limitation on Length of Emergency; Extension.* – A national economic
6 emergency, as declared by the President pursuant to Section 3 of this Act, shall be in effect for
7 not more than 180 days from the date such emergency is declared, unless extended by
8 Presidential declaration that a national economic emergency continues to exist, notice of which
9 shall be immediately published as a Presidential proclamation. Each extension thereof shall last
10 for not more than 90 days, but there shall be no limit on the number of times the President may
11 extend a national economic emergency.

12 A national economic emergency, or a designation of one or more essential commodities
13 with respect to which the national economic emergency exists, may be terminated by passage of
14 a joint resolution of Congress. Nothing in this subsection shall prohibit the President, through
15 published Presidential proclamation, from terminating a national economic emergency or a
16 designation of one or more essential commodities with respect to which said emergency exists.

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

20 SECTION 7. *Repealing Clause.* – Any law, presidential decree or issuance, executive
21 order, letter of instruction, administrative order, rule or regulation contrary to or is inconsistent
22 with the provision of this Act is hereby repealed, modified, or amended accordingly.

23 SECTION 8. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
24 publication in at least two (2) newspapers of general circulation.

25 Approved,

26 /apm 01162009