



REPUBLIC OF THE PHILIPPINES
Senate
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SESSION NO. 71
Wednesday, May 14, 2014

SIXTEENTH CONGRESS
FIRST REGULAR SESSION

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

Senator Cayetano (A) acknowledged the presence in the gallery of the following guests:

- Officers and members of the Soroptimist International of the Philippines Region (A Foundation), Inc. led by former mayor and chairperson of Unsung Women Heroes Awards Lorna C. Silverio; governor-elect Ma. Rosario A. Tumaneng; past governor Carmen A. Flor; and the awardees of the 2009 to 2014 Unsung Women Heroes Awards;
- Regional Emergency Assistance Communications Team (REACT) Philippines led by its national president Felimon "Tutchi" Tutica, Jr., past national president Richard D. Valdes, incoming national president Gregorio Y. Pacifico, and chief of staff Joefelin Concepcion;
- Municipal Mayor Peter B. Alos of Atok, Benguet; Vice Mayor Simon "Modawan" Lacwasan and Councilor Labor Moises Masidong, both from Bauko, Mountain Province; and their companions;
- Atty. Melencio Sta. Maria, dean of Far Eastern University (FEU) Institute of Law, and TV5 broadcaster and legal analyst; and
- Barrio Obrero Youth Athletic Association (BOYAA) of Tondo, Manila led by its president, Pogs Reyes.

The Senate President welcomed the guests to the Senate.

REFERENCE OF BUSINESS

The Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

MESSAGES OF THE PRESIDENT OF THE PHILIPPINES

Letters of His Excellency, President Benigno S. Aquino III, dated 5 May 2014, submitting for the Senate's consideration and concurrence the following:

Agreement on Social Security Between the Republic of the Philippines and the Kingdom of Denmark, which was signed on 11 September 2012, in Copenhagen, Denmark;

Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity which was signed on 29 October 2010, in Nagoya Japan; and

Protocol Relating to an Amendment to the Convention on International Civil Aviation (Article 3 bis) which was signed on 10 May 1984, in Montreal, Canada.

To the Committee on Foreign Relations

BILLS ON FIRST READING

Senate Bill No. 2220, entitled

AN ACT PROVIDING FOR A MAGNA CARTA FOR THE ROAD TRANSPORTATION SECTOR

Introduced by Senator Recto

To the Committees on Public Services; Public Works; and Ways and Means

Senate Bill No. 2221, entitled

AN ACT DECLARING JULY 27 OF EVERY YEAR A SPECIAL NON-WORKING HOLIDAY IN OBSERVANCE OF THE FOUNDING ANNIVERSARY OF THE IGLESIA NI CRISTO

Introduced by Senator Legarda

To the Committee on Education, Arts and Culture

Senate Bill No. 2222, entitled

AN ACT PROVIDING FOR A MAGNA CARTA FOR WORKERS IN THE ENERGY SECTOR OF THE PHILIPPINES, AUTHORIZING THE COLLEC-

TION AND APPROPRIATION OF FUNDS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Legarda

To the Committees on Energy; Civil Service and Government Reorganization; and Finance

Senate Bill No. 2223, entitled

AN ACT EXEMPTING MARGINAL INCOME EARNERS FROM INCOME TAX AND VALUE-ADDED TAX, AMENDING FOR THE PURPOSE SECTIONS 22, 24, 109 (1) AND 236 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES

Introduced by Senator Recto

To the Committee on Ways and Means

Senate Bill No. 2224, entitled

AN ACT DECLARING JULY 27 OF EVERY YEAR AS A SPECIAL NATIONAL NON-WORKING HOLIDAY IN COMMEMORATION OF THE FOUNDING ANNIVERSARY OF THE IGLESIA NI CRISTO IN THE PHILIPPINES

Introduced by Senator Recto

To the Committee on Education, Arts and Culture

RESOLUTIONS

Proposed Senate Resolution No. 645, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE EL NIÑO-SOUTHERN OSCILLATION PHENOMENON AND DETERMINE THE APPROPRIATE PHILIPPINE GOVERNMENT INTERVENTION, WITH THE INTENT OF STRENG-

THENING THE MANDATES OF GOVERNMENT AGENCIES AND ENSURING THE ADEQUATE, SAFE AND AFFORDABLE WATER SUPPLY

Introduced by Senator Recto

To the Committees on Climate Change; and Agriculture and Food

Proposed Senate Resolution No. 646, entitled

RESOLUTION URGING THE PROPER SENATE COMMITTEE TO REVIEW THE IMPLEMENTATION OF REPUBLIC ACT NO. 9004 OR THE ECOLOGICAL SOLID WASTE MANAGEMENT ACT OF 2000 AND OTHER PERTINENT LAWS AND LOCAL ORDINANCES, WITH THE OBJECTIVE OF INCREASING PENALTIES AGAINST OFFENDERS TO FURTHER PROTECT THE DECLINING STATE OF THE ENVIRONMENT AND ULTIMATELY AVERT A GARBAGE CRISIS

Introduced by Senator Grace Poe

To the Committees on Environment and Natural Resources; and Local Government

Proposed Senate Resolution No. 647, entitled

RESOLUTION URGING THE SENATE COMMITTEE ON PUBLIC ORDER AND DANGEROUS DRUGS TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE CONTINUOUSLY INCREASING CRIMINALITY AND THE BRAZENNESS OF CRIMINAL/ILLEGAL ACTIVITIES, WITH THE OBJECTIVES OF CRAFTING SHORT- AND LONG-TERM PLANS AND POLICIES REGARDING CRIME PREVENTION AND ERADICATION

Introduced by Senator Grace Poe

To the Committee on Public Order and Dangerous Drugs

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SUSPENSION OF SESSION

Upon motion of Senator Cayetano (A), the session was suspended.

It was 3:32 p.m.

RESUMPTION OF SESSION

At 3:36 p.m., the session was resumed.

PROPOSED SENATE RESOLUTION NO. 628

With the permission of the Body, upon motion of Senator Cayetano (A), the Body considered Proposed Senate Resolution No. 628, entitled

RESOLUTION COMMENDING THE 2014
RECIPIENTS OF THE SOROPTIMIST
UNsung WOMEN HEROES AWARDS
FOR THEIR TIRELESS DEDICATION
AND SERVICE IN UPLIFTING THE
WELFARE OF DISADVANTAGED
WOMEN IN THEIR COMMUNITIES.

Secretary Yabes read the text of the resolution, to wit:

WHEREAS, Article II Section 14 of the 1987 Constitution states that the State recognizes the role of women in nation-building, and shall ensure the fundamental equality of women and men before the law;

WHEREAS, organized by the Soroptimist International of the Philippines Region (A Foundation), Inc and first awarded in 2009, the Unsung Women Heroes Awards aims to recognize women who take an active role in improving the lives of their fellow Filipinos thru their work at the grassroots level;

WHEREAS, this year, ten awardees were recognized by the Soroptimist International of the Philippines, for their dynamic and pro-active work in the field of education, financial literacy, good governance and gender equality among others;

WHEREAS, the 2014 Unsung Women Heroes Awards, namely: Elsie M. Cabral, Rosalia A. Cervantes, Sylvia L. de Leon, Olivia P. Lucas, Emily DC. Lundang, Marilou P. Portacio, Adelina S. San Miguel, Fe L. Tolentino, Julieta B. Torres, Crispina S. Zafra showed extraordinary effort and tireless commitment in improving the lives of women in their respective communities;

WHEREAS, for actively participating in community work and inspiring others to do the same, it is only proper that these awardees be recognized for making use of existing resources at their disposal in order to serve the marginalized members of our society;

NOW THEREFORE, BE IT RESOLVED, as it is hereby resolved, to commend the 2014 recipients of the Soroptimist Unsung Women Heroes Awards for their tireless dedication and service in uplifting the welfare of women in their communities.

ADOPTION OF PROPOSED SENATE RESOLUTION NO. 628

Upon motion of Senator Cayetano (A), there being no objection, Proposed Senate Resolution No. 628 was adopted by the Body, subject to style.

SUSPENSION OF SESSION

Upon motion of Senator Cayetano (A), the session was suspended for the presentation of the resolution and to allow the members to congratulate the women awardees.

It was 3:39 p.m.

RESUMPTION OF SESSION

At 3:45 p.m., the session was resumed.

**COMMITTEE REPORT NO. 19
ON SENATE BILL NO. 27
(Continuation)**

Upon motion of Senator Cayetano (A), there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 27 (Committee Report No. 19), entitled

AN ACT TO EFFECTIVELY INSTILL
HEALTH CONSCIOUSNESS THROUGH
PICTURE-BASED WARNINGS ON
TOBACCO PRODUCTS.

Senator Cayetano (A) stated that the parliamentary status was still the period of interpellations.

Thereupon, the Chair recognized Senator Cayetano (P), sponsor of the measure, and Senator Enrile for the continuation of his interpellation.

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SUSPENSION OF SESSION

Upon motion of Senator Cayetano (P), the session was suspended.

It was 3:46 p.m.

RESUMPTION OF SESSION

At 3:47 p.m., the session was resumed.

INTERPELLATION OF SENATOR ENRILE (Continuation)

Adverting to Section 6 (*Side Panel*) of the bill taking into consideration Section 9 (*Costs*), Senator Enrile expressed concern that the cost of the additional information required to be printed on the side panel of cigarette packages would be in the nature of a hidden tax thrown on the cigarette producers, manufacturers and eventually the consumers. To illustrate, he said that if a company manufactures one million packs, this would translate to 100,000 cartons and when divided into 50 cartons per cardboard box, this would translate to about 2000 cardboard boxes; and supposing each print would cost one centavo, this would translate to P10 million additional tax to the manufacturer which would be passed on to the consumer.

Senator Cayetano (P) maintained that the cost of printing the picture-based warnings would be a very small burden for the tobacco industry to bear. She stressed that as discussed during the interpellation the previous day, these requirements are for purposes of health labeling which every responsible manufacturer must comply with and which the government should ensure would reach the public. She pointed out that all over the world, there are already health warnings that are now required to be indicated, for instance, in milk products, and other over-the-counter products that are available in cafes and grocery stores. She believed that these warnings are reasonable and would just be in the form of one-color warnings, not even in full color which should be how a graphic warning should be printed. She opined that this would be a minor change that is being asked of the cigarette manufacturers as part of their corporate social responsibility.

Senator Enrile said that he would have no problem if the information to be provided is limited to health warnings, but he pointed out that the wording

of the provision refers to "information not limited to health warnings." He feared that the phrase could open the doors for the Department of Health to ask the cigarette manufacturers to bear the cost of anything that it wants disseminated to the public.

Responding thereto, Senator Cayetano (P) explained that the provision refers to "additional health warnings, hotlines or websites for tobacco-related concerns, or tips on how to stop smoking," all of which are related to smoking and its consequences with respect to one's health. She said the enumeration is *ejusdem generis*. Nevertheless, she said that she was open to accept any amendment to improve the bill.

Asked whether she would be amenable to deleting the phrase "but not limited to" during the period of amendments, Senator Cayetano (P) replied in the affirmative.

Moving on to Section 7 (*Descriptors*), Senator Enrile asked whether he was correct in his interpretation that if a cigarette manufacturer can prove that a descriptor indicated in a cigarette pack is true to fact, such descriptor would be acceptable. For instance, he cited that a cigar could be described as "filter" or "non-filter" or made of Turkish tobacco, Malagasy tobacco or Virginia tobacco.

Senator Cayetano (P) clarified that the objective of the law is not to allow any kind of descriptor, whether in words, images, phrases or colors, that will give the impression that a cigarette or tobacco product is less harmful because there is no safe amount of nicotine. She stated that if a cigarette company or brand uses descriptors that include words such as "light" or "mild," then that gives the impression to the consumer or potential consumer, particularly the youth, that it is a less harmful product. She said that the bill hopes to address the misconception that such a product is actually acceptable and not harmful.

Senator Cayetano (P) acknowledged the fact that although words or descriptors have different meanings, the bill has to protect the rights of the public who may have the impression that harmful ingredients, such as nicotine, can be reduced and, therefore, less harmful because there is no such thing as safe amount.

Asked by Senator Enrile whether "filtered" or "non-filter" labels in cigarettes would fall within the prohibition of Section 7, Senator Cayetano (P) replied

that such labels are considered facts because they can be proven and easily verified. However, she noted that the label "filtered" also gives the impression that the product is safer and healthier. She said that the FTC has recommended that the label "filter" or "non-filter" may be deceptive to the public, which is how it is interpreted in the bill.

Asked whether the label "non-filter" would also be prohibited, Senator Cayetano (P) replied that the objective of the bill is to promote health and, therefore, there is admittedly an obvious bias in favor of prohibiting descriptors that may be deceptive in terms of giving the impression that the product is healthy. She stated that labels like "make no mistake, this is unfiltered, therefore, not healthy" would be accepted because the bias would be in favor of health.

Asked whether the label "pure tobacco" would be accepted, Senator Cayetano (P) replied in the affirmative. As regards "blended" labels, she explained that the bill does not intend to interfere with the descriptor if it refers to flavor, but if the descriptor has double-meaning, it would fall under the prohibitions which are provided in the bill. On the label "non-menthol" or "mentholated," she said that the descriptor should be allowed if it indicates only menthol flavor but if it contains a label "light," then there may be a violation of the non-use of descriptors that would confuse the public. She explained that if there are clear indications that through the marketing campaigns and packaging the descriptors or specific words promote the product as being healthier or lighter in terms of less harmful substances, obviously there is an attempt to mislead the public; however, if it is just an isolated use of a word that is not as obvious as "light" or "mild," then there may be basis for the descriptor to be allowed. She clarified that it is not her intention to interfere with any marketing campaign of the manufacturers that they have developed over the years to establish their brand but if there is a visual marking or descriptor that over the years has given the public the impression that the product is safer, then the use of that descriptor must not be allowed.

Senator Enrile explained that he asked such questions because he would deal extensively on the powers of the Department of Health which is the agency designated to implement the law, particularly Section 15 (Picture-Based Health Warning Guidelines).

Asked whether the label "no additives" is passable, Senator Cayetano (P) replied that it may be misleading

until the FDA shall have defined the meaning of "no additives." She stated that the label "no additives" may be deceptive in the sense that people do not really know what it really means and they are given the impression that the product is healthier when inherent in every tobacco are the harmful ingredients that it contains.

To the observation that the appreciation of a descriptor is subjective, Senator Cayetano (P) admitted that it is, because the interpretation of health experts *vis-a-vis* a child or a layman would vary. She stated that studies showed that people will always try to interpret something in the way that is acceptable to them.

Asked whether markings like "30% tobacco Turkish," "70% Virginia" or those that would indicate that the product is composed of different types of tobacco would be acceptable, Senator Cayetano (P) answered in the affirmative, saying that these descriptors only show the origin of the tobacco product and it does not relate to the health component of the tobacco.

Adverting to Section 8 (*Minimum Principal Display Surface Prohibition on Smaller Packages*), Senator Enrile asked what the actual measurement of picture-warnings would be of a 4950 square millimeter pack. Senator Cayetano (P) replied that the minimum should be 60% of the size of the packaging.

Senator Enrile expressed concern that if the bill requires the 49mm by 50mm size for the standard packaging of cigarettes, then all of the current packaging in the country would be banned, thereby entailing a lot of costs to the manufacturers. Senator Cayetano (P) clarified that there was no intention to impose any change in the current packaging; however, in smaller packs, a bigger size percentage would be imposed, otherwise, the graphic warning might not be visible anymore.

To Senator Enrile's suggestion to provide a threshold and upper limit in order to prevent unbridled discretion on the part of the implementing agency, Senator Cayetano (P) stated that it is not the intention to give unbridled discretion to the implementing agency and that the bill simply provided the minimum because there may be some manufacturers who may be willing to increase the size. However, to avoid undue delegation of powers to the implementing agency, she agreed to amend the bill at the proper time.

Adverting to Section 12, Senator Enrile pointed out the need to clarify the phrase “jointly and severally liable” which now-lawyers, like the ordinary local employees that would help in the enforcement of the law, might misinterpret. He said that it should distinctly state that only insofar as civil liability is concerned that it would be joint and several. Senator Cayetano (P) replied that the Committee would be happy to accommodate a clarificatory amendment.

Regarding the responsibility of the chairperson of the board of directors or of the owner, Senator Cayetano (P) explained that the term “owner” refers to a single proprietor who is not registered as a corporation, it does business in his own name, and it has no separate identity.

Senator Enrile maintained that the wording of the provision must be clarified to spell out the legislative intent of the measure in order to avoid misinterpretations. Senator Cayetano (P) agreed, adding that the intention of the Committee was to ensure that those who are liable, whether a corporation, a single proprietorship or a partnership, would be held accountable for their acts. She assured the Body that there was no intention to muddle the distinction between corporations or individuals. At the proper time, she said that any amendments that would clarify the provision would be welcomed.

As regards the penalties for noncompliance as found in Section 14, Senator Cayetano (P) explained that a distinction has been made between manufacturers, importers and distributors, as provided for in subparagraph (b), pointing out that the penalty for the former is higher than the latter.

Senator Enrile asked what scale was used to come up with the penalty for the first offense, which is not more than P1 million, to the second offense, which is P5 million, and to the third offense, which is not more than P20 million, and whether the scale is an intentional progression. Senator Cayetano (P) replied that the intention was to make a meaningful progression since P1 million is considered a small amount for the companies involved in the manufacture, importation and distribution. As to the court that will take jurisdiction over such cases, she replied that such cases would fall under the RTC, as defined by law.

Asked on the meaning of “batch” in the language of cigarette manufacturing, Senator Cayetano (P) said that tobacco products have batch numbers to

easily identify the particular source and time of manufacturing even after they have been distributed to various retailers.

To Senator Enrile’s observation that it is the withdrawal that establishes the batch, Senator Cayetano (P) clarified that if 50% of the batch produced was left in the warehouse and, thus, only 50% was released, then the released batch is the first batch; if the 50% batch left behind would be released later, the entire production would constitute two batches.

Asked how many offenses would be committed supposing two trucks were used to withdraw 500 boxes of cigarettes from the manufacturing facility, Senator Cayetano (P) replied that the cigarettes should first be classified whether imported or exported; if imported, the whole batch would be considered as one batch, or one offense was committed; if locally manufactured or assembled, and were withdrawn on separate days, then the number of offenses committed would be per withdrawal from the manufacturing facility.

Senator Enrile suggested to simplify the word “batch” to “each withdrawal.” Senator Cayetano (P) welcomed the suggestion.

At this juncture, Senate President Drilon clarified that the proposed amendment would be to use “each withdrawal” instead of “each batch.”

Senator Enrile asked if every manufacturing company has storekeepers in their respective warehouses who could be utilized to determine the withdrawals in order to make the implementation of the law effective. He explained that there would be a problem of proof in determining withdrawals to avoid accumulation of penalties. Senator Cayetano (P) replied that the Committee will be discussing the matter with the cigarette manufacturers, the FDA and others involved in the trade so that more details could be provided in the bill.

Senator Enrile noted that the penalties to retailers and sellers of tobacco products for any violation of the Act, would be a fine of P5,000 for the first offense, P10,000 for the second offense, and P20,000 for the third offense, and that each day that non-compliant tobacco packages are found in the retail establishments of the retailers after the compliance date shall constitute one offense. He asked if that was the intent of the law. Senator Cayetano (P) replied in the affirmative.

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At this point, Senator Enrile said that he would continue his interpellation at some other time.

STATEMENT OF SENATOR CAYETANO (P)

Senator Cayetano (P) placed on record one of her responses to Senator Enrile's question the other day on the data on text-based warning and graphic-based health warning, which she would summarize and submit to the Body.

Senator Cayetano (P) said that in a study conducted by Canada on the prevalence rate of smoking among teenagers aged 15 to 19 after text warnings on cigarettes was imposed in 1989, the following data were revealed: in 1991, the prevalence rate was 23%; in 1994, 27%; from 1994-1995, 28%; 1996-1997, 29%; 1998-1999, 28%; and 1999, 28%.

Senator Cayetano (P) informed the Body that Canada had passed a graphic health warning law in 2000 and that the prevalence rate from 2000 to 2012 went down from 25% to 11% — a gradual decline over a 12-year period, from 25%, to 22% and 18%; it even went down to 15% in 2006, 13% in 2009, 22% in 2010, 12% in 2011, and 11% in 2012. She said that she would place on record if there are other such studies available.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 27

Upon motion of Senator Cayetano (A), there being no objection, the Body suspended consideration of the bill.

ADJOURNMENT OF SESSION

Upon motion of Senator Cayetano (A), there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of Monday, May 19, 2014.

It was 4:48 p.m.

I hereby certify to the correctness of the foregoing.

OSCAR G. YABES
Secretary of the Senate
Oscar G. Yabes

Approved on May 19, 2014