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SENATE
S. B. **2348**

RECEIVED BY: *J.*

Introduced by Senator Poe

AN ACT
AMENDING PRESIDENTIAL DECREE NO. 1464, OTHERWISE KNOWN AS THE
TARIFF AND CUSTOMS CODE OF THE PHILIPPINES, TO DEFINE SMUGGLING
AS AN ACT THAT CONSTITUTES ECONOMIC SABOTAGE, TO PROVIDE THE
APPROPRIATE PUNISHMENT AND PENALTIES, AND FOR OTHER PURPOSES

Explanatory Note

Smuggling had long plagued the Philippine economy, hounded the revenue-generating agencies and crippled key programs of the government. Two forms of smuggling—"pure" and "direct" smuggling, or moving goods into the country undetected and by bypassing all legal channels, and "technical" smuggling, which involves manipulation of customs documentation to misrepresent the value, quantity or quality of goods being imported—tend to circumvent duties to the disadvantage of the government, where actual imports are considerably larger than officially documented.

Smuggling clearly deprives the government of its much-needed revenue. These unlawful acts often sully the Philippines' reputation as a haven for smugglers. Likewise, smuggling puts a dent on the operation of domestic enterprises.

In 2011 alone, the Philippines lost an estimated \$3.85 billion in tax revenues due to smuggling, "more than double the size of the fiscal deficit and also constituted 95 percent of the Philippines' total government expenditures on social benefits during the same year," said the Global Financial Integrity (GFI) in its study.¹ The United States-based think tank also said that about 25 percent of the total value of all goods imported into the Philippines goes unreported to Customs officials. The GFI said that over the 52-year period, the Philippines lost \$177 billion through capital flight. For a period of 52 years, the country lost \$176.6 billion through capital flight—or an average of \$3.5 billion annually from 1960 to 2011.

¹ Dev Kar and Brian LeBlanc. *Illicit Financial Flows to and from the Philippines: A Study in Dynamic Simulation, 1960-2011*. (February 2014), p. 13

The Federation of Philippine Industries, a business organization that groups some 800 companies, for its part, said that in nine years—or from 2002 to 2011—the government lost more than P1.33 trillion in revenue due to smuggling².

The Bureau of Customs, the government's second largest revenue-generating agency which accounts for about a fifth of state revenues, reported gains in the first half of this year, compared with the same period last year, but did not meet its collection target. From January to June 2014, the agency collected P173.401 billion, short of its P198.949 billion target for the period but higher from last year's P145.132 billion collections³.

Amid efforts to eliminate the illegal trade and continuing bid to shore up revenues, smuggling continues to exist. For one, the existence of smuggled agricultural products still persists in the local markets.

This bill seeks to define any form of smuggling, which involves goods with an aggregate value of P1 million, as economic sabotage. With this proposal, it is expected to ward off such illegal activities and haul to court perpetrators.

In this light, approval is earnestly requested.


GRACE POE

² Retrieved from <http://newsinfo.inquirer.net/562955/ph-lost-p1-33-trillion-to-smuggling-in-9-years-says-business-group>

³ Retrieved from <http://customs.gov.ph/news/2014/07/21/boc-revenues-grow-17-5-in-june-2014/>

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

1 **Section 1.** Section 3514 of Presidential Decree 1464 is hereby amended to read as
2 follows:

3
4 "Sec. 3514. Words and phrases Defined – As used in this Code:

5
6 'Foreign port' means port or place outside the jurisdiction of the Philippines.
7

8 'Port of entry' is a domestic port open to both foreign and coastwise trade. The
9 term includes principal ports of entry and sub ports of entry. A 'principal port of entry'
10 is the chief port of entry of the collection district wherein it is situated and is the
11 permanent station of the Collector of such port. Subports of entry are under the
12 administrative jurisdiction of the Collector of the principal port of entry of the district.
13 Whatever the 'Port of entry' is used herein, it shall include 'airport of entry'.
14

15 'Person' whether singular or plural refers to an individual, corporation,
16 partnership, association, cooperative, company or any other kind of organization.
17

18 'Economic Sabotage' refers to any and all activities that undermines, weakens or
19 render into disrepute the economic system or viability of the country or tends to bring
20 about such effects. For the purpose of this Act, any violation of Section 3601 and 3602 of
21 this Act, which involves goods and/or articles with the aggregate value of One Million
22 Pesos (P1,000,000.00), shall constitute as 'Economic Sabotage'.
23

24 **Section 2.** Section 3601 of Presidential Decree No. 1464 is hereby amended to
25 read as follows:
26

1 "Sec. 3601. Unlawful Importation. – Any person who shall fraudulently import
2 or bring in to the Philippines, or assist in so doing, any article, contrary to law, or shall
3 receive, conceal, buy, sell or in any manner facilitate the transportation, concealment, or
4 sale of such article after importation, knowing the same to have been imported contrary
5 to law, shall be punished by a fine of not less than Six Hundred Pesos (P600.00) nor
6 more than Five Thousand Pesos (P5,000.00) and imprisonment for not less than six (6)
7 months nor more than two (2) years and if the offender is an alien, he shall be deported
8 after serving the sentence.

9
10 Any violation of this provision that constitutes as economic sabotage, as defined
11 in this Act, shall be punished as follows:

- 12
13 (a) Fine equal to twice the fair market value of the articles involved;
14 (b) Fine equal to the aggregate amount of the taxes, duties and other charges
15 avoided;
16 (c) Imprisonment of a minimum of eight (8) years and one (1) day up to life
17 imprisonment; and
18 (d) Confiscation of the articles involved.

19
20 If the person violating this provision is a juridical entity, the penalty of
21 imprisonment shall be imposed on the president and the responsible officers thereof. In
22 addition, the business permits and licenses of the business entity shall be revoked or
23 cancelled.

24
25 The broker of the violator of this provision shall be punished as a principal.

26
27 When, upon trial for a violation of this section, the defendant is shown to have or
28 to have had possession of the article in question, such possession shall be deemed
29 sufficient evidence to authorize conviction, unless the defendant shall explain the
30 possession to the satisfaction of the court."

31
32 **Section 3.** Sec. 3602 of Presidential Decree No. 1464 is hereby amended to read as
33 follows:

34
35 "Sec. 3602. Various Fraudulent Practices Against Customs Revenue. – Any
36 person who makes or attempts to make any entry of imported or exported article by
37 means of any false or fraudulent invoice, declaration, affidavit, letter, paper, or by
38 means of any false statement, written or verbal or by means of any false or fraudulent
39 practice whatsoever, or shall be guilty of any willful act or omission by means of
40 whereof the Government might be deprived of the lawful duties, taxes and other
41 charges, or any portion thereof, accruing from the article or any portion thereof,
42 embraced or referred to in such invoice, declaration, affidavit, letter, paper, or
43 statement, or affected by such act or omission, shall, for each offense, be punished by a
44 fine of not less than Six Hundred Pesos (P600.00) or more than Five Thousand Pesos
45 (5,000.00) and by imprisonment for not less than six (6) months or more than two (2)
46 years and if the offender is an alien, he shall be deported after serving the sentence.

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13 addition, the business permits and licenses of the business entity shall be revoked or
14 cancelled.

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16 The broker of the violator of this provision shall be punished as a principal.”

17
18 **Section 4. Repealing Clause** – All laws, decrees, executive orders, issuances, or
19 regulations inconsistent with the provisions of this Act are revised or amended
20 accordingly.

21
22 **Section 5. Separability Clause** – If any part of this Act is declared
23 unconstitutional or invalid, such parts or provisions not so declared shall remain valid
24 and subsisting.

25
26 **Section 6. Effectivity Clause** – This Act shall take effect fifteen (15) days after its
27 publication in at least two (2) newspapers of general circulation.

Approved,