

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 768

HOUSE OF REPRESENTATIVES

RECEIVED

DATE: 30 JUN 2016

TIME: 11:47 P.M.

BY: [Signature]

REGISTRATION UNIT
BILLS AND INDEX SERVICE

Introduced by **DIWA Party-list Representative Emmeline Y. Aglipay – Villar**

EXPLANATORY NOTE

Climate change is no longer just a mere political issue. It has already evolved into a moral issue for us. As we have experienced the worsening effects of climate change over the past years, it has now become our collective moral obligation to ensure that we take actions to somehow address this issue. Although we may be a considerably small nation who can only have so much contribution in resolving the global issue of climate change, this does not excuse us from not doing whatever we can to help combat this humanitarian concern.

As an agricultural country, one of the worst aspects of our environmental policy is our failure to adopt better and environment-friendly measures in our various agricultural activities. An example is our continuous spraying of pesticides and other harmful substances in agricultural fields which are consequently sprayed into our atmosphere. Not only does this practice result in irreversible and harmful effects to our environment, it likewise poses serious consequences to the health and well-being of the public. This bill, based on House Bill No. 3381 filed by Rep. Ibarra "Barry" M. Gutierrez, III and Rep. Walden F. Bello last 16th Congress, advances the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature. It is about time that we put into law, a concrete and definite prohibition to the practice of spraying hazardous substances in the atmosphere.

Emmeline Y. Villar

EMMELINE Y. AGLIPAY – VILLAR
Representative, DIWA Party-list

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AN ACT
PROVIDING FOR THE BAN OF AERIAL SPRAYING OF PESTICIDES AND
OTHER HAZARDOUS SUBSTANCES AND FOR OTHER PURPOSES

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

SECTION 1. Short Title. This Act shall be known as the “Aerial Spray Ban Act of 2016.”

SECTION 2. Declaration of Policy.— Pursuant to Section 15, Article II of the 1987 *Philippine Constitution* which mandates the protection and promotion of the right to health and makes it the obligation of the State to instill consciousness on matters relating to the said right, and to Section 16 of the same Article, which mandates the State to protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature, it is hereby declared the policy of the State to uphold the Constitutional rights to health and to a balanced ecology. The State prohibits the method of aerial spraying of pesticides in all agricultural activities.

SECTION 3. Definition of Terms. – As used in this Act:

- (a) “*Aerial Spraying*” shall refer to the application of substances, including, but not limited to, pesticides, through the use of any form of aircraft, in order to dispense the substances in through the air.
- (b) “*Agricultural activity*” shall refer to cultivation of the soil, planting of crops, growing of fruit trees, and shall include the following activities: land preparation, seeding, planting, cultivation, harvesting, bagging, and other activities and practices performed in conjunction with farming operations.
- (c) “*Agricultural entity*” refers to any person, whether natural or juridical, who is involved in agricultural activities.
- (d) “*Hazardous substances*” are substances which present either:
 - 1) Short-term acute hazards, such as acute toxicity by ingestion, inhalation or skin absorption, corrosively or other

skin or eye contact hazards or the risk of fire or explosion;
or

- 2) Long-term environmental hazards, including chronic toxicity upon repeated exposure, carcinogenicity (which may in some cases result from acute exposure but with a long latent period), resistance to detoxification process such as biodegradation, the potential to pollute underground or surface waters, or aesthetically objectionable properties such as offensive odors.
- (e) "*Imminent hazard*" shall mean a situation which exists when the continued use of a pesticide will likely result in unreasonable adverse effects on the public and/or the environment or will involve unreasonable hazards to the survival of a species declared endangered by the appropriate authorities.
 - (f) "*Persistent organic pollutant*" refers to the organic compounds, which resist photolytic, chemical and biological degradation, that persist in the environment, bio-accumulate through the food web, and pose a risk of causing adverse effects to human health and the environment. "*Persistent organic pollutants*" include, among others, dioxin, furan, polychlorinated biphenyls (PCBs), and organochlorine pesticides (such as aldrin, dieldrin, DDT, hexachlorobenzene, lindane, oxaphere and chlordane).
 - (g) "*Pest*" means any form of plant or animal life, or any pathogenic agent, injurious or potentially injurious to plants or plant products.
 - (h) "*Pesticide*" shall refer to any substance or product, or mixture thereof, including active ingredients, adjuvants and pesticide formulations, intended to control, prevent, destroy, repel or mitigate, directly or indirectly, any pest. The term "*pesticide*" shall be understood to include insecticide, fungicide, bactericide, nematocide, herbicide, molluscicide, avicide, rodenticide, plant regulator, defoliant, desiccant and the like.
 - (i) "*Toxicity*" means a physiological or biological property determinative of the capacity of a chemical to do harm or produce injury to a living organism through non-mechanical means.

SECTION 4. Scope and Presumption. - The provisions of this Act shall apply to aerial spraying of pesticides in all agricultural activities: *Provided*, That the use of an aircraft to spray substances near or, above an agricultural plantation is presumed to be engaged in aerial spraying of pesticides: *Provided, finally*, That a person or entity engaged in aerial spraying of pesticides is presumed to be spraying hazardous substances or persistent organic pollutants.

Urban pest control and the use of urban pesticides are excluded from the coverage of this Act.

SECTION 5. Ban on Aerial Spraying of Pesticides. - The aerial spraying of pesticides, hazardous substances and persistent organic pollutants shall be prohibited in all agricultural plantations three (3) months after the Fertilizer and Pesticides Authority (FPA) shall have promulgated the implementing rules and regulations of this Act.

SECTION 6. Implementing Agency. - The FPA, created by virtue of Presidential Decree No. 1144, attached to the Department of Agriculture shall be the primary government agency responsible for the implementation and enforcement of this Act.

By virtue of Section 6 (I) (4) of P.D. 1144, the FPA shall promulgate the implementing rules and regulations of this Act within sixty (60) days from the effectivity hereof.

SECTION 7. Administrative Fines. - - Upon the finding by the Fertilizer and Pesticides Authority and its corresponding recommendation to the Secretary of the Department of Agriculture, the following administrative fines shall be imposed for every day of aerial spraying of pesticides as prohibited in Section 5 and in relation to the presumption in Section 4 of this Act:

- (a) An administrative fine of not less than fifty thousand Philippine pesos (PhP50,000.00) but not more than one hundred thousand Philippine pesos (PhP100,000.00) upon the owner of the plantation or the person who actually commissioned the aerial spraying of pesticides.
- (b) An administrative fine of not less than twenty thousand Philippine pesos (PhP20, 000.00) but not more than fifty thousand Philippine pesos (PhP50,000.00) upon the aircraft owner or operator and the aircraft pilot: *Provided*, That the recommendation of the FPA shall include the immediate suspension of the permit to operate, in the case of the owner or operator of the aircraft, and the professional license, in the case of the pilot of the aircraft, for a period of not less one (1) month or until cessation of aerial spraying of pesticides.

SECTION 8. Penal Provisions. -

- (a) The penalty of *prision mayor* shall be imposed upon the owner of the plantation or the person who actually commissioned the actual spraying in violation of Section 5 of this Act: *Provided*, That in the case of juridical persons, corporations, partnerships or associations, the penalty herein shall be imposed upon the officers, directors or trustees of the corporation and upon any member who actually participated in the aerial spraying in violation of Section 5 hereof.
- (b) In addition to the revocation of the permit to operate, in the case of the owner or operator, and the revocation of the professional license, in the case of the pilot, the penalty of *prision correccional* shall be imposed upon the owner or operator and the pilot of the aircraft used in aerial spraying of pesticides.

The aircraft and other equipment used in violation of Section 5 of this Act shall be subject to forfeiture under Article 45 of Act No.3815 otherwise known as the "Revised Penal Code."

The filing of a criminal action under this Act shall be without prejudice to the filing of civil and administrative cases by the persons or communities affected because of the aerial spraying of pesticides.

SECTION 9. Repealing Clause. – Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act, particularly those inconsistent provisions of Presidential Decree No. 1144 and Act No. 3815, is hereby repealed, modified or amended accordingly.

SECTION 10. Separability Clause. - If for any reason or reasons, any part or provision of this Act shall be held unconstitutional, invalid or without any force or effect, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 11. Effectivity. – This Act shall take effect fifteen (15) days after the completion of its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,