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TITLE : AN ACT TO CONTROL TOXIC SUBSTANCES AND HAZARDOUS AND NUCLEAR
WASTES, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER
PURPOSES

TEXT :

S. No. 255
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Republic of the Philippines
Congress of the Philippines
Metro Manila

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[REPUBLIC ACT No. 06969]

AN ACT TO CONTROL TOXIC SUBSTANCES AND
HAZARDOUS AND NUCLEAR WASTES, PROVIDING
PENALTIES FOR VIOLATIONS THEREOF, 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 "Toxic
Substances and Hazardous and Nuclear Wastes Control Act of 1990."

SEC. 2. Declaration of Policy.-It is the policy of the State to
regulate, restrict or prohibit the importation, manufacture,
processing, sale, distribution, use and disposal of chemical
substances and mixtures that present unreasonable risk and/or
injury to health or the environment; to prohibit the entry, even
in transit, of hazardous and nuclear wastes and their disposal
into the Philippine territorial limits for whatever purpose; and
to provide advancement and facilitate research and studies on
toxic chemicals.

SEC. 3. Scope.-This Act shall cover the importation,
manufacture, processing, handling, storage, transportation, sale,
distribution, use and disposal of all unregulated chemical
substances and mixtures in the Philippines, including the entry,

even in transit, is well as the keeping or storage and disposal of hazardous and nuclear wastes into the country for whatever purpose.

SEC. 4. Objectives.-The objectives of this Act are:

a) To keep an inventory of chemicals that are presently being imported, manufactured, or used, indicating, among others, their existing and possible uses, test data, names of firms manufacturing or using them, and such other information as may be considered relevant to the protection of health and the environment;

b) To monitor and regulate the importation, manufacture, processing, handling, storage, transportation, sale, distribution, use and disposal of chemical substances and mixtures that present unreasonable risk or injury to health or to the environment in accordance with national policies and international commitments;

c) To inform and educate the populace regarding the hazards and risks attendant to the manufacture, handling, storage, transportation, processing, distribution, use and disposal of toxic chemicals and other substances and mixtures; and

d) To prevent the entry, even in transit, as well as the keeping or storage and disposal of hazardous and nuclear wastes into the country for whatever purpose.

SEC. 5. Definition.-As used in this Act:

a) Chemical substance means any organic or inorganic substance of a particular molecular identity, including:

i) Any combination of such substances occurring in whole or in part as a result of chemical reaction or occurring in nature; and

ii) Any element or uncombined chemical.

b) Chemical mixture means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction, if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined. This shall include nonbiodegradable mixtures.

c) Process means the preparation of a chemical substance or mixture after its manufacture for commercial distribution:

i) In the same form or physical state or in a different form or physical state from that which it was received by the person so

preparing such substance or mixture; or

ii) As part of an article containing a chemical substance or mixture.

d) Importation means the entry of a product or substance into the Philippines (through the seaports or airports of entry) after having been properly cleared through or still remaining under customs control, the product or substance of which is intended for direct consumption, merchandising, warehousing, or for further processing.

e) Manufacture means the mechanical or chemical transformation of substances into new products whether work is performed by power-driven machines or by hand, whether it is done in a factory or in the worker's home, and whether the products are sold at wholesale or retail.

f) Unreasonable risk means expected frequency of undesirable effects or adverse responses arising from a given exposure to a substance.

g) Hazardous substances are substances which present either:

1) short-term acute hazards, such as acute toxicity by ingestion, inhalation or skin absorption, corrosivity or other skin or eye contact hazard 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.

h) Hazardous wastes are hereby defined as substances that are without any safe commercial, industrial, agricultural or economic usage and are shipped, transported or brought from the country of origin for dumping or disposal into or in transit through any part of the territory of the Philippines.

Hazardous wastes shall also refer to by-products, sideproducts, process residues, spent reaction media, contaminated plant or equipment or other substances from manufacturing operations, and as consumer discards of manufactured products.

i) Nuclear wastes are hazardous wastes made radioactive by exposure to the radiation incidental to the production or utilization of nuclear fuels but does not include nuclear fuel, or radioisotopes which have reached the final state of fabrication so as to be usable for any scientific, medical, agricultural, commercial, or industrial purpose.

SEC. 6. Functions, Powers and Responsibilities of the Department

of Environment and Natural Resources.--The Department of Environment and Natural Resources shall be the implementing agency tasked with the following functions, powers, and responsibilities:

a) To keep an updated inventory of chemicals that are presently being manufactured or used, indicating among others, their existing and possible uses, quantity, test data, names of firms manufacturing or using them, and such other information as the Secretary may consider relevant to the protection of health and the environment;

b) To require chemical substances and mixtures that present unreasonable risk or injury to health or to the environment to be tested before they are manufactured or imported for the first time;

c) To require chemical substances and mixtures which are presently being manufactured or processed to be tested if there is a reason to believe that they pose unreasonable risk or injury to health or the environment;

d) To evaluate the characteristics of chemicals that have been tested to determine their toxicity and the extent of their effects on health and the environment;

e) To enter into contracts and make grants for research, development, and monitoring of chemical substances and mixtures;

f) To conduct inspection of any establishment in which chemicals are manufactured, processed, stored or held before or after their commercial distribution and to make recommendations to the proper authorities concerned;

g) To confiscate or impound chemicals found not falling within the standard set by the rules and regulations and the said acts cannot be enjoined except after the chemicals have been impounded;

h) To monitor and prevent the entry, even in transit, of hazardous and nuclear wastes and their disposal into the country;

i) To subpoena witnesses and documents and to require other information if necessary to carry out the provisions of this Act;

j) To call on any department, bureau, office, agency, state university or college, and other instrumentalities of the Government for assistance in the form of personnel, facilities, and other resources if the need arises in the discharge of its functions;

k) To disseminate information and conduct educational awareness campaign on the effects of chemical substances, mixtures and wastes on health and environment; and

l) To exercise such powers and perform such other functions as

may be necessary to carry out its duties and responsibilities under this Act.

SEC. 7. Inter-Agency Technical Advisory Council.-There is hereby created an Inter-Agency Technical Advisory Council attached to the Department of Environment and Natural Resources which shall be composed of the following officials or their duly authorized representatives:

Secretary of Environment and
Natural Resources-----Chairman

Secretary of Health-----Member

Director of the Philippine Nuclear
Research Institute-----Member

Secretary of Trade and Industry-----Member

Secretary of Science and Technology-----Member

Secretary of Foreign Affairs-----Member

Secretary of Labor and Employment-----Member

Secretary of Finance-----Member

Secretary of Agriculture-----Member

Representative from a non-governmental
organization on health and safety-----Member

The representative from the non-government and organization shall be appointed by the President for a term of three (3) years.

The Council shall have the following functions;

a) To assist the Department of Environment and Natural Resources in the formulation of the pertinent rules and regulations for the effective implementation of this Act;

b) To assist the Department of Environment and Natural Resources in the preparation and updating of the inventory of chemical substances and mixtures that fall within the coverage of this Act;

c) To conduct preliminary evaluation of the characteristics of chemical substances and mixtures to determine their toxicity and effects on health and the environment and make the necessary recommendations to the Department of Environment and Natural Resources; and

d) To perform such other functions as the Secretary of Environment and Natural Resources may, from time to time, require.

SEC. 8. Pre-Manufacture and Pre-Importation Requirements.-Before any new chemical substance or mixture can be manufactured, processed or imported for the first time as determined by the Department of Environment and Natural Resources, the manufacturer, processor or importer shall submit the following information: the name of the chemical substance or mixture; its chemical identity and molecular structure; proposed categories of use; an estimate of the amount to be manufactured, processed or imported; processing and disposal thereof; and any test data related to health and environmental effects which the manufacturer, processor or importer has.

SEC. 9. Chemicals Subject to Testing.-Testing shall be required in all cases where:

a) There is a reason to believe that the chemical substance or mixture may present an unreasonable risk to health or the environment or there may be substantial human or environmental exposure thereto;

b) There are insufficient data and experience for determining or predicting the health and environmental effects of the chemical substance or mixture; and

c) The testing of the chemical substance or mixture is necessary to develop such data.

The manufacturers, processors or importers shall shoulder the costs of testing the chemical substance or mixture that will be manufactured, processed, or imported.

SEC. 10. Action by the Secretary of Environment and Natural Resources or his Duly Authorized Representative.-The Secretary of Environment and Natural Resources or his duly authorized representative shall, within ninety (90) days from the date of filing of the notice of manufacture, processing or importation of a chemical substance or mixture, decide whether or not to regulate or prohibit its importation, manufacture, processing, sale, distribution, use or disposal. The Secretary may, for justifiable reasons, extend the ninety-day premanufacture period within a reasonable time.

SEC. 11. Chemical Substances Exempt from Pre-Manufacture Notification.-The manufacture of the following chemical substances or mixtures shall be exempt from pre-manufacture notification:

a) Those included in the categories of chemical substances and mixtures already listed in the inventory of existing chemicals;

b) Those to be produced in small quantities solely for experimental or research and developmental purposes;

c) Chemical substances and mixtures that will not present an unreasonable risk to health and the environment; and

d) Chemical substances and mixtures that exist temporarily and which have no human or environmental exposure such as those which exist as a result of chemical reactions in the manufacture or processing of a mixture of another chemical substance.

SEC. 12. Public Access to Records, Reports or Notification.-The public shall have access to records, reports, or information concerning chemical substances and mixtures including safety data submitted, data on emission or discharge into the environment, and such documents shall be available for inspection or reproduction during normal business hours except that the Department of Environment and Natural Resources may consider a record, report or information or particular portions thereof confidential and may not be made public when such would divulge trade secrets, production or sales figures or methods, production or processes unique to such manufacturer, processor or distributor, or would otherwise tend to affect adversely the competitive position of such manufacturer, processor or distributor. The Department of Environment and Natural Resources, however, may release information subject to claim of confidentiality to a medical research or scientific institution where the information is needed for the purpose of medical diagnosis or treatment of a person exposed to the chemical substance or mixture.

SEC. 13. Prohibited Acts.-The following acts and omissions shall be considered unlawful:

a) Knowingly use a chemical substance or mixture which is imported, manufactured, processed or distributed in violation of this Act or implementing rules and regulations or orders;

b) Failure or refusal to submit reports, notices or other information, access to records is required by this Act, or permit inspection of establishment where chemicals are manufactured, processed, stored or otherwise held;

c) Failure or refusal to comply with the pre-manufacture and pre-importation requirements; and

d) Cause, aid or facilitate, directly or indirectly, in the storage, importation, or bringing into Philippine territory, including its maritime economic zones, even in transit, either by means of land, air or sea transportation or otherwise keeping in storage any amount of hazardous and nuclear wastes in any part of the Philippines.

SEC. 14. Criminal Offenses and Penalties.-

a) (i) The penalty of imprisonment of six (6) months and one day to six (6) years and one day and a fine ranging from Six hundred pesos (P600.00) to Four thousand pesos (P4,000.00) shall be imposed upon any person who shall violate section 13 (a) to (c) of this Act and shall not be covered by the Probation Law. If the

offender is a foreigner, he or she shall be deported and barred from any subsequent entry into the Philippines after serving his or her sentence;

(ii) In case any violation of this Act is committed by a partnership, corporation, association or any juridical person, the partner, president, director or manager who shall consent to or shall knowingly tolerate such violation shall be directly liable and responsible for the act of the employees and shall be criminally liable as a co-principal;

(iii) In case the offender is a government official or employee, he or she shall, in addition to the above penalties, be deemed automatically dismissed from office and permanently disqualified from holding any elective or appointive position.

b) (i) The penalty of imprisonment of twelve (12) years and one day to twenty (20) years, shall be imposed upon any person who shall violate section 13 (d) of this Act. If the offender is a foreigner, he or she shall be deported and barred from any subsequent entry into the Philippines after serving his or her sentence;

(ii) In the case of corporations or other associations, the above penalty shall be imposed upon the managing partner, president or chief executive in addition to an exemplary damage of at least Five hundred thousand pesos (P500,000.00). If it is a foreign firm, the director and all officers of such foreign firm shall be barred from entry into the Philippines, in addition to the cancellation of its license to do business in the Philippines;

(iii) In case the offender is a government official or employee, he or she shall in addition to the above penalties be deemed automatically dismissed from office and permanently disqualified from holding any elective or appointive position.

c) Every penalty imposed for the unlawful importation, entry, transport, manufacture, processing, sale or distribution of chemical substances or mixtures into or within the Philippines shall carry with it the confiscation and forfeiture in favor of the Government of the proceeds of the unlawful act and instruments, tools or other improvements including vehicles, sea vessels, and aircrafts used in or with which the offense was committed. Chemical substances so confiscated and forfeited by the Government at its option shall be turned over to the Department of Environment and Natural Resources for safekeeping and proper disposal.

d) The person or firm responsible or connected with the bringing or importation into the country of hazardous or nuclear wastes shall be under obligation to transport or send back said prohibited wastes;

Any and all means of transportation, including all facilities

and appurtenances that may have been used in transporting to or in the storage in the Philippines of any significant amount of hazardous or nuclear wastes shall at the option of the government be forfeited in its favor.

SEC. 15. Administrative Fines.--In all cases of violations of this Act, including violations of implementing rules and regulations which have been duly promulgated and published in accordance with Section 16 of this Act, the Secretary of Environment and Natural Resources is hereby authorized to impose a fine of not less than Ten thousand pesos (P10,000.00), but not more than Fifty thousand pesos (P50,000.00) upon any person or entity found guilty thereof. The administrative fines and collected by the Department of Environment and Natural Resources shall accrue to a special fund to be administered by the Department exclusively for projects and research activities relative to toxic substances and mixtures.

SEC. 16. Promulgation of Rules and Regulations.--The Department of Environment and Natural Resources, in coordination with the member agencies of the Inter-Agency Technical Advisory Council, shall prepare and publish the rules and regulations implementing this Act within six months from the date of its effectivity.

SEC. 17. Appropriations.--Such amount as may be necessary to implement the provisions of this Act is hereby annually appropriated and included in the budget of the Department of Environment and Natural Resources.

SEC. 18. Separability Clause.--If any provision of this Act is declared void or unconstitutional, the remaining provisions thereof not affected thereby shall remain in full force and effect.

SEC. 19. Repealing Clause.--All laws, presidential decrees, executive orders and issuances, and rules and regulations which are inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 20. Effectivity.--This Act shall take effect after fifteen (15)days following its publication in the Official Gazette or in any newspaper of general circulation.

Approved,

RAMON V. MITRA
Speaker of the House
of Representatives

JOVITO R. SALONGA
President of the Senate

This Act which is a consolidation of Senate Bill No. 255 House Bill No. 25194 was finally passed by both the Senate and the House of Representatives on September 6, 1990.

QUIRINO D. ABAD SANTOS, JR.

EDWIN P. ACOBA

Secretary of the House of
Representatives

Secretary of the Senate

Approved: October 26, 1990

CORAZON C. AQUINO
President of the Philippines