

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

18TH CONGRESS
 First Regular Session

HOUSE BILL NO. 618



Introduced by Representatives **CARLITO S. MARQUEZ** and
CARLOS O. COJUANGCO

EXPLANATORY NOTE

This bill seeks to amend and/or repeal pertinent provisions of Republic Act 8749 or the *Philippine Clean Air Act of 1999* and Republic Act 9003 or the *Ecological Solid Waste Management Act of 2000* with regard to the ban on incineration of waste. This is a re-filed bill from the 17th Congress and was approved on Third Reading on January 29, 2018, however, it was not tackled in the Senate Committee due to lack of material time.

The Philippines is a beautiful country that unfortunately has a number of focal environmental concerns which need to be dealt with. One of these critical issues is with regard to the mismanagement of garbage and wastes which cause other types of environmental disasters such as flooding, erosion, landslides and other dangers on landfills and dumpsites that include health concerns among the people living nearby. Since the inception of these two (2) relevant laws, the local government units, especially in the metropolis are unrelenting in executing these two regulations. However, the LGUs can just do so much. According to

the National Economic Development Authority, only 26% of LGUs nationwide implement the Solid Waste Management Act.

Look at Metro Manila – it stinks to high heavens. Metro Manila residents had become such prolific litterbugs that the supposedly local problem of household garbage had become a national concern. They generate so much garbage that they are responsible for one-fourth of the country's daily output of solid waste, according to the Department of Environment and Natural Resources (DENR). The DENR said Metro Manila produced about 8,400 to 8,600 tons of trash per day. That volume already accounts for about 25% of the country's daily solid waste generation of some 35,000 tons an average of 0.7 kilogram of waste a day, about "130% higher" than the global average of 0.3 kilogram per person per day. However, only 6,000 tons end up in legal waste facilities while the rest are illegally dumped in private lands, creeks, rivers and at times, are even burned openly. The more waste in the Philippines causes the increase in global warming, high temperature and less oxygen because of the air pollution. From flooding to dengue, from polluted rivers and creeks to mountains of trash, from the unnecessary death of fishes that accidentally swallowed plastic bags in the seas to global warming, garbage is the common denominator. The paradise island of Boracay is also threatened by this dilemma. Businessmen fear that a Smokey Mountain similar to the mountain of trash that used to obscure Tondo, Manila could rise up if the temporary garbage dump in Sitio Bulabog, Barangay Balabag is closed down. This poses a health and environment hazard in Malay, Aklan.

Given the perennial garbage problems in the Philippines which harm the environment, waste management is indeed a necessary step to resolve and minimize all garbage-related problems in the country. Apparently, most landfills and garbage dumpsites filled up very fast. As such, there is a great danger that the country may run out of proper dumpsites and waste facilities that will ultimately lead to further environmental and human hazards.

Some of the local government bodies in the Philippines are currently pursuing the best methods to solve the ever-increasing garbage problem in the country. Some provinces in the country pursue the privatization of their solid waste management efforts in order to diminish the negative effects of garbage mismanagement. On the other hand, the Philippine Congress is also actively prioritizing the creation of new laws and policies intended to strengthen proper waste management practices in the country. In fact, just recently, some lawmakers have already filed a bill which requires LGUs to make use of garbage trucks with "onboard compactor" for the proper transportation and collection of solid waste. Basically, the main purpose of this onboard compactor is to compact solid waste while these are in transit and ultimately, reduce the total volume of solid waste and minimize the amount of waste generated in the major cities and localities in the country.

The Philippine government recognizes the fact that there are many possible solutions to address the ever-growing problem on

waste generation. Unfortunately, there are also many given constraints to totally eradicate this huge garbage problem in the country.

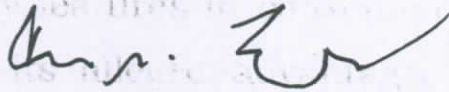
Section 20 of the Clean Air Act of 1999 specifically prohibits incineration and the Solid Waste Management Act of 2000 makes it a policy for the State to *“adopt a systematic, comprehensive and ecological solid waste management program which shall ensure the proper segregation, collection, transport, storage, treatment and disposal of solid waste through the formulation and adoption of the best environmental practice in ecological waste management excluding incineration.”*

We rebut that incineration of waste is harmful to the environment. Even the Supreme Court has pronounced in its doctrinal ruling in *MMDA vs. JANCOM ENVIRONMENTAL CORPORATION* (G.R. No. 147465, January 30, 2002) which states that the Clean Air Act of 1999 does not absolutely prohibit incinerators as a mode of waste disposal *“rather only those burning processes which emit poisonous toxic fumes are banned.”* By the same token, some city councils who are already alarmed by the garbage menace have already passed resolutions of their own asking the repeal of the two laws, citing that a sustainable and long-term solution is necessary for the setting up of an in-city, state-of-the-art WTE (waste-to-energy) facility, similar to those extensively used in the US, Japan, South Korea, Singapore and developed countries in Europe.

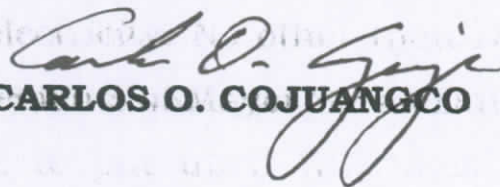
The anti-incinerator coalition should take note that the myth about this technology is already proven wrong. There is no scientific fact that it emits over 200 toxic or potentially toxic substances, including dioxin and furans, which are chemicals that cause cancer, birth defects, and neurological disorders. It is not also correct to say that incinerators have high operating costs and pose environmental risks.

This proposed measure will pave the way for the necessary and modern solution to the perennial garbage problem that has been the major headache of the government and in the process would serve to attract more investors in the country. The waste-to-energy projects will have safety features in consonance with the terms of reference based on its alleged advantages of greatly reduced waste volume, prolongation of the service life of the disposal site, and generation of electricity. No other than Davao City through the strong pronouncements of Mayor Sarah Duterte-Carpio has ferret out her desire to put up a WTE facility to disentangle Davao's garbage drawback. Quezon City's Sanggunian had already come out with their ordinance to build a WTE facility. Others follow suit because these LGUs need to act now before it is too late.

Immediate passage of this bill is earnestly sought.



ENGR. CARLITO "Lito" MARQUEZ



HON. CARLOS O. COJUANGCO

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AN ACT
REGULATING THE USE OF TREATMENT TECHNOLOGY FOR
MUNICIPAL AND HAZARDOUS WASTES, REPEALING FOR THE
PURPOSE SECTION 20 OF REPUBLIC ACT NO. 8749,
ENTITLED "THE PHILIPPINE CLEAN AIR ACT OF 1999"

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

1 **SECTION 1.** *Title.* – This act shall be known and referred to
 2 as the **"Regulation of Waste Treatment Technology Act of**
 3 **2019".**

4 **Sec. 2.** *Regulation of Waste Treatment Technology.* – Thermal
 5 and other treatment technologies for the disposal of municipal and
 6 hazardous wastes, or for the processing of any material for fuel,
 7 whether for commercial use or not, shall be designed and operated
 8 to meet the standards established in this Act and its implementing

1 rules and regulation: *Provided*, That these technologies shall be
2 fitted with equipment that will continuously monitor, records and
3 make publicly available the reported data on their emissions or air
4 pollutant concentrations: *Provided, however*, That units that
5 recover energy shall be prioritized: *Provided, further*, That entities
6 utilizing units shall incorporate in their facilities or operations
7 proper materials recovery program: *Provided, finally*, That thermal
8 treatment units shall treat wastes at a temperature of not less than
9 eight hundred fifty degrees centigrade (**850°c**).

10 **Sec. 3.** *Role of the Department of Environment and Natural*
11 *Resources (DENR).* – The DENR shall be primarily responsible for
12 the implementation and enforcement of this Act. It shall likewise
13 promote the use of state-of-the-art, environmentally-sound and
14 safe technologies for the handling, treatment, thermal or non-
15 thermal destruction, utilization, and disposal of residual wastes.

16
17 **Sec. 4.** *Role of Local Government Units (LGUs) in Setting Up*
18 *Treatment Facilities.* – The LGUs are hereby mandated to promote,
19 encourage and implement in their respective jurisdiction a
20 comprehensive solid waste management plan that includes waste
21 segregation, recycling and composting.

1 The establishment of treatment facilities shall be facilitated
2 by LGUs within a region, province, or strategically clustered LGUs
3 in consonance with their respective ten-year solid waste
4 management plans made consistent with the national solid waste
5 management framework established pursuant to R.A. No. 9003,
6 otherwise known as the Ecological Solid Waste Management Act of
7 2000. The solid waste management plans of all the LGUs shall be
8 subjected to the approval of the National Solid Waste Management
9 Commission (NSWMC).

10
11 **Sec. 5. Role of National Solid Waste Management**

12 *Commission.* – Pursuant to the provisions of R.A. No. 9003, the
13 NSWMC shall ensure the establishment of a comprehensive solid
14 waste management plan in all LGUs, which plan shall incorporate
15 waste segregation, recycling and composting, and disposal. The
16 NSWMC shall approve or deny the plan, or supplemental disposal
17 plan of all LGUs, which may carry out treatment projects, within
18 ten (10) working days from its submission. The Department of
19 Science and Technology (DOST) shall likewise process the
20 application of said projects for the necessary technology
21 verification within the same period. However, for new technology,

1 the DOST shall have twenty (20) working days from the receipt of
2 the application of said projects to process the verification. In all
3 cases, the approving body shall put in writing the reasons for
4 either approving or denying the plan.

5
6 **Sec. 6. Responsibility of Owner and Operator.** –

7 Responsibility for compliance with the standards promulgated for
8 the establishment and operation of waste treatment facilities shall
9 rest with the owner and/or operator thereof. If by contract the
10 operator is bound to be held primarily and solely responsible for
11 compliance with the standards, the same shall not relieve the
12 owner of the requirement to exercise due diligence to assure that
13 the required compliance by operators are met. In the event that the
14 ownership of the facility is transferred to another person, the
15 previous owner shall notify the new owner of the standards and
16 the conditions set for the operation of said facility, and the laws
17 and regulations that the new owner or operator has to comply with.
18 The standards for operation of waste treatment facility may be
19 made more stringent by five percent (5%): *Provided*, That the same
20 shall be effected ten (10) years following the commencement of the
21 operation of the facility established after the effectivity of this Act.

1 **Sec. 7. (a) Fiscal incentives.** – The following tax incentives
2 shall be granted to registered enterprise which shall invest in waste
3 treatment facilities:

4 1. Income tax holiday – within the first seven (7) years of its
5 operations, the treatment facility shall be exempt from
6 income taxes levied by the national government.

7 2. Tax and duty exemption on imported capital equipment
8 and vehicles – within the first ten (10) years of operations,
9 registered enterprise which invested in the treatment
10 facility shall enjoy tax and duty free importation of
11 machinery, equipment, vehicles and spare parts used for
12 setting up the treatment facility: *Provided*, That the
13 importation of such machineries, equipment, garbage
14 collection vehicles, and spare parts shall comply with the
15 following conditions:

16 i. They are not manufactured domestically in sufficient
17 quantity, of comparable quality and reasonable
18 prices;

19 ii. They are reasonably needed and will be used
20 exclusively by the registered enterprise in the
21 manufacture of its products, unless prior approval of

1 the board is secured for the part-time utilization of
2 said equipment in a non-registered activity to
3 maximize usage thereof or the proportionate taxes
4 and duties are paid on the specific equipment and
5 machinery being permanently used for non-
6 registered activities; and

7 iii. The importation of such machinery, equipment,
8 vehicle and spare parts has been approved by the
9 Board of Investment (BOI) of the Department of Trade
10 and Industry (DTI).

11 *Provided, further,* That the sale, transfer or disposition of
12 such machinery, equipment, vehicle and spare parts within
13 five (5) years from the date of acquisition shall be prohibited,
14 without prior approval of the BOI, otherwise, the registered
15 enterprise and the vendee, transferee, or assignee shall be
16 solidarily liable to pay twice the amount of tax and duty
17 exemption given it.

18 3. Tax Credit on Domestic Equipment - A tax credit
19 equivalent to one hundred percent (100%) of the amount
20 of the value-added tax and customs duties that would have
21 been paid on the machinery, equipment, components,

1 parts and materials had these items been imported shall
2 be given to a contract holder who purchases machinery,
3 equipment, components, parts and materials: *Provided,*
4 That such are directly needed and shall be used exclusively
5 by the waste treatment facility.

6 4. Tax and Duty Exemption of Donations, Legacies and Gifts

7 – All legacies, gifts and donations to LGUs, enterprises or
8 private entities, including NGOs for the support and
9 maintenance of the program for setting up of treatment
10 technologies shall be exempt from all internal revenue
11 taxes and customs duties, and shall be deductible in full
12 from the gross income of the donor for income tax purposes.

13 (b) *Non-fiscal Incentives* - LGUs, enterprises or private entities
14 availing of tax incentives under this Act shall also be entitled to
15 applicable non-fiscal incentives provided for under the Omnibus
16 Investments Code.

17 The NSWMC shall provide incentives to businesses and
18 industries that are engaged in the treatment of wastes which are
19 registered with the Commission and have been issued the required
20 ECC in accordance with the guidelines established by the NSWMC.
21 Such incentives shall include simplified procedures for the

1 importation of equipment, spare parts, new materials, and
2 supplies, and for the export of processed products.

3 (c) *Financial Assistance Program* – Government financial
4 institutions such as the Landbank of the Philippines (LBP),
5 Development Bank of the Philippines (DBP), Government Service
6 Insurance System (GSIS), and such other government institutions
7 providing financial service shall, in accordance with and to the
8 extent allowed by the enabling provisions of their respective
9 charters or applicable laws, accord high priority the extension of
10 financial services to individuals, enterprises, or private entities
11 engaged in putting up treatment facilities: *Provided*, That these
12 institutions shall allocate five percent (5%) of their loan portfolio to
13 waste treatment projects.

14 (d) *Extension of Grants to LGUs* – Provinces, cities and
15 municipalities whose treatment facilities plans have been duly
16 approved by the NSWMC or who have been commended by the
17 NSWMS for adopting innovative waste treatment programs may be
18 entitles to receive grants for the purpose of developing their
19 technical capacities toward actively participating in the waste
20 treatment projects.

1 (e) *Incentives to Host LGUs* – Local government units who host
2 common treatment facilities shall be entitles to incentives as may
3 be determined by the NSWMC.

4
5 **Sec. 8. *Fines and Penalties.*** – Violations of the provisions of
6 this Act, or the standards or rules and regulations promulgated for
7 treatment facilities shall be fined or penalized under the provisions
8 of P.D. 1586, R.A. 6969, otherwise known as the Toxic Substances
9 and Hazardous and Nuclear Waste Control Act of 1990, R.A. No.
10 8749, otherwise known as the Philippine Clean Air Act of 1999,
11 R.A. 9003, and R.A. 9275, otherwise known as the Philippine
12 Clean Water Act of 2004. For waste-to-energy facilities, the penal
13 schemes established under the Philippine Grid Code and
14 Philippine Distribution Code pursuant to RA No. 9136, also known
15 as the Electric Power Industry Reform Act of 2001 shall likewise
16 apply for this purpose.

17
18 **Sec. 9. *Implementing Rules and Regulations.*** – The DENR,
19 in coordination with the NSWMC, Department of Energy, BOI,
20 Bureau of Internal Revenue, the Bureau of Customs, academe or
21 research institutions, and other concerned agencies, shall

1 promulgate the implementing rules and regulations for the Act,
2 within three (3) months after its enactment.

3

4 **Sec. 11. Separability Clause.** – If any part or section of this
5 Act is declared unconstitutional, such declaration shall not affect
6 the other parts of sections of this Act.

7

8 **Sec. 12. Repealing Clause.** – Section 20 of R.A. No. 8749 is
9 hereby repealed. Provision of R.A. No. 9003, and other laws,
10 presidential decrees, executive orders, rules and regulations
11 inconsistent with any provisions of this Act shall be deemed
12 repealed or modified accordingly.

13

14 **Sec. 13. Effectivity.** – This Act shall take effect fifteen (15)
15 days after publication in the Official Gazette or in any newspaper
16 of general circulation.

17

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Approved.