

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 2357

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| HOUSE OF REPRESENTATIVES | |
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Introduced by Representative GLORIA MACAPAGAL ARROYO

AN ACT
DEFINING THE CRIME OF ECONOMIC ESPIONAGE AND PROVIDING
PENALTIES THEREFOR


EXPLANATORY NOTE

An integral part of a country's commerce is the development of proprietary economic information. The development, protection and lawful exchange of such information is essential to the competitiveness of critical segments of Philippine business and industry.

It is therefore important to safeguard such from theft, misappropriation and wrongful use specially from foreign governments and their agents or instrumentalities since it can cost our economy millions of pesos each year.

At present, our laws do not give adequate protection to proprietary economic information. It is the intent of this proposed measure to prevent economic espionage by advancing the development and lawful use of Philippine proprietary economic information by protecting it from theft, wrongful destruction or alternation, misappropriation and conversion by foreign governments and their agents or instrumentalities.

Due to the urgency of this bill, its expeditious passage into law is earnestly requested.


GLORIA MACAPAGAL ARROYO
2nd District, Pampanga

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

SECTION 1. *Title.* –This Act shall be known as the “Economic Espionage and Protection of Proprietary Information Act of 2016.”

SECTION 2. *Statement of Policy.*—It is hereby declared the policy of the State to prevent economic espionage and further the development and lawful use of Philippine proprietary economic information.

SECTION 3. *Definition of Terms.*—As used in this Act, the term:

- a) “Foreign corporation, institution or instrumentality” means any corporation, agency, component, institution, association, instrumentality, or legal, commercial, or business entity that is substantially owned, controlled, sponsored, commanded, managed, patronized, dominated or chartered by a foreign government or subdivision of a foreign government;
- b) “Foreign agent” means any officer, employee, proxy, servant, delegate, or representative of a foreign nation or government;
- c) “Person” means a natural person, corporation, agency, association, institution, or any legal, commercial, or business entity;
- d) “Proprietary economic information” means all forms and types of financial, business, scientific, technical, economic, or engineering information including, but not limited to data, plans, tools, mechanisms, compounds, formulas, designs, prototype, processes, procedures, programs, codes or commercial strategies, whether tangible or intangible and whether stored, compiled, or memorialized physically, electronically graphically,

photographically, or in writing provided that the following concur:

- 1) The owner thereof has taken reasonable measure to keep such information confidential;
- 2) The information is not available generally to, or accessible by the public; and
- 3) The information is not a matter of public concern.

e) "Owner" means my Filipino person or any Philippine Government compound, department, or agency in which, rightful legal, beneficial, or equitable title to, or license in, proprietary economic information is reposes;

f) "Filipino person" means –

- 1) In the case of a natural person, a Philippine citizen or a permanent resident alien; and
- 2) In the case of artificial person, a Philippine Government or by Filipino citizens or permanent resident aliens, or incorporated under Philippine laws.

g) "Economic Espionage" is committed by any person who:

- 1) Steals, wrongfully appropriates, takes, carries away, or conceals, or by fraud, artifice, or deception obtains proprietary economic information;
- 2) Wrongfully copies, duplicated, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicated, transmits, delivers, sends, mails, communicates, or conveys proprietary economic information;
- 3) Being entrusted with, or having lawful possession or control of, or access to proprietary economic information, wrongfully copies, duplicates, sketches, draws, photographs, downloads, uploads, alters, destroys, photocopies, replicates, transmits, delivers, sends, mails, communicates, or conveys, the same;
- 4) Receives, buys, or possesses proprietary economic information, knowing the same to have been stolen or wrongfully appropriated, obtained, or converted
- 5) Attempts to commit any offense described in the preceding subparagraphs 1-4; or
- 6) Conspires with one or more other persons to commit any offense described in preceding paragraphs 1-4 and one or more of such persons do any act to effect the object of the conspiracy, shall, except as provided in the next subsection B, be fined not more than 50% of the economic value of

such proprietary information or imprisoned for a period ranging from 15 or 25 years, or both.

SECTION 4. *Prohibited Acts; Penalties.*—Any natural or juridical person who commits economic espionage as defined in the preceding Section, whether or not in the aid of foreign nations, governments, corporations, institutions or instrumentalities, shall be fined an amount equivalent to the economic value of such proprietary information

The person mentioned in the preceding paragraph is presumed to have acted with intent to injure any owner and benefit any foreign nation, government, corporation, institution or instrumentality, unless proven otherwise.

If the offender is a corporation, any officer, director, or manager, or other person occupying a position of authority and responsibility for the acquisition, use or management of proprietary economic information for any corporation or other business or commercial entity who knowingly permitted or failed to prevent the commission of any acts which constitute economic espionage.

SECTION 5. *Forfeiture.*—Notwithstanding any provision of law to the contrary, any person convicted of violation of this Act shall forfeit to the Philippine Government any property constituting, or derived from any proceeds the person obtained, directly or indirectly, from the commission of such violations; and any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of a violation of this Act.

The court, in imposing penalty on the offender for a violation of this Act, shall order that the property described in paragraph (A) of this Section be forfeited in favor of the Philippine Government.

SECTION 6. *Extra-Territoriality.* —Notwithstanding any provision of law to the contrary, this Act applies to conduct occurring outside the territorial jurisdiction of the Philippines if —

- A) The offender is a Filipino citizen or permanent resident of the Philippines;
- B) The victim of the offense is an "owner", as defined in Section 3 of this Act, and the offense was intended to have, or had, an effect in the Philippines; or
- C) The offender foreign corporation is conducting business in the Philippine through agents or subsidiaries and has caused damage to the "owner" in the conduct of its business abroad.

SECTION 7. *Construction with Other Laws*—This Act shall not be construed to preempt or displace any other existing legal remedies, whether civil or criminal, for the misappropriation or proprietary economic information.

SECTION 8. *Preservation of Confidentiality.*—In any prosecution under this Act, the court shall preserve the confidentiality of alleged proprietary economic information by any reasonable and lawful means including, but not limited to —

- a) The granting or protective orders in connection with discovery proceedings; and

- b) The holding of in-camera hearing, sealing relevant portions of the record, and the ordering of any person involved in the proceedings not to disclose the alleged proprietary economic information which is the subject of the offense may request the prosecution to seek such protective action.

SECTION 9. *Non-Applicability of Lawfully Authorized Law Enforcement or Intelligence Activities.* –Any act in which information is seized, taken or transported, transmitted, or transferred pursuant to or in furtherance of any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the Philippines or any of its political subdivision, shall not be deemed a violation of this Act.

SECTION 10. *Separability Clause.* –If any provision of this Act shall be declared unconstitutional, any other provision not affected thereby shall remain in full force and effect.

SECTION 11. *Repealing Clause.* –All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SECTION 12. *Effectivity.* –This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,