

Republic of the Philippines
HOUSE OF REPRESENTATIVES

Quezon City, Metro Manila

SEVENTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 2286

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Introduced by **ENGR. CARLITO "Lito" MARQUEZ**

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.

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 percent 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

percent 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 refute 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 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.

Immediate approval of this bill is earnestly sought.


ENGR. CARLITO “Lito” MARQUEZ

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HOUSE BILL NO. 2286

Introduced by **ENGR. CARLITO “Lito” MARQUEZ**

AN ACT
REPEALING SECTION 20 OF REPUBLIC ACT
8749, OTHERWISE KNOWN AS “CLEAN AIR
ACT OF 1999” AND AMEND PERTINENT
PROVISIONS OF REPUBLIC ACT 9003,
OTHERWISE KNOWN AS THE SOLID WASTE
MANAGEMENT ACT OF 2000

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

Section 1. *Title* – This Act shall be known and referred to as the “Establishment of Waste-To-Energy Facilities Act of 2016”.

Section 2. Section 20 of Republic Act 8749 or the Philippine Clean Air Act is hereby repealed. Likewise, pertinent provisions of Republic Act 9003 or the Solid Waste Management Act of 2000 are also amended.

Section 3. Incinerators which are compliant with the emission standards set by Section 19 of Republic Act 8749 shall be allowed as waste-to-energy facilities in municipalities and cities.

Section 4. *Role of LGUs in Setting Up Incinerators* -Pursuant to the relevant provisions of R.A. No. 7160, otherwise known as the Local Government Code, the LGUs shall be primarily responsible for the implementation and enforcement of the provisions of this Act within their respective jurisdictions.

Putting up of incinerator facilities must originate through its local solid waste management boards and effected through an ordinance in consonance with their respective 10-year solid waste management plans consistent with the national solid waste management framework.

All local government solid waste management plans shall be subjected to the approval of the National Solid Waste Management Commission.

Section 5. *Environmental Impact Assessment.*—Proposals for putting up of incinerators shall be subject to an environmental impact assessment as required by law before they are adopted.

No actual implementation of such activities shall be allowed without the required Environmental Compliance Certificate (ECC) under the Philippine Environmental Impact Assessment (EIA) system. Where such activities are allowed to be undertaken, the proponent, who is the owner or operator of the incinerator, shall plan and carry them out in such manner as will minimize any adverse effects and take preventive and remedial action when appropriate.

The proponent shall be liable for any damage due to lack of caution or indiscretion.

Section 6. *Owner and Operator* - Responsibility for compliance with the standards in this Act shall rest with the owner and/or operator of the incinerator. If specifically designated, the operator is considered to have primary responsibility for compliance; however, this does not relieve the owner of the duty to take all reasonable steps to assure compliance with these standards and any assigned conditions. When the title to a disposal is transferred to another person, the new owner shall be notified by the previous owner of the existence of these standards and of the conditions assigned to assure compliance.

Section 7. (1) *Fiscal Incentives.* - Consistent with the provisions of E.O. 226, otherwise known as the Omnibus Investments Code, the following tax incentives shall be granted:

(a) Tax and Duty Exemption on Imported Capital Equipment and Vehicles - Within ten (10) years upon effectively of this Act, LGUs, enterprises or private entities shall enjoy tax and duty free importation of machinery, equipment, vehicles and spare parts used for setting up the incinerator facility: *Provided*, That the importation of such machinery, equipment, vehicle and spare parts shall comply with the following conditions:

- (i) They are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices;
- (ii) They are reasonably needed and will be used actually, directly and exclusively for the above mentioned activities;
- (iii) The approval of the Board of Investment (BOI) of the DTI for the importation of such machinery, equipment, vehicle and spare parts.

Provided, further, That the sale, transfer or disposition of such machinery, equipment, vehicle and spare parts, without prior approval of the (BOI), within five (5) years from the date of acquisition shall be prohibited, otherwise, the LGU concerned, enterprise or private entities and the vendee, transferee, or assignee shall be solidarily liable to pay twice the amount of tax and duty exemption given it.

(b) Tax Credit on Domestic Equipment - Within ten (10) years from the effectivity of this Act, a tax credit equivalent to 50% of the value of the national internal revenue taxes and customs duties that would have been waived on the machinery, equipment, vehicle and spare parts, had these items been imported shall be given to enterprises, private entities, including NGOs, subject to the same conditions and prohibition cited in the preceding paragraph.

(c) Tax and Duty Exemption of Donations, Legacies and Gift - All legacies, gifts and donations to LGUs, enterprises or private entities, including NGOs, for the support and maintenance of the program for setting up of incinerators shall be exempt from all internal revenue taxes and customs duties, and shall be deductible in full from the gross income of the donor for income tax purposes.

(2) *Non-Fiscal Incentives.* - LGUs, enterprises or private entities availing of tax incentives under this Act shall also be entitled to applicable non-fiscal incentives provided for under E.O. 226, otherwise known as the Omnibus Investments Code.

The Commission shall provide incentives to businesses and industries that are engaged in the incineration of wastes and which are registered with the Commission and have been issued ECCs in accordance with the guidelines established by the Commission. Such incentives shall include simplified procedures for the importation of equipment, spare parts, new materials, and supplies, and for the export of processed products.

(3) *Financial Assistance Program.*-Government financial institutions such as the Landbank of the Philippines (LBP), Government Service Insurance System (GSIS), and such other government institutions providing financial services shall, in accordance with and to the extent allowed by the enabling provisions of their respective charters or applicable laws, accord high priority to extend financial services to individuals, enterprises, or private entities engaged in putting up incinerators.

(4) *Extension of Grants to LGUs.* - Provinces, cities and municipalities incinerator facilities plans have been duly approved by the Commission or who have been commended by the Commission for adopting innovative waste-to-energy programs may be entitled to receive grants for the purpose of developing their technical capacities toward actively participating in the waste-to-energy program.

(5) *Incentives to Host LGUs.* - Local government units who host common incinerator facilities shall be entitled to incentives as may be deemed by the Commission.

Section 8. Lead Agency.- The National Solid Waste Management Commission (NSWMC) shall be the primary government agency responsible for the implementation and enforcement of this Act. To carry out the mandate of this Act, the Commission shall approve or deny the incinerator plans of all LGUs within ten (10) days from its submission.

Section 9. Fines and Penalties - Whoever violates this Act or any rules and regulations issued by the Commission pursuant to this Act or whoever is found guilty by a competent court of justice of any of the offenses in the preceding section shall be fined in the amount of not less than Five thousand pesos (P5,000) nor more than Five hundred thousand pesos (P500,000), exclusive of the value of the thing damaged or imprisonment for not less than one (1) year but not more than six (6) years, or both, Provided, finally, that the Commission may impose administrative fines and penalties consistent with this Act.

Section 10. Implementing Rules and Regulations.- The National Solid Waste Management Commission (NSWMC), in coordination with the Department of Environment and Natural Resources, Department of Energy, Department of the Interior and Local Government, Board of Investments, Bureau of Internal Revenue, Department of Trade and Industry, the Bureau of Customs, and other concerned agencies, shall promulgate the implementing rules and regulations for this Act, within three (3) months after the enactment of this Act.

Section 11. *Report to Congress.*- The National Solid Waste Management Commission (NSWMC) shall submit an annual report to the President of the Philippines and to Congress on the status of the incinerators in the country not later than March 30 of every year following the approval of this Act, the progress of the incineration facilities and make the necessary recommendations in areas where there is need for legislative action.

Section 12. *Joint Congressional Oversight Committee.*- There is hereby created a Joint Congressional Oversight Committee to monitor the implementation of this Act. The committee shall be composed of five (5) senators and five (5) representatives to be appointed by the Senate President and the Speaker of the House of Representatives, respectively, the oversight committee shall be co-chaired by a senator and a representative designated by the Senate President and the Speaker of the House of Representatives, respectively.

The mandate given to the Joint Congressional Oversight Committee under this Act shall be without prejudice to the performance of the duties and functions by the respective existing oversight committees of the Senate and the House of Representatives.

Section 13. *Separability Clause.* - If any part or section of this Act is declared unconstitutional, such declaration shall not affect the other parts or sections of this Act.

Section 14. *Repealing Clause.* - All laws, presidential decrees, executive orders, rules and regulations inconsistent with any provisions of this Act shall be deemed repealed or modified accordingly.

Section 15. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its complete publication in two (2) newspapers of general circulation or in the Official Gazette.

Approved;