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SENATE

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Senate Bill No. 2421

Introduced by SENATOR LOREN LEGARDA

AN ACT
TO STRENGTHEN THE SUSTAINABILITY AND COMPETITIVENESS
OF THE PHILIPPINE MOTOR VEHICLE MANUFACTURING INDUSTRY

With poverty incidence among Filipinos reaching 24.9% in the first semester of 2013 and unemployment and underemployment rates hitting 7.0% and 18.2%, respectively as of April 2014, the quality of growth recorded recently by the economy leaves much to be desired. Policymakers have partly attributed this lack of inclusive growth to the declining share of industry sector in the overall economy which together with the agricultural sector is expected to generate jobs suitable for low-skilled workers. From a high of 42.1% in 1981, the share of industry—including manufacturing settled at 32.1% in 2012. In its March 2014 report entitled Philippine Economic Update: Pursuing Inclusive Growth Through Sustainable Reconstruction and Job Creation, the World Bank recommends that government enact industrial policies to lend support to the sector.

One sub-sector offering tremendous potential for the industry's rebound is the manufacture of motor vehicle parts. As noted by former National Economic and Development Authority Director-General Cielito Habito, it has "strong backward linkages with local industries, indicating strong multiplier effects for the economy". Further citing a 2010 paper, he explained that every P100 worth of production in industry leads to a rise in total economic output by P367. Apart from its spillover effects to other industries, it provides for technology transfer to local firms thus increasing overall potential of the local economy.

Though the Department of Trade and Industry has started crafting its motor vehicle industry roadmap, there is a need to enact a specific law to ensure consistency of policy. Apart from the crafting of a National Motor Vehicle Manufacturing Development Plan (NMVMDP), this bill seeks to provide the following fiscal incentives:

- Tax and duty-free importation of capital equipment
- Deduction on training expenses
- Double deduction on research and development
- Option to deduct from taxable income the net operating loss incurred during first three years of operations for the seven consecutive taxable years

It is worth emphasizing however that this measure will be for naught unless the government addresses rampant smuggling of second-hand vehicles through the

freeport zones as cited in the 2013 study by the Philippine Institute for Development Studies. More than the tax leakages estimated to be worth P21 billion, the potential offered by the industry in triggering the country's long-delayed industrialization will be gone with it.

In view of the foregoing, the immediate passage of this bill is sought.



LOREN LEGARDA
Senator

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AN ACT
TO STRENGTHEN THE SUSTAINABILITY AND COMPETITIVENESS
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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 SECTION 1. *Title.* - This Act shall be known as, "The Philippine Motor Vehicle
2 Manufacturing Industry Competitiveness Act of 2014."
3

4 SECTION 2. *Declaration of Policy.* - The national economy shall be geared towards
5 sustainable inclusive economic growth by promoting industrialization through
6 competitive industries and by encouraging enterprise. In recognition of the significant
7 role in economic development and nation building of the Philippine Motor Vehicle
8 Manufacturing Industry, as well as its central function in the country's industrial and
9 manufacturing sectors, the following are the declared policies of the State:
10

- 11 a) The State shall develop a comprehensive policy that will fast-track the
12 sustainable development and competitiveness of the Philippine Motor Vehicle
13 Manufacturing Industry, thereby effectively contributing to industrial capital
14 formation and employment generation;
15
- 16 b) The State shall ensure a balanced transition phase to free trade at a minimized
17 risk to the Philippine Motor Vehicle Manufacturing Industry by efficiently
18 developing its capacities for competitiveness and promoting greater participation
19 in a further globalized economy through increased export;
20
- 21 c) The State shall promote the maximum scale integration of vehicle manufacturing
22 and the assembly of its respective parts and components;
23
- 24 d) The State shall encourage the effective and sustainable implementation of
25 research and development activities, including, but not limited to, technology
26 transfer, testing facilities and activities, and the promotion of automotive skills
27 training and development as a means to enhance the competitiveness of the
28 Philippine Motor Vehicle Manufacturing Industry; and
29
- 30 e) The State shall integrate motor vehicle manufacturing into the overall transport
31 policies and programs of the national government to optimize the sustained
32 growth and competitiveness of the Philippine Motor Vehicle Manufacturing

1 Industry and to ensure the development of sustainable transportation systems in
2 the country.
3

4 SECTION 3. *Definition of Terms.* – For purposes of this Act, the following terms are
5 defined as follows:
6

- 7 a) “Board of Investments (BOI)” refers to the attached agency of the Department of
8 Trade and Industry created under Republic Act No. 5186.
9
- 10 b) “Department of Trade and Industry (DTI)” refers to the government agency
11 created pursuant to Executive Order No. 133, series of 1987.
12
- 13 c) “Investment Priorities Plan (IPP)” refers to the overall plan prepared by the BOI
14 in accordance with the provisions of Executive Order No. 226, otherwise known
15 as the Omnibus Investment Code of 1987, as amended.
16
- 17 d) “Motor Vehicle Manufacturing Industry” encompasses enterprises that are
18 engaged in the manufacture of motor vehicles and its parts and accessories or
19 components.
20
- 21 e) “Manufacture of Motor Vehicles” refers to the activities classified under Section
22 D, Division 34, Group 341 of the United Nations (UN) International Standard
23 Industrial Classification of All Economic Activities (ISIC) Revision (Rev.) 3,
24 which includes the manufacture of passenger cars, commercial vehicles, buses,
25 trolley-buses and coaches, motor vehicle engines, chassis fitted with engines and
26 other motor vehicles.
27
- 28 This also refers to the activities classified under Section D, Division 35, Group
29 359, Class 3591 of UN ISIC Rev. 3, which includes the manufacture of
30 motorcycles (including mopeds) and cycles fitted with an auxiliary engine,
31 whether or not with attached side-car, and “delivery” or “sporting” motorcycles.
32
- 33 f) “Manufacture of Parts and Accessories of Motor Vehicles” refers to the activities
34 classified under Section D, Division 34, Group 343 of the UN ISIC Rev. 3, which
35 includes the manufacture of parts and accessories for motor vehicles, including
36 their bodies and engines: brakes, gear boxes, axles, road wheels, suspension
37 shock absorbers, radiators, silencers, exhaust pipes, clutches, steering wheels,
38 steering columns and steering boxes and other parts and accessories not
39 elsewhere classified.
40
- 41 This also refers to the manufacture of bodies (coachwork) for motor vehicles,
42 engines for motorcycles, side-cars, and parts and accessories of motorcycles.
43
- 44 g) “Medium Term Philippine Development Plan (MTPDP)” refers to the master
45 plan for economic development implemented by the National Economic
46 Development Authority (NEDA), which identifies growth sectors for the next six
47 (6) years and defines the programs, policies, strategies and action plans to the
48 economic development goals of the government.
49
- 50 h) “Philippine Export Development Plan (PEDP)” refers to the rolling three (3) year
51 export development plan prepared by the DTI, which defines the country’s
52 annual and medium-term export thrusts, strategies, programs and projects

1 jointly implemented by the government, export sector and other concerned
2 stakeholders.

3
4 SECTION 4. *National Motor Vehicle Manufacturing Development Plan (NMVMDP)*. -
5 The DTI, through the BOI, in consultation with the representatives from the private
6 sector, the academe and other pertinent stakeholders, shall prepare and implement a
7 rolling three (3) year National Motor Vehicle Manufacturing Development Plan,
8 hereinafter referred to as the "Plan". This Plan shall be validated and updated annually
9 by the BOI.

10
11 The Plan, which shall be integrated into the PEDP and the MTPDP, will define the
12 Philippine Motor Vehicle Manufacturing Industry's annual and medium-term
13 manufacturing and export targets, as well as its programs and strategies to support the
14 country's manufacturing and export thrusts. The Plan shall also identify priority
15 development products, which shall be characterized by high manufacturing value-
16 added and with high potential for economic efficiency, as primary focus of incentives.

17
18 SECTION 5. *Fiscal Incentives for Manufacturers of Motor Vehicles, Parts and Accessories*.
19 - Enterprises engaged in the manufacture of motor vehicles, parts and accessories duly
20 registered with the BOI as participant under the National Motor Vehicle Manufacturing
21 Development Plan (NMVMDP), shall be entitled to the following incentives:

22
23 a) *Income tax-based* - A manufacturer may choose any of the following options as its
24 income tax-based incentive, subject to the condition that its choice shall be final
25 and cannot be changed:

26
27 i. *7% Gross Income Earned* - A manufacturer may avail of the seven
28 percent (7%) tax on GIE in lieu of all national and local taxes, except
29 Value Added Tax (VAT) and Real Property Tax on land owned by
30 private developers.

31
32 OR

33
34 ii. *15% Reduced Income Tax* - A manufacturer may be entitled to a reduced
35 income tax rate of fifteen percent (15%) instead of the regular income tax
36 rate provided for in the National Income Revenue Code, as amended.

37
38 b) *Net Operating Loss Carry-Over (NOLCO)*. - A net operating loss incurred during
39 the first three (3) years of operations shall be carried over as a deduction from
40 taxable income for the seven (7) consecutive taxable years immediately following
41 the year of such loss. *Provided, however*, That the net operating loss shall be
42 computed in accordance with the provisions of the National Internal Revenue
43 Code and its Implementing Revenue Regulations, any provision of this Act to the
44 contrary notwithstanding, except that income not taxable either in whole or in
45 part under thus or other laws shall be included in gross income.

46
47 c) *Accelerated Depreciation*. - At the option of the taxpayer and in accordance with
48 the procedure established by the Bureau of Internal Revenue (BIR), fixed assets
49 may be (1) depreciated to the extent of not more than twice as fast as normal rate
50 of depreciation or depreciated at normal rate of depreciation if expected life is
51 ten (10) years or less; or (2) depreciated over any number of years between five
52 (5) years and expected life if the latter is more than ten (10) years; and the
53 depreciation thereon allowed as a deduction from taxable income *Provided*, That

1 the taxpayer notifies the BIR at the beginning of the depreciation period which
2 depreciation rate allowed by this section will be used by it.

3
4 d) *Deduction on Training Expenses.* - In addition to the allowable ordinary and
5 necessary expenses on training which are fully deductible under the provisions
6 of the National Internal Revenue Code, expenses incurred in training schemes
7 approved by the appropriate agency shall be eligible for deduction during the
8 financial year the expenses were incurred:

- 9
10 i. Expenses incurred in providing employees training shall be eligible for
11 single deduction; and
12 ii. Expenses incurred in providing training to Small and Medium
13 Enterprise (SME) parts manufacturers shall be eligible for double
14 deduction;

15
16 e) *Double Deduction on Research and Development.* - Expenses incurred for research
17 and development activities shall be eligible for double deduction from taxable
18 income.

19
20 f) *Tax and Duty Free Importation of Capital Equipment.* - The importation of
21 machinery, equipment and its accompanying spare parts imported in the name
22 of the manufacturer as consignee shall be exempt to the extent of one hundred
23 percent (100%) of the duties and taxes payable thereon, *Provided*, That the
24 importation complies with the following conditions:

- 25
26 i. These are not manufactured domestically in sufficient quantity, of
27 comparable quality and at reasonable prices;
28 ii. These are reasonably needed and will be used exclusively in the
29 manufacture of motor vehicles; and
30 iii. Prior approval of the BOI was obtained for the importation of such
31 machinery, equipment and its accompanying spare parts.

32
33 *Provided further*, That such machinery, equipment and accompanying spare parts
34 shall not be sold, transferred or disposed without the prior approval of the BOI
35 within five (5) years from date of acquisition, in which case the manufacturer as
36 consignee and the vendee, transferee, or assignee shall be solely liable to pay
37 twice the amount of the duty and tax exemption given it.

38
39 g) *Tax and Duty Free Importation of Training Equipment.* - The importation of
40 equipment, tools and implements for in-house training projects and imported in
41 the name of the manufacturer as consignee shall be exempt to the extent of one
42 hundred percent (100%) of the duties and taxes payable thereon, *Provided*, That
43 the importation complies with the following conditions:

- 44
45 i. These are not manufactured domestically in sufficient quantity, of
46 comparable quality and at reasonable prices;
47 ii. These are reasonably needed and will be used exclusively for training
48 projects; and
49 iii. Prior approval of the BOI was obtained for the importation of such
50 equipment, tools and implements.

51
52 *Provided further*, That such equipment, tools and implements shall not be sold,
53 transferred or disposed without the prior approval of the BOI within five (5)

1 years from date of acquisition, in which case the manufacturer as consignee and
2 the vendee, transferee, or assignee shall be solely liable to pay twice the amount
3 of the duty and tax exemption given it.
4

5 h) Qualified enterprises availing of incentives provided under this Act and its
6 Implementing Rules and Regulations shall be eligible to incentives and privileges
7 provided for by other special laws:
8

- 9 i. Executive Order No. 226, otherwise known as the Omnibus Investment
10 Code of 1987, *Provided*, That the manufacture of motor vehicles shall
11 regularly form part of the IPP as a preferred area for investments,
12 unless otherwise declared by law;
- 13 ii. Republic Act No. 7844, otherwise known as the Export Development
14 Act of 1994;
- 15 iii. Republic Act No. 7916, otherwise known as the Special Economic Zone
16 Act of 1995, as amended; and
- 17 iv. Issuances related to the implementation of the NMVMDP.
18

19 *Provided*, That the enterprise shall register under the aforementioned laws and
20 that there is no double availment of the same incentives.
21

22 SECTION 6. *Period of Availment of Incentives.* - The total period of availment of all
23 tax incentives enjoyed by a manufacturer provided herein shall in no case exceed
24 twenty (20) years.
25

26 SECTION 7. *Congressional Oversight Committee on the Competitiveness of the Motor*
27 *Vehicle Manufacturing Industry.* - To ensure the effective implementation of this Act, a
28 Congressional Oversight Committee on the Competitiveness of the Motor Vehicle
29 Manufacturing Industry is hereby created to be composed of the Chairs of the
30 Committee on Trade of both Houses, six (6) members of the House of Representatives
31 and six (6) members of the Senate, to be designated respectively by the Speaker of the
32 House and by the President of the Senate, who shall endeavour to have the various
33 stakeholders of the Philippine Motor Vehicle Manufacturing Industry represented.
34

35 The Chairs of the Committees on Trade in the Senate and House of
36 Representatives shall be, respectively, the Chair and Co-Chair of the Oversight
37 Committee. The other members shall receive no compensation; however, traveling and
38 other necessary expenses shall be allowed. The Committee shall oversee and monitor
39 the implementation of the National Motor Vehicle Manufacturing Development Plan, as
40 well as all programs, projects and activities related to the competitiveness of the
41 Philippine Motor Vehicle Manufacturing Industry, and its aligned concerns in both
42 public and private sectors, with a view to providing all legislative support and
43 assistance within the powers of Congress to ensure their inclusion, wherever feasible, in
44 the national, regional, provincial, municipal, and sectoral development plans, and to see
45 them through their successful implementation.
46

47 SECTION 8. *Powers and Functions of the Committee.* - The Congressional Oversight
48 Committee on the Competitiveness of the Motor Vehicle Manufacturing Industry shall
49 have the following powers and functions:
50

- 51 a) Prescribe and adopt guidelines that will govern its work;
- 52
- 53 b) Hold hearings, receive testimonies and reports pertinent to its specified concerns;

- 1
2 c) Secure from any department, bureau, office or instrumentality of the
3 Government such assistance as may be needed, including technical information,
4 preparation and production of reports and submission of recommendations or
5 plans as it may require;
6
7 d) Summon by *subpoena* any public or private citizen to testify before it, or require
8 by *subpoena duces tecum* to produce before it such records, reports or other
9 documents as may be necessary in the performance of its functions;
10
11 e) Use resource persons from the public and private sectors as may be needed;
12
13 f) Approve the budget for the work of the Committee and all disbursements
14 therefrom, including compensation of all personnel;
15 g) Organize its staff and hire and appoint such employees and personnel whether
16 temporary, contractual or on consultancy, subject to applicable rules; and
17
18 h) Generally, to exercise all the powers necessary to attain the purposes for which it
19 is created.
20

21 SECTION 9. *Periodic Reports.* - The Committee shall submit periodic reports on its
22 findings and make recommendations on actions to be taken by Congress and the
23 appropriate departments, and that in order to carry out the objectives of this Act, an
24 initial amount of Twenty Million Pesos (P20,000,000.00) is hereby appropriated for the
25 Oversight Committee for the first year of its operation.
26

27 SECTION 10. *Automatic Review.* - Every five (3) years after the effectivity of this Act,
28 the oversight committee shall review the policies and programs in the National Motor
29 Vehicle Manufacturing Development Plan and shall make recommendations, based on
30 its findings, to the President and to both Houses of Congress.
31

32 SECTION 11. *Rationalization Measures.* - In general, the Government shall formulate
33 and implement rationalization measures in specific areas in need of adjustment, or
34 where existing policies are challenged, rendered inefficient or obsolete by varying
35 business climate with the end view of promoting economies of scale, efficiency,
36 productivity and competitiveness.
37

38 SECTION 12. *Harmonization with Non-Fiscal Support Measures.* - The Government
39 shall formulate and implement industry-wide non-fiscal support measures that will
40 harmonize the goals of the Philippine Motor Vehicle Manufacturing Industry towards
41 effective and consistent regulation, transparency in its rules, and sustaining efficiency,
42 productivity, cost-reduction and competitiveness. These aforementioned measures
43 should address the strengthening of supporting and complementing industries such as,
44 but not limited to, steel, plastic and electrical in order to establish a strong and
45 sustained foundation for the aforementioned industry.
46

47 SECTION 13. *Implementing Rules and Regulations (IRR).* - The Secretary of the DTI,
48 within ninety (90) working days after the effectivity of this Act, in consultation with the
49 Department of Finance (DOF), the National Economic and Development Authority
50 (NEDA) and other agencies concerned, the private sector and other concerned
51 stakeholders, and in coordination with the Congressional Oversight Committee on the
52 Competitiveness of the Motor Vehicle Manufacturing Industry, shall promulgate the
53 rules and regulations for the effective implementation of this Act. The Secretary of the

1 DTI shall submit to the Committee on Trade of both Houses of Congress copies of the
2 IRR within thirty (30) days after their promulgation.

3
4 Any violation of this section shall render the official/s concerned liable under
5 Republic Act No. 6713 otherwise known as the "Code of Conduct and Ethical Standards
6 for Public Officials and Employees" and other existing administrative and/or criminal
7 laws.

8
9 SECTION 14. *Repealing Clause.* - All laws, decrees, executive issuance, rules and
10 regulations inconsistent with this Act are hereby repealed or modified accordingly.

11
12 SECTION 15. *Separability Clause.* - The provisions of this Act are hereby declared to
13 be separable, and in the event one or more of such provisions are held unconstitutional,
14 the validity of the other provisions shall not be affected thereby.

15
16 SECTION 16. *Effectivity.* - This Act shall take effect thirty (30) days from the date of
17 its publication in the *Official Gazette* or in at least two (2) newspapers of general
18 circulation.

Approved,