HOUSE OF REPRESENTATIVES

H. No. 59

BY REPRESENTATIVES YAP (V.), SUANSING (E.), ROMUALDO, VILLAFUERTE, SALCEDA, SILVERIO, ROMERO, GARDIN (S.), SUANSING (H.), CABREDO, ONG (R.), ALBANO (A.), CALDERON, BUSTOS, NIETO, BOLILIA, ROMUALDEZ (F.M.), CASTRO (F.H.), DELOS SANTOS, GATCHALLAN, BIRON, SINGSON-MEEHAN, CUEVA, BORDADO, REYES, TINGCO, GO (M.), CALIXTO, REVILLA, VILLAR, ALVAREZ (F.), VERGARA, OUANO-DIZON, SINTAY, COLLANTES, DUAVIT, AUMENTADO, CAMPOS, SAGARRABA, BARONDA, CUA, KHO (E.), OLIVAREZ, MARTINEZ, GARCIA (J.E.), MATUGAS, PAQUIAO (R.), PANOTES, BABASA, ESPINO, ALBANO (R.), GARBIN, UNABIA, VILLA, CO (E.), QUIÑO, ROBES, DEFENSOR (M.), BILLONES, LACSON, CARI, EBCAS AND PICHAY

AN ACT SETTING THE MINIMUM PAID-UP CAPITAL AND LOCALLY PRODUCED STOCK INVENTORY REQUIREMENTS FOR FOREIGN RETAIL BUSINESS ENTERPRISES, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 8762, OTHERWISE KNOWN AS THE "RETAIL TRADE LIBERALIZATION ACT OF 2000"

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

SECTION 1. Section 5 of Republic Act No. 8762 is hereby amended to read as follows:

"SEC. 5. Foreign Equity Participation. —
Foreign-owned partnerships, associations and corporations formed and organized under the laws of the Philippines may, upon registration with the Securities and Exchange Commission (SEC) and the Department of Trade and Industry (DTI), or in case of foreign-owned single proprietorships, with the DTI, engage or invest in the retail trade business[,] subject to the following categories:] WITH A MINIMUM PAID-UP CAPITAL OF THE EQUIVALENT IN PHILIPPINE PESOS OF TWO HUNDRED THOUSAND US DOLLARS (US$200,000.00).

"[Category A – Enterprises with paid-up capital of the equivalent in Philippine Pesos of less than Two million five hundred thousand US dollars (US$2,500,000.00) shall be reserved exclusively for Filipino citizens and corporations wholly owned by Filipino citizens.]

"[Category B – Enterprises with a minimum paid-up capital of the equivalent in Philippine Pesos of Two million five hundred thousand US dollars (US$2,500,000.00) but less than Seven million five hundred thousand US dollars (US$7,500,000.00) may be wholly owned by foreigners except for the first two (2) years after the effectivity of this Act wherein foreign participation shall be limited to not more than sixty percent (60%) of total equity.]

"[Category C – Enterprises with a paid-up capital of the equivalent in Philippine Pesos of Seven million five hundred thousand US dollars (US$7,500,000.00) or more may be wholly owned by foreigners: Provided, however, That in no case shall the investments for establishing a store in Categories B
and C be less than the equivalent in Philippine Pesos of
Eight hundred thirty thousand US dollars
(US$830,000.00).]

"[Category D – Enterprises specializing in
high-end or luxury products with a paid-up capital of
the equivalent in Philippine Pesos of Two hundred fifty
thousand US dollars (US$250,000.00) per store may be
wholly owned by foreigners.]

"The foreign investor shall be required to
maintain in the Philippines the full amount of [the
prescribed minimum] its paid-up capital, unless the
foreign investor has notified the SEC and the DTI of its
intention to repatriate its capital and cease operations
in the Philippines. The actual use in Philippine
operations of the inwardly remitted [minimum] capital
[requirement] shall be monitored by the SEC.

"Failure to maintain the [full] amount of [the
prescribed minimum] paid-up capital required in
the immediately preceding paragraph, prior to
notification of the SEC and the DTI, shall subject the
foreign investor to penalties or restrictions on any
future trading activities/business in the Philippines.

"Foreign retail stores shall secure a certification
from the Bangko Sentral ng Pilipinas (BSP) and the
DTI, [which will] to verify or confirm the inward
remittance of [the minimum required] their capital
investment."

SEC. 2. Section 6 of Republic Act No. 8762 is hereby deleted.
SEC. 3. Section 7 of Republic Act No. 8762 is hereby deleted.
SEC. 4. Section 8 of Republic Act No. 8762 is hereby amended
to read as follows:

"SEC. 8. [Qualifications of Foreign Retailers]

USE OF FOREIGN RETAILERS OF HIGH-END GOODS. –

[No foreign retailer shall be allowed to engage in retail
trade in the Philippines unless all the following
qualifications are met.]

"[(a) A minimum of two hundred million US
dollars (US$200,000,000.00) net worth in its parent
corporation for Categories B and C, and Fifty million
US dollars (US$50,000,000.00) net worth in its parent
corporation for Category D;]

"[(b) Five (5) retailing branches or franchises in
operation anywhere around the world unless such
tailer has at least one (1) store capitalized at a
minimum of Twenty-five million US dollars
(US$25,000,000.00);]

"[(c) Five (5)-year track record in retailing; and]

"[(d)] Only nationals from[,] or juridical entities
formed or incorporated in countries which allow the
entry of Filipino retailers shall be allowed to engage in
retail trade in the Philippines.

"The DTI is hereby authorized to pre-qualify all
foreign retailers, subject to the provisions of this Act,
before they are allowed to conduct business in the Philippines.

"The DTI shall keep a record of qualified foreign retailers who may, upon compliance with law, establish retail stores in the Philippines. [It shall ensure that the parent retail trading company of the foreign investor complies with the qualifications on capitalization and track record prescribed in this section.]

"The Inter-Agency Committee on Tariff and Related Matters of the National Economic AND Development Authority (NEDA) Board shall formulate and regularly update a list of foreign retailers of high-end or luxury goods and render an annual report on the same to Congress."

SEC. 5. Section 9 of Republic Act No. 8762 is hereby amended to read as follows:

"SEC. 9. Promotion of Locally Manufactured Products. — [For ten (10) years after the effectivity of this Act, at] AT least [thirty] TEN percent [(30%)] (10%) of the aggregate cost of the stock inventory of foreign retailers [falling under Categories B and C and ten percent (10%) for Category D] shall be made in the Philippines."

SEC. 6. Repealing Clause. — Republic Act No. 8762, and all laws, decrees, orders, rules and regulations or other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 7. Separability Clause. — If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in force and effect.

SEC. 8. Effectivity. — This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved.