

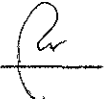
FIFTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session



Senate
Office of the Secretary

'10 NOV 10 A11 :45

SENATE

RECEIVED BY: 

S.B. NO. 2583

INTRODUCED BY SENATOR VILLAR

EXPLANATORY NOTE

Section 5 of Article II of the Fundamental Law makes the maintenance of peace and order, the protection of liberty and property and the promotion of the general welfare the primordial duty of the State.

The recent rise in crimes involving the use of loose firearms has placed the Philippines at Rank Five in the crime statistics for crimes committed with the use of firearms in the Eighth United Nations Survey on Crime Trends and the operations of the Criminal Justice System. The occurrence of the "Maguindanao Masacre", an act of gross inhumanity perpetrated through the use of firearms has drawn the attention of the world and has earned for the Philippines the tag of being one of the most dangerous places for journalist in the world.

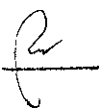
In this light, this bill seeks to put a stop in the illegal manufacture, importation, sale and disposition of firearms and curb the rise in crimes involving the use of firearms. In the exercise of the police power of the State, this law aims to deter their commission by providing stiffer penalties and providing stricter standards and regulations for firearm ownership and possession.

For the aforecited reasons, the passage of this bill is earnestly sought.


MANNY VILLAR



10 NOV 10 A11 :45

RECEIVED BY: 

SENATE

S.B. No. 2583

Introduced by Sen. Manny Villar

**AN ACT
FURTHER AMENDING PRESIDENTIAL DECREE NO. 1866, AS AMENDED BY
REPUBLIC ACTS NOS. 8294 AND 9516, BY PROVIDING FOR STIFFER PENALTIES
FOR CRIMES RELATING TO FIREARMS, LIGHT WEAPONS AND AMMUNITIONS, AND
FOR OTHER PURPOSES**

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

SECTION 1. - Section 1 of Presidential Decree No. 1866, as amended by Republic Act No. 8294, is hereby further amended to read as follows:

SECTION 1. Unlawful Acquisition, or Possession of Firearms, Light Weapons and Ammunition - The penalty of PRISION MAYOR IN ITS MEDIUM PERIOD shall be imposed upon any person whom shall unlawfully acquire or possess a firearm. The term firearm refers to any handheld or portable weapon that expels, is designed to expel a bullet, shot, slug or any projectile which is discharged by means of expansive force of gases from burning gunpowder or other form of combustion which includes revolvers, pistols, rifles, carbines, shotguns, or any similar instrument or implement.

The term however, does not apply to those used as toys where plastic shots and paintballs are discharged, including 'antique' or 'relic' firearms as defined by the United Nations (UN) firearms protocol, and firearms deactivated or demilitarized as classified by the Philippine National Police, except those devices mentioned in section 4 (5A) of this Act.

The penalty of one degree higher shall be imposed upon any person who shall unlawfully possess any firearm if any or combination of the following conditions are present:

- a) The firearm is loaded with ammunition or inserted with a loaded magazine;
- b) The firearm is fitted or mounted with laser or any gadget used to guide the shooter hit the target such as thermal weapon sight (TWS) and the like;
- c) The firearm is fitted or mounted with sniper scopes, firearm muffler or firearm silencer;
- d) The firearm is accompanied with an extra barrel;
- e) The firearm is converted to be in any type such as pistol to rifle; and
- f) The firearm is converted to be fired semi- automatic or full automatic.

The penalty of RECLUSION TEMPORAL TO RECLUSION PERPETUA shall be

imposed if three (3) or more firearms are unlawfully acquired or possessed by any person.

The penalty of RECLUSION PERPETUA shall be imposed upon any person who shall unlawfully acquire or possess light weapons. 'Light weapons' refer to any firearm mounted with 20mm rifled barrel and/or grenade launchers not exceeding 40mm, or weapons designed for use by two (2) or more persons serving as crew, or those which may be carried and used by a single person which shall include drum-fed and belt-fed submachine guns, light and heavy machine guns, and portable anti-aircraft and anti-tank guns, recoilless rifles, portable launchers of anti-aircraft missile systems, grenade launchers, and mortars. A light weapon shall be lawfully acquired or possessed exclusively by the Armed Forces of the Philippines (AFP), the Philippine National Police (PNP) and other authorized law enforcement agencies in the performance of their duties; *Provided*, that private individuals who already have licenses to possess light weapons upon effectivity of this Act shall not be deprived of the privilege to continue possessing the same and renewing licenses thereof, and shall be required to comply with the other applicable provisions of this Act.

The penalty of PRISION CORRECCIONAL IN ITS MAXIMUM PERIÓD shall be imposed upon any person who shall unlawfully acquire or possess ammunition for firearms and light weapons. *The term 'ammunition' refers to any bullet, shot, slug or any projectile which can be discharged by means of expansive force of gases from burning gunpowder or other form of combustion, or loaded shells for rifles, carbines shotguns, revolvers, pistols and other firearms and light weapons; Provided*, that if a violation of this paragraph is committed on the occasion of the unlawful acquisition or possession of a firearm or light weapon by the same person, the violation of this paragraph shall be absorbed by the unlawful acquisition or possession of a firearm or light weapon. *Provided further*: that the penalty of PRISION MAYOR IN ITS MINIMUM PERIOD shall be imposed upon any person who shall unlawfully possess a major part or component of a firearm or light weapon. The major parts or components of a firearm or light weapon are the barrel, slide, cylinder, frame or receiver, and the bolt assembly. The term also includes any part or kit designed and intended for use in converting a semi-automatic burst or automatic firearm.

The penalty of PRISION MAYOR IN ITS MINIMUM PERIOD shall be imposed upon any person who shall unlawfully acquire or possess armor-piercing ammunition, incendiary ammunition, and tracer ammunition or any combination thereof, including bullets containing high explosives not exceeding 20mm.

The penalty of PRISION MAYOR IN ITS MEDIUM PERIOD shall be imposed upon any person who shall unlawfully acquire or possess ammunition for light weapons exceeding 20mm containing high explosive.

If the use of an unlicensed firearm or light weapon is inherent in the commission of a crime where the penalty imposable is more than six (6) years and one (1) day, it shall be considered as a special aggravating circumstance; *Provided*, that if the crime committed with the use of an unlicensed firearm or light weapon is penalized by law with a maximum penalty lower than that prescribed in this section, the penalty to be imposed shall be PRISION MAYOR IN ITS MAXIMUM PERIOD. *Provided, furthermore*, that when the act is committed with the use of an unlicensed firearm or light weapon by two (2) or more persons who have acted together, the maximum penalty for the offense committed shall be imposed; *Provided, finally*, that if the crime is committed by the person without using the firearm or light weapon unlawfully possessed or acquired, the violation of this Act shall be considered as a distinct and separate offense.

The penalty of PRISION MAYOR IN ITS MINIMUM PERIOD TO PRISION MAYOR IN ITS MEDIUM PERIOD shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any of the firearms owned by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs, or willfully or knowingly allow any of them to use unlicensed firearms or firearms without any legal authority to be carried outside of their residence in the course of their employment.

The penalty of PRISION CORRECCIONAL AND A FINE OF TWENTY THOUSAND PESOS [P20,000] shall be imposed upon any person who is licensed to own a firearm but who shall carry the same outside his residence without any legal authority therefor.

SECTION 2. - Section 2 of Presidential Decree No. 1866 is hereby amended to read as follows:

Section 2. Unlawful Manufacture, Sale or Disposition of Firearms Light Weapons or Ammunition, or Parts Thereof, Machinery, Tools or Instruments Used or Intended to be Used in the Manufacture of Firearms, Light Weapons, Ammunitions, or Parts thereof - The penalty of RECLUSION TEMPORAL TO RECLUSION PERPETUA shall be imposed upon any person who shall unlawfully engage in the manufacture, sale or disposition of firearms, light weapons or ammunition, or major parts of firearms, light weapons or ammunition, or machinery, tool or instrument used or intended to be used by the same person in the manufacture of firearms, light weapons, ammunition, or major part/s thereof.

The possession of any machinery, tool or instrument used directly in the manufacture of firearms, light weapons, ammunition, or major part/s thereof by any person whose business or activity does not lawfully deal with the manufacture of such article, shall be *prima facie* evidence that such article is intended to be used in the unlawful / illegal manufacture of firearms, light weapons, ammunition, or part/s thereof.

The penalty of PRISION MAYOR IN ITS MINIMUM PERIOD TO PRISION MAYOR IN ITS MEDIUM PERIOD shall be imposed upon any laborer, worker or employee of a licensed firearms dealer who shall unlawfully take, sell or otherwise dispose of parts of firearms, light weapons or ammunition which the company manufactures and sells, and other materials used by the company in the manufacture or sale of firearms, light weapons or ammunition. The buyer or possessor of such stolen parts or materials shall suffer the same penalty as the laborer, worker or employee.

If the violation or offense is committed by a corporation, partnership, association or other juridical entities, the penalty provided for in this section shall be imposed upon the: directors, officers, employees or other officials or persons therein who knowingly and willingly participated in the unlawful act.

SECTION 3. Section 5 of presidential decree no.1866, as amended by Republic Act No. 8294, is hereby further amended to read as follows:

Section 5. Obliteration or Alteration of Firearms Identification - The penalty of PRISION CORRECCIONAL to PRISION MAYOR IN ITS MINIMUM PERIOD shall be imposed upon any person who shall obliterate or alter without authority the name of the maker, model, serial number, or replace the barrel, slide, frame or receiver and bolt

assembly, including its individual or peculiar identifying characteristics essential in forensic examination of a firearm or light weapon.

The PNP shall place these information, including its individual or peculiar identifying characteristics into the database of integrated firearms identification system of PNP the Crime Laboratory for future use and identification of a particular firearm.

Possession of any firearm or light weapon with an obliterated or altered identification is presumptive evidence that the possessor performed the obliteration or alteration.

SECTION 4. There are hereby inserted Sections 5-A, 5-B, 5-C, 5-D, 5-E, 5-F, 5-G, 5-H and 5-I in Presidential Decree No. 1866, to read as follows:

Section 5-A Use of an Imitation Firearm or Light weapon - an imitation firearm or light weapon used in the commission of a crime shall be considered a real firearm or light weapon as defined in this Act and the person who committed the crime shall be punished in accordance with Section 1 of this Act.

The term 'imitation firearm' refers to any air, gas or spring operated gun, toy gun, replica of a firearm or light weapon, or other device that is so substantially similar in coloration and overall appearance to an existing firearm or light weapon as to lead a reasonable person to believe that such imitation firearm or light weapon is a real firearm or light weapon.

Section 5-B Firearms, Light Weapons or Ammunition in Custodia Legis - During the pendency of any case filed in violation of this Act, seized firearms, light weapons, ammunition, or part/s thereof. Machinery, tools or instruments shall not be disposed of, alienated or transferred but shall be in the custody of the court; *Provided*, that if the court decides that it has no adequate means to safely keep the same, the court shall authorize the PNP to hold such firearms, light weapons, ammunition, or part/s thereof, machinery, tools or instruments in its custody during the pendency of the case and to produce the same to the court when so ordered: *Provided further*, that no bond shall be admitted for the release of the same: *Provided finally*, that any violation hereof shall be punishable by PRISION MAYOR IN ITS MINIMUM PERIOD TO PRISION MAYOR IN ITS MEDIUM PERIOD.

Section 5-C Confiscation and Forfeiture - The imposition of penalty for any violation of this Act shall carry with it the accessory penalty of confiscation and forfeiture of the firearms, light weapons, ammunition or part/s thereof, machinery, tools or instruments in favor of the government.

Section 5-D Liability for Planting Evidence Concerning Firearms, Light Weapons And Ammunition or Part/s Thereof - The penalty of PRISION MAYOR IN ITS MAXIMUM PERIOD shall be imposed upon any person who shall willfully and maliciously insert, place, and or attach, directly or indirectly, through any overt or covert act, any firearm, light weapon or ammunition, or part/s thereof in the person, house, effects, or in the

immediate vicinity of an innocent individual for the purpose of implicating or incriminating the person, or imputing the commission of any violation of the provisions of this Act to said individual: *Provided*, that if the person found guilty herein is a public officer or employee, such person shall suffer the PENALTY OF RECLUSION PERPETUA.

Section 5-E Issuance, Revocation, Cancellation and Suspension of License and Permit - Every firearm must be registered with the Firearms and Explosives Office of the Philippine National Police (FEO-PNP) and duly approved to be considered licensed. The PNP Chief or his authorized representative shall issue licenses or other permits to any qualified natural or juridical person who shall acquire, possess, deal in, sell or dispose firearms, light weapons, ammunition, or part/s thereof. A permit to carry a firearm outside of residence may also be issued by the PNP Chief or his duly authorized representative to any qualified person in meritorious cases as may be determined by him and on the basis of the implementing rules and regulations promulgated by him for the purpose.

Likewise, any person who shall manufacture or repair firearms, light weapons, ammunition, or major part/s thereof shall first secure a license to engage from the PNP Chief.

Firearms and light weapons with expired licenses which have not been renewed for a period of six (6) months from the date of expiration thereof shall be surrendered, confiscated or forfeited in favor of the government after due process. *Provided* that, an omission to renew the license within a period of six (6) months from the date of expiration on two (2) occasions shall cause the holder of the firearm or light weapon to be perpetually disqualified from applying for any firearm license.

Section 5-F. Requisites for Obtaining a License to Own and Possess Firearms. – A person may acquire a license to own and possess a firearm or ammunition upon compliance of the following basic requirements:

1. Must be a Filipino citizen;
2. At least twenty-one (21) years old;
3. Has gainful work, business or employment as supported by an Income Tax Return for the preceding year;
4. Has not been a respondent/accused in a criminal case before the prosecution or courts for a crime. An acquittal in the criminal case before the prosecution or courts shall qualify the individual to acquire a license;
5. Has not been convicted of any criminal offense;
6. Has passed the psychiatric test by the PNP accredited psychologist/psychiatrist;
7. Has passed drug test administered by DOH accredited drug testing laboratory;
8. Has attended a gun safety seminar handled by the PNP;
9. Has submitted the pertinent legal documents for the acquisition/possession of the firearm or ammunition (deed of sale, affidavit of transfer, etc);
10. Has paid the required licensing fees; and
11. Such other requirements which may later be provided in the IRR.

Section 5-G Grounds For Revocation, Cancellation or Suspension of License or Permit - The PNP Chief or his authorized representative may revoke, cancel or suspend a license or permit on the following grounds:

(a) Commission of a crime or offense involving the firearm, light weapon, ammunition, or major part/s thereof;

(b) Conviction by a crime involving moral turpitude or any offense where the penalty carries an imprisonment of more than six (6) years;

(c) Loss of the firearm, light weapon, ammunition, or any part/s thereof through negligence;

(d) Carrying of the firearm, light weapon, ammunition, or major part/s thereof outside of residence or workplace without the proper permit to carry the same;

(e) Carrying of the firearm, light weapon, ammunition, or major part/s thereof in prohibited places;

(f) Dismissal for cause from the service in case of government officials and employees;

(g) Commission of any of the acts penalized under Republic Act No. 9165 otherwise known as the "Comprehensive Dangerous Drugs Act of 2002",

(h) Submission of falsified documents misrepresentation in the application to obtain a license or permit; and

(i) Such other grounds which may later be specified by the PNP Chief.

Section 5-H Failure to Notify Lost/Stolen Firearm or Light Weapon and Change of Address - The penalty of ARRESTO MENOR AND A FINE OF TEN THOUSAND PESOS (P 10,000.00) shall be imposed upon any licensed firearm holder who fails to report to the Firearms and Explosive Office of the Philippine National Police (FEO-PNP) that the subject firearm has been lost or stolen within a period of thirty (30) days from the date the said firearm has been discovered lost or stolen.

Likewise, a penalty of ARRESTO MENOR and a fine of TEN THOUSAND PESOS (P10,000.00) shall be imposed upon any person holding a valid firearm license who shall change his/her residence indicated in the license card and fails within a period of thirty (30) days from said transfer to notify the FEO-PNP of such change of address either personally, or by registered mail, electronic mail or facsimile.

Section 5-I. Illegal Transfer/Registration of Firearms. - It shall be unlawful to transfer **possession** of any firearm to any person who has not yet obtained or secured the necessary license or permit thereof.

The penalty of ARRESTO MAYOR MAXIMUM TO PRISION CORRECCIONAL MEDIUM shall be imposed upon any person who shall violate the provision of the preceding

paragraph. In addition, he shall be disqualified to apply for a license to possess other firearms and all his existing firearms licenses, whether for purposes of commerce or possession, shall be revoked.

Provided further, that if government-issued firearms, light weapons, ammunition or major parts of firearms or light weapons are unlawfully disposed, sold or transferred by any law enforcement agents or public officer to private individuals, the penalty of Reclusion Temporal to Reclusion Perpetua shall be imposed.

Any public officer or employee or any person who shall facilitate the registration of a firearm through fraud, deceit, misrepresentation or submission of falsified documents, shall suffer the penalty of PRISION CORRECCIONAL.

SECTION 5. *Rules and Regulations* - The PNP shall issue within ninety (90) days after the approval of this Act the rules and regulations necessary for the effective implementation of the provisions of this Act.

SECTION 6 . *Transitory Provision* – Persons in possession of unlicensed firearms and holders of expired licenses of registered firearms shall register and renew the same respectively, in accordance with the Implementing Rules and Regulations promulgated by the Philippine National Police within six (6) months from its promulgation for purposes of compliance with the provisions of this Act.

SECTION 7. *Separability Clause* - If for any reason, any section or provision of this Act is declared invalid or unconstitutional, the other sections or provisions hereof not affected thereby shall continue to be in full force and effect.

SECTION 8. *Repealing Clause* - All laws, decrees, orders, rules and regulations, and other issuances, or parts thereof which are inconsistent with the provisions of this Act are hereby deemed repealed, amended or modified accordingly.

SECTION 9. *Effectivity* - This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved.