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SENATE

S. NO. 3375

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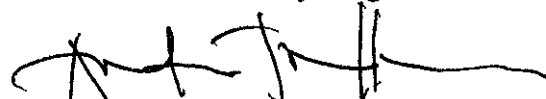
Introduced by Senator Antonio "Sonny" F. Trillanes IV

EXPLANATORY NOTE

The 1987 Constitution declares that the maintenance of peace and order, the protection of life, liberty, and property, and promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy. However, the alarming rise of crimes due to the disposition and use of loose firearms runs counter to the aforementioned principle of the State. In the recent *National Summit on Firearms Control*, the Philippine National Police noted that in the 2005 Report of the World Health Organization and the UN Office of Drugs and Crime, the Philippine ranked 10th in the number of gun homicide rates worldwide. Furthermore, the PNP revealed that the current estimate of loose firearms in the country is now figured at 1,110,372. The PNP report showed that in the 5,752 crime incidents recorded in 2008, there were 6,030 firearms involved therein – 5,999 of which were loose firearms and only 31 licensed. In addition, the most common crimes committed with loose firearms from 2006 to 2008 consistently included murder, homicide, physical injury and robbery. The international think tank Small Arms Survey's (2007) figures, on the other hand, place the average total number of guns in circulation in the country at 3.9 million (high of 5 million and low of 2.8million).¹ The data gap in the actual number of guns-in-circulation contributes to the difficulty of accurately pointing the finger to the problem, and also in the difficulty in making a systematic assessment of trends in arms proliferation.² Admittedly, firearms in the hands of irresponsible citizens is tantamount to increased perception of insecurity, loss of human lives, damage to property and destruction of valuable resources in the country.

It is in this light that this bill seeks to regulate the unlawful possession, manufacture, dealing in, acquisition or disposition, of firearms, ammunition, and instruments used in the manufacture of firearms and ammunition, by amending Presidential Decree No. 1866 as amended by Republic Act No. 8294 and 9516. This measure seeks to provide stiffer penalties for the violation of the same in order to more effectively deter the commission of these crimes. This bill also provides maximum penalty for violations committed by public officials whether in civilian or in military, police or law enforcement service, considering that they are supposedly mandated by their office to preserve the peace and order in society.

In view of the foregoing, immediate approval of this measure is earnestly sought.



ANTONIO "SONNY" F. TRILLANES IV
Senator

¹ Philippine National Police chief Director General Jesus Verzosa. Powerpoint Presentation during the National Summit of Firearms Control. Philippine National Police, Camp Crame, Quezon City. May 18-19, 2009.

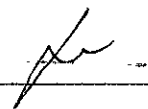
² Jennifer Santiago Oreta. Philippine Action Network on Small Arms (PhilANSA), Dept. of Political Science, Ateneo de Manila University. Powerpoint Presentation during the National Summit of Firearms Control. Philippine National Police, Camp Crame, Quezon City. May 18-19, 2009.

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Introduced by Senator Antonio "Sonny" F. Trillanes IV

AN ACT

AMENDING THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1866, ENTITLED "CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITIONS OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS AND AMMUNITION, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AS AMENDED BY REPUBLIC ACT NOS. 8294 AND 9516

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

1 **SECTION 1. *Short Title.*** – This act shall be known as the "***Gun Control Act of 2009.***"

2

3 **SEC. 2. *Declaration of Policy.*** – Pursuant to the Constitutional declaration that the
4 primordial duty to maintain peace and order, protect life, liberty and property, and promote
5 general welfare rests in the state, it is hereby declared the policy of the State to regulate the
6 privilege of manufacturing, possessing, and selling of firearms.

7

8 **SEC. 3. *Definition of Terms.*** – As used in this Act, the term –

9 a. "***Firearm***" includes rifles, muskets, carbines, shotguns, revolvers, pistols and all other
10 deadly weapons from which a bullet, ball, shot, shall or other missile may be discharged
11 by means of gunpowder or other explosives. It shall also include air rifles and air pistols
12 not classified as toys;

13 b. "***Ammunition***" includes

14 1. any article consisting of a cartridge case fitted with a primer and containing a
15 propelling charge and a projectile; or

16 2. blank cartridges, airgun pellets, training cartridges or gas cartridges; or

17 3. any other article prescribed for this definition.

18 c. "***Possession***", in relation to a firearm, includes any case in which a person knowingly—

1. has custody of the firearm; or
 2. has the firearm in the custody of another person.
- d. "*Person*" refers to either natural or juridical person;
 - e. "*firearm part*" includes a barrel, breech, pistol slide, frame, cylinder, trigger mechanism, operating mechanism or magazine designed as, or reasonably capable of forming, part of a firearm;
 - f. "*Gun smuggling*" refers to the importation into, and exportation out of, the country through the airports, seaports or coastlines, of firearms of any make or caliber, or ammunition of any quantity without lawful authority, including the evasion of customs, taxes and duties thereon;
 - g. "*Gun Running*" refers to the transport within the country of firearms of more than five (5) pieces or ammunition of more than one hundred (100) rounds without lawful authority;
 - h. "*Loose firearm*" refers to any firearm which has not been registered by the Firearms and Explosives Division (FED) of the Philippine National Police Civil Security Group (hereinafter referred to as FED-PNP);
 - i. "*Organized threat groups*" include such groups that have commenced acts of hostility with the duly constituted authorities of the state by violating the laws particularly affecting the people, territory, sovereignty and government;
 - j. "*Criminal syndicates*" include such elements as organized crime groups, criminal gangs and wanted persons.

ARTICLE II

PENAL PROVISIONS

SEC. 4. *Unlawful Acquisition or Possession of Firearms or Ammunition.* – Any person who shall unlawfully acquire or possess any firearm shall be imposed with the penalty of prision mayor in its minimum period and a fine of not less than forty thousand pesos (P40,000.00).

1 *Provided however,* That if there are five (5) or more firearms, the penalty to be
2 imposed shall be reclusion temporal in its minimum period and a fine of not less than one
3 hundred thousand pesos (P100,000).

4 In case of unlawful possession or acquisition of ammunition, the penalty of
5 imprisonment and fine shall be based on the quantity of ammunition indicated hereunder:

6

NUMBER OF ROUNDS	IMPRISONMENT	FINE
1-50	Prision Correccional (minimum)	P30,000.00
51-100	Prision Correccional (medium)	P50,000.00
101 and over	Prision Correccional (maximum)	P80,000.00

7

8 The same penalty shall be imposed upon the owner, president, manager, director or
9 other responsible officer of any public or private firm, company, corporation or entity,
10 who shall willfully or knowingly allow any of the firearms owned by such firm,
11 company, corporation, or entity to be used by any person or persons found guilty of
12 violating the provisions of the preceding paragraphs or shall willfully or knowingly allow
13 any of them to use unlicensed firearm or firearms in the course of their employment.

14

15 **SEC. 5. *Unlawful Manufacture, Sale or Disposition of Firearms and Ammunition.* –**

16 The penalty of reclusion temporal and a fine of five hundred thousand pesos (P500,000.00) shall
17 be imposed upon any person, who, unless authorized by law, shall engage in the manufacture,
18 sale or disposition of firearms or ammunition.

19 *Provided,* That laborers/ workers of the above manufacturing company shall suffer the
20 penalty of prision correccional.

21 *Provided, further,* That the penalty prescribed under Section 18 of this Act shall be
22 imposed if the violation under this Section is committed by any member of the Armed Forces of
23 the Philippines, the Philippine National Police, or any government official whether elective or
24 appointive, and the sale or disposition is made to any organized threat group and/or criminal
25 syndicate.

26

1 **SEC. 6. *Commission of Another Crime.*** – If any other crime punishable under the
2 Revised Penal Code and other special laws was committed by the person arrested, the violation
3 of this Act shall be considered a distinct and separate offense.

4
5 **SEC. 7. *Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of***
6 ***Machinery, Tool or Instruments Used or Intended to be Used in the Manufacture of Firearms***
7 ***or Ammunition.*** – (a) Any person who shall unlawfully manufacture, deal in, acquire, dispose or
8 possess machinery, tool or instruments used or intended to be used in the manufacture of
9 firearms or ammunition shall be liable for the penalty of prision correccional in the maximum
10 period and a fine of one hundred thousand pesos (P100,000.00).

11 (b) The penalty of prision mayor in the maximum period and a fine of three hundred
12 thousand pesos (P300,000.00) shall be imposed if the violation hereunder is committed by any
13 member of the Armed Forces of the Philippines, the Philippine National Police, or any
14 government official, whether elective or appointive, and the sale or disposition is made to any
15 organized threat group and/or criminal syndicate.

16 (c) The possession of any machinery, tool or instrument used directly in the manufacture
17 of firearms or ammunition, by any person whose business or employment does not lawfully deal
18 with the manufacture of firearms or ammunition, shall be prima facie evidence that such article is
19 intended to be used in the unlawful/ illegal manufacture of firearms or ammunition.

20
21 **SEC. 8. *Without Permit to Carry.*** – The penalty of prision correccional and a fine of
22 twenty thousand pesos (P20,000.00) shall be imposed upon any person who shall carry any
23 licensed firearm outside of his residence without any legal authority therefore. In addition, the
24 offender shall be disqualified to apply for firearm license within a period of six (6) months after
25 service of sentence.

26
27 **SEC. 9. *Coverage of the Term “Unlicensed Firearm”.*** – The term “unlicensed firearm”
28 shall include:

- 1 (a) Firearms with expired license which has not been renewed for a period of six (6)
2 months from the date of expiration thereof; and
3 (b) Firearms which are not registered at the FED-PNP.
4

5 **SEC. 10. Confiscation.** -- Every penalty imposed for the violation of this Act shall carry
6 with it the confiscation and forfeiture of the firearms, ammunition, machinery, tools or
7 instruments in favor of the government to be applied exclusively for the use of the PNP, subject
8 to the rules and regulations of the Philippine National Police regarding the mandatory prior
9 registration of the firearms with the FED-PNP.
10

11 **SEC. 11. Confiscated, Captured, Seized or Recovered Firearms, Ammunition,**
12 **Machinery, Tools or Instruments.** -- Firearms, ammunition, machinery, tools or instruments
13 which have been used in the commission of a crime or which have been otherwise confiscated,
14 captured, seized or recovered from crime and/or battle scenes, shall be deposited solely with the
15 Police Evidence Custodian of the Police Provincial Headquarters for safekeeping.

16 During the pendency of any case, the said firearms, ammunition, machinery, tools or
17 instruments shall not be disposed, alienated or transferred and the same shall be in *custodia legis*
18 and no bond shall be admitted for the release of the same.

19 *Provided, further,* That after the termination of the case and/or when they are no longer
20 necessary as evidence in court, the confiscated, captured, seized or recovered firearms or major
21 part thereof shall be turned over solely to the FED-PNP for registration, proper accounting and
22 disposition.
23

24 **Sec. 12. Liability of Evidence Custodians.** -- Notwithstanding the provision of the
25 Revised Penal Code on malversation of public funds or property, the penalty of prision mayor in
26 its medium period and fine of thirty thousand pesos (P30,000.00) shall be imposed upon any
27 public officer or employee who misappropriates, misapplies or fails to account for confiscated,
28 captured, seized or recovered firearms, ammunitions, machinery, tools or instruments.
29

1 **SEC. 13. *Illegal Transfer of Firearms.*** – Any person who sells or transfers possession of
2 his licensed firearm to a person who is not qualified to possess the said firearm shall be
3 disqualified to apply for license to possess other firearms.

4
5 **SEC. 14. *Tampering of Firearm's Serial Number.*** - The penalty of *prision mayor* shall
6 be imposed upon any person who shall unlawfully tamper, change, deface or erase the serial
7 number of any firearm.

8
9 **SEC. 15. *Unauthorized Issuance of Authority to Carry Firearm and/or Ammunition***
10 ***Outside of Residence.*** - The penalty of *prision correccional* shall be imposed upon any person,
11 civilian or military, who shall issue authority to carry firearm and/or ammunition outside of
12 residence, without authority therefor.

13
14 **SEC. 16. *Gun Smuggling or Gun Running.*** – The penalty of reclusion temporal under
15 the Revised Penal Code or a fine of fifty thousand to one hundred thousand pesos (PhP50,000 –
16 PhP100,000), or both, shall be imposed upon any person found guilty of gun smuggling or gun
17 running.

18
19 **SEC. 17. *Lost Firearms and Ammunition.*** – Holders of licenses and permits under this
20 Act are required to report lost firearms or ammunition within forty-eight (48) hours from loss or
21 discovery of loss thereof. Holders of licenses or permits who willfully fail to report lost firearms
22 and ammunition shall suffer the penalty of *prision correccional* under the Revised Penal Code.

23
24 **SEC. 18. *Criminal Liability of Public Officials.*** – The penalty of *reclusion perpetua* in
25 its maximum period shall be imposed if any violation of the provisions of Sections 4, 5, 11, 13,
26 14 and 16 is committed by any member of the Armed Forces of the Philippines (AFP), or the
27 Philippine National Police (PNP), or any other law enforcement agency, or by any public official
28 in the civilian service.

29

1 administrative amnesty for unexpired licenses of firearms within six (6) months from the
2 effectivity of this Act.

3 Each firearm submitted for licensing shall have its own distinct firearm description.
4

5 **SEC. 24. *Implementing Rules and Regulations.*** – The Philippine National Police shall,
6 within thirty (30) days from the effectivity of this Act, prescribe and promulgate the rules and
7 regulations for the uniform implementation of the provisions of this Act.
8

9 **SEC. 25. *Repealing Clause.*** – The relevant portions of Presidential Decree No. 1866, as
10 amended by Republic Act No. 8294, and all laws, decrees, orders, rules, and regulations or other
11 issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or
12 modified accordingly.
13

14 **SEC. 26. *Separability Clause.*** – If any portion or provision of this Act is declared
15 unconstitutional, the remainder of this Act or any provision of this Act is declared
16 unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in
17 force and in effect.
18

19 **SEC. 27. *Effectivity Clause.*** – This Act shall take effect fifteen days following the
20 completion of its publication either in the *Official Gazette* or in at least two (2) newspapers of
21 general circulation.

Approved,