

THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
FIRST REGULAR SESSION )

'04 JUN 30 P12:57

SENATE  
S.B. No. 97

RECEIVED BY: 

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Introduced by **SENATOR LUISA "LOI" P. EJERCITO ESTRADA**

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EXPLANATORY NOTE

The Constitution, Article 2, provides that:

Sec. 5. The maintenance of peace and order, the protection of life, liberty, and property, and the promotion of general welfare are essential for the enjoyment by all the people of the blessing of democracy.

The privacy of individuals and their families have been violated by photographers, videographers, and audio recorders who physically trespass in order to capture images or other reproductions of their private lives for commercial purposes, or who do so constructively through intrusive modern visual or auditory enhancement devices, such as powerful telephoto lenses and hyperbolic microphones that enable invasion of private areas that would otherwise be impossible without trespassing.

Such harassment and trespass threatens not only public persons and their families, but also private persons and their families for whom personal tragedies or circumstances beyond their control create media interest.

This bill seeks to provide protection from personal intrusion for commercial purposes to protect individuals and their families against intrusions on their privacy due to activities undertaken in connection with the reproduction and broadcast of their private activities.

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

  
**LUISA "LOI" P. EJERCITO ESTRADA**  
Senator

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**AN ACT  
TO PROVIDE PROTECTION FROM PERSONAL INTRUSION FOR  
COMMERCIAL PURPOSES**

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

**SECTION 1. SHORT TITLE.** -- This Act shall be known as the "Personal Privacy Protection Act of 2004".

**Sec. 2. Declaration of Policy.** -- It is hereby the policy of the State to adopt measures that would effectively promote the maintenance of peace and order, the protection of life, liberty and property, and the promotion of the general welfare which are essential for the enjoyment by all the people of the blessing of democracy in a just and humane society.

**Sec. 3. Definition of Term.** -- For purposes of this Act, "for commercial purposes" means with the expectation of sale, financial gain, or other consideration.

**Sec. 4. Rule of Construction-** For purposes of this Act, a visual image, sound recording, or other physical impression shall not be found to have been, or intended to have been, captured for commercial purposes unless it was intended to be, or was in fact, sold, published, or transmitted in Philippine or foreign commerce, or unless the person attempting to capture such image, recording, or impression moved in Philippine or foreign commerce in order to capture such image, recording, or impression.

*Sec. 5. Trespass for Commercial Purposes Invasion of Legitimate Interest in Privacy for Commercial Purposes-*

(1) TRESPASS FOR COMMERCIAL PURPOSES- It shall be unlawful to trespass on private property in order to capture any type of visual image, sound recording, or other physical impression of any person for commercial purposes.

(2) INVASION OF LEGITIMATE INTEREST IN PRIVACY FOR COMMERCIAL PURPOSES- It shall be unlawful to capture any type of visual image, sound recording, or other physical impression for commercial purposes of a personal or familial activity through the use of a visual or auditory enhancement device, even if no physical trespass has occurred, if--

(A) the subject of the image, sound recording, or other physical impression has a reasonable expectation of privacy with respect to the personal or familial activity captured; and

(B) the image, sound recording, or other physical impression could not have been captured without a trespass if not produced by the use of the enhancement device.

*Sec. 6. Cause of Action-* Any person who is legally present in the Philippines who is subjected to a violation of this Act may, in a civil action against the person engaging in the violation, obtain any appropriate relief, including compensatory damages, punitive damages and injunctive and declaratory relief. A person obtaining relief may be either or both the owner of the property or the person whose visual or auditory impression has been captured. In any civil action or proceeding to enforce a provision of this Act, the court shall allow the prevailing party reasonable attorney's fees as part of the costs. In awarding attorney's fees, the court shall include expert fees as part of the attorney's fees.

Sec. 7. *Limitation on Defenses*- It is not a defense to an action under this section that--

- (1) no image or recording was captured; or
- (2) no image or recording was sold.

Sec. 8. *Use of Images*- Nothing in this Act may be construed to make the sale, transmission, publication, broadcast, or use of any image or recording of the type or under the circumstances described herein in any otherwise lawful manner by any person subject to criminal charge or civil liability.

Sec. 9. *Limitation*- Only a person physically present at the time of, and engaging or assisting another in engaging in, a violation of this Act is subject to civil liability under this Act. A person shall not be subject to such liability by reason of the conduct of an agent, employee, or contractor of that person, or because images or recordings captured in violation of this Act were solicited, bought, used, or sold by that person.

Sec. 10. *Law Enforcement Exemption*- The prohibitions of this Act do not apply with respect to official law enforcement activities.

Sec. 11. *Repealing Clause*. – Any law, presidential decreed, issuance, executive order, letter of instruction, administrative order, rule and regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified, or amended accordingly.

Sec. 12. *Separability Clause*. – If any provision of this Act is held invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

Sec. 13. *Effectivity Clause.* – This Act shall take effect fifteen (15) days following its complete publication in two (2) newspapers of general circulation or in the official Gazette.

*Approved,*