

THIRTEENTH CONGRESS OF THE REPUBLIC }  
OF THE PHILIPPINES }  
First Regular Session }

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SENATE  
Senate Bill No. 837

RECEIVED BY: 

Introduced by **SENATOR PANFILO M. LACSON**

### EXPLANATORY NOTE

Firearms smuggling is a dangerous but profitable criminal enterprise. It not only threatens public safety and national security but also endangers and oftentimes, takes away the lives even of innocent persons. The possession of smuggled firearms more often than not emboldens the person in possession thereof to the commission of more serious offenses such as, but not limited to, murder, homicide, rebellion, piracy, kidnapping and armed robbery.

Firearms smuggling is one of the transnational organized crimes that affect not only the Philippines and other neighboring Asian countries but also the rest of the world. In the international arena, firearms smuggling has affected the security, safety and the peace and order situation of the countries where the same are being brought into.

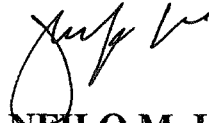
During the Ninth UN Congress on Crime Prevention in May 1995 at Cairo Egypt, Japan, co-sponsored by 29 other countries, proposed Resolution 9, entitled "Firearms Regulation for Purposes of Crime Prevention and Public Safety" for the adoption of measures to regulate firearms commonly applicable in Member States, including the prevention of transnational illicit trafficking in firearms, with a view to suppressing the use of firearms in criminal activities. The proposal was also referred to the G8 Senior Experts Group on Transnational Organized Crime, namely Lyon Group, and others, to promote the international public awareness on the importance of firearms control. As a result of said proposals, a consensus was reached among the international community, to elaborate a binding international legal instrument to fight the illicit firearms trafficking, as one of the protocols to the United Nations Transnational Organized Crime Convention.

The Philippines too is not exempted from firearms smuggling. In fact, it is rated second in terms of the number of firearms that are smuggled into Japan. It is a producer and transhipper of smuggled firearms. The Philippines is also a final destination of smuggled firearms. The burgeoning illicit trade in firearms can be attributed to the lack of anti-firearms smuggling laws in the country, our long coastline and the great demand for them by criminal

syndicates, Muslim secessionists and other militant groups. In our country, the firearms and ammunitions used by the Abu Sayaff are believed to have been smuggled into Philippines via the southern backdoor. Certainly, the problem brought about by firearms smuggling poses a serious threat not only to the peace and order situation of our country but also to other countries. This growing menace must be addressed.

This bill therefore seeks to address the problem caused by firearms smuggling by classifying it as a crime, providing stiffer penalties for its commission.

In view of the foregoing considerations, early passage of this measure is earnestly sought.



**PANFILO M. LACSON**  
Senator

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**AN ACT**  
**DEFINING THE CRIME OF FIREARMS SMUGGLING,**  
**PROVIDING PENALTIES THEREFORE AND FOR OTHER**  
**PURPOSES**

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

**SECTION 1. Short Title.** This Act shall be known as the "**Anti-Firearms Smuggling Act of 2004.**"

**SECTION. 2. Statement of Policy.** - It is hereby declared the policy of the State to maintain peace and order, protect the lives, liberty and property of the people and promote public safety. In consonance with this objective, the State shall regulate the circulation, transportation, transmission and sale of firearms of whatever kind that may endanger the lives and safety not only of its citizens but also the citizens of the country where such firearms are illegally brought. Towards this end, firearms smuggling is hereby made an offense and provided with stiffer penalties for the purpose of preventing if not totally eradicating the evils accompanying the same.

**SECTION. 3. Definitions.** As used in this Act.

- a) "Firearms Smuggling" - Refers to the act of any person who, through the use of any fraudulent machinations, shall import or bring into, or export from, the Philippines, or assist in so doing, any firearm or parts thereof, explosive or ammunition or machine, implements, equipments or tools for the manufacture of firearms. It shall likewise refer to the act of any person who, contrary to law, shall receive, conceal, buy, sell or in any manner facilitate the transportation, concealment or sale of said firearms or parts thereof, explosive or ammunition or machine, implements, equipments or tools for the manufacture of firearms, ammunition or explosives after importation, knowing the same to have been imported contrary to law.

- b) "Firearms" - As used herein, the term includes handguns, revolvers, pistols, rifles, muskets, carbines, shotguns, cannons and all other deadly weapons from which a bullet, ball, shot, shall or other missile may be discharged by means of gunpowder or other explosives. The term also includes air rifles and air pistols not classified as toys under the provisions of Executive Order No. 712 dated 28 July 1981. The barrel of any firearm shall be considered a complete firearm;
- c) "Explosive" - refers to any substance either solid or liquid, either as a mixture of single compound which by chemical reaction liberate at high speed, heat and gas causing tremendous pressure resulting in an explosion, such as gunpowder, powder used for blasting, all forms of high explosives, blasting materials, dynamite, fuses, detonators and detonating agents, smokeless powder, hand grenade, rifle grenade, pill box bomb, molotov cocktail bomb, or other incendiary devices and other chemical compound or chemical mixture that contains any combustible unit or other ingredients in such proportion or packing that ignites by fire, by friction, by concussion, by percussion, or by detonation of all or any part of the compound or mixture causing such a sudden generation of highly heated gases that resultant gaseous pressure are capable of producing destructive effects on contiguous objects or destroying life or limb.
- d) "Ammunition" - refers to loaded shells for rifles, muskets, carbines, shotguns, revolvers, pistols and other firearms from which a bullet, ball, shot, shall or other missile may be fired by means of gunpowder or explosives.
- e) "Syndicate" - refers to at least three persons organized for the purpose of engaging in firearms smuggling.

SECTION 4. Acts Constituting the Crime of Firearms Smuggling. - It shall be unlawful for any person or group of persons to commit any of the following acts:

1. To fraudulently import or bring into the Philippines, or assist in so doing, any firearm or parts thereof, explosive or ammunition or machine, implements, equipments or tools for the manufacture of firearm, ammunition or explosive;
2. To export or attempt to export fraudulently or giving assistance in so doing, any firearm or parts thereof, explosive, ammunition or machine, implements, equipments or tools for the manufacture of firearm, ammunition or explosive;
3. To entice, induce, encourage or persuade another by offer of money, gift, anything of value, employment, advantage or other considerations, or by threat or use of force, fraud, deception, coercion or abuse of authority, to import or bring into the Philippines, or export from the Philippines any firearm or parts thereof, explosive, ammunition or machine, implements,

- equipments or tools for the manufacture of firearm, ammunition or explosive or to cause said fraudulent importation or exportation;
4. To assist in the conduct of misrepresentation or fraud for purposes of facilitating the acquisition of clearances and entry or exit documents from government agencies or officials that are mandated to conduct examinations and inspections of cargoes, cartoons, baggage, other containers, cloths or things where the firearm, explosive or ammunition could have been packed, placed or inserted;
  5. To facilitate, assist and help in the importation and exportation from/to the country at international and local airports and seaports of firearm or parts thereof, ammunition, explosive, machine, implements, equipments or tools for the manufacture of firearms or parts thereof, ammunition and explosive through the use of unissued, tampered or fake travel documents.

SECTION 5. Penalties. - Any person engaged in firearms smuggling shall be punished by imprisonment of not less than twelve (12) years and one day but not more than twenty (20) years and a fine of not less than one million (PhP 1,000,000.00) but not more than five million pesos (PhP 5,000,000.00).

The penalty of reclusion perpetua to death and a fine of five million pesos (PhP 5,000,000.00) shall be imposed upon:

- a.) Any government official or employee, who, in order to facilitate firearms smuggling, processes, issues or otherwise disposes of any document necessary for the importation into the Philippines or exportation of any firearm to any person;
- b.) Any person who procures, processes, sells or obtains by fraudulent means any document necessary for the importation into the Philippines or exportation of any firearms;
- c.) The pilot, master, agent, owner, consignee, or any person in charge of a vessel or aircraft who knowingly and intentionally carries smuggled firearms, ammunitions or explosives departing from or entering the Philippine territory. The vessel or aircraft used in transporting smuggled firearms shall be seized and shall be subject to a lien on the penalty that may be imposed upon conviction.

The penalty of death shall be imposed upon any person who belongs to a syndicate engaged in firearms smuggling, or to the illegal dealers or manufacturers of firearms, ammunitions or explosives, or when the smuggled firearms, explosives or ammunitions were used, intended, or in furtherance of or incident to, or in connection with the commission of other crimes like, murder, armed robbery, terrorism, rebellion, sedition or coup d'etat or be used in the assassination of top government officials. The same penalty shall be imposed when a government official or employee connives with a syndicate in the commission of the crime aforementioned.

In addition to the penalties provided by the preceding paragraphs, any government official or employee shall, upon conviction, be dismissed from office and perpetually disqualified to hold public office.

SECTION 6. Jurisdiction. - Any criminal action arising from any violation of this Act shall be filed with the Regional Trial Court of the place where the offense was committed. The Court first taking cognizance of the case shall exercise jurisdiction to the exclusion of other courts.

SECTION 7. Presumption of Firearms Smuggling. - Possession, importation or exportation of any firearm or parts thereof, explosive, ammunition or machines, implements, equipments or tools for the manufacture of firearm, ammunition or explosive without the necessary license to possess, manufacture or to import or export them shall be prima facie evidence of firearms smuggling.

SECTION 8. Programs that Address Firearm Smuggling. - The Government shall establish and implement measures for the prevention of firearms smuggling. For this purpose, the following departments and agencies are hereby mandated to implement the following programs.

- (a) Department of Foreign Affairs - shall make available its resources and facilities overseas for the proper monitoring of manufactured firearms in their respective foreign posts and explore means to further enhance its assistance in eliminating smuggled firearms through closer networking with government agencies in the country and overseas, particularly in the formulation of policies and implementation of relevant programs.
- (b) The Philippine National Police - shall adopt a system of monitoring the approximate number of firearms circulating in the country, the number of those transported into the Philippines legitimately and those produced by licensed manufacturers and dealers of firearms for purposes of regulation. It shall likewise adopt means of investigation and information from its sources to have an approximation of the firearms illicitly transported in and outside of the Philippines and cause the seizure, forfeiture and even destruction of the smuggled firearms.
- (c) Department of Justice (DOJ) - shall initiate the filing of complaints involving smuggled firearms and ensure the effective prosecution of guilty parties.

SECTION 9. Reporting Requirements. - The concerned agencies shall submit to the President of the Philippines and to Congress an annual report of the policies, programs and activities relative to the implementation of this Act.

SECTION 10. Funding. - The amount needed to implement the provisions of this Act shall be charged against the current year's appropriation or savings of the respective agencies concerned.

Thereafter, such sums as may be necessary for the continuous implementation of this Act shall be included in the annual General Appropriations Act.

SECTION 11. Implementing Rules and Regulations. - Within thirty (30) days from the effectivity of this Act, an inter-agency coordinating committee composed of the departments and agencies mentioned in Section 8 hereof shall promulgate the rules and regulations to effectively implement the provisions of this Act.

SECTION 12. Prescription. - Actions to be filed under the provisions of this act shall prescribe after a period of four (4) years computed from the date of the commission of the offense or upon discovery by the public authorities.

SECTION 13. Separability Clause. - If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in force and effect.

SECTION 14. Repealing Clause. - All laws, decrees, orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

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

*Approved,*