


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

'04 JUL -2 19:08

SENATE

RECEIVED BY: 

S. No. 1309

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Introduced by Senator Biazon

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**EXPLANATORY NOTE**

It is the constitutional right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose (Bill of Rights, Article III, Section 2). Likewise, our Constitution grants other defined rights to a person who has been arrested.

The installation and maintenance of checkpoints due to the existence of a clear and present danger to national security, public safety, or public health have given rise to deplorable incidents caused by irresponsible and abusive checkpoint personnel, thereby resulting in serious violations of the aforementioned constitutional rights of the people. In the light of the recent decision of our Supreme Court upholding the authority of the military or police to install checkpoints, it becomes imperative for a law to be enacted to safeguard the defined constitutional rights of the people against unreasonable searches or seizures or any other infringements of their constitutional rights. Even the Supreme Court became aware in a later decision that some checkpoints have become "points of thievery and extortion" and therefore clarified that checkpoints may be set up only "under exceptional circumstances as when the lives and safety of the people are in grave peril." The court further held that "for as long as the vehicle is neither searched nor its occupants subjected to a body search and the inspection of the vehicle is limited to a "visual search", checks cannot be regarded as violation of an individual's right against unreasonable search".

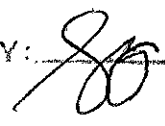
The early approval of this bill is therefore urged.

  
**RODOLFO G. BIAZON**  
Senator

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AN ACT  
REGULATING THE INSTALLATION AND MAINTENANCE  
OF CHECKPOINTS.

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

**SEC. 1. *When Checkpoints can be Maintained.*** – No checkpoints shall be maintained except under exceptional circumstances such as when there is a clear and present danger to national security, public safety or public health or when the survival of the organized government is on the balance, or when the lives or safety of the people are in grave peril.

**SEC. 2. *Establishment of Checkpoints.*** No checkpoint shall be established or maintained without a warrant issued by competent authority and the mission order authorizing the same: Provided, however, That when a warrant cannot be obtained due to lack of material time, a checkpoint shall be maintained on the strength of a mission order duly issued in accordance with law by the proper authorities accompanied by the application for a warrant. Unless a proper application for a warrant is made, mission orders shall have no force and effect.

The Chief Executive of the locality where the checkpoint is to be established or maintained shall be furnished with a copy of the pertinent documents.

In the absence of a warrant or mission order, checkpoint personnel shall limit the scope of their inquiry to visual inspection and ascertaining the identity and other personal circumstances of the person, or in case a vehicle is being inspected, checkpoint personnel

shall have the right to ascertain the identity of its registered owner. Pursuant to or in the course of the inquiry, contraband or other prohibited goods or items in plain view may be validly seized.

The mission orders, as well as the regulations and guidelines thereof, shall be posted at the city hall or municipal building and at the public market of the place, as well as at the checkpoint site itself as soon as the checkpoint is established. In any case, the pertinent documents shall be made available at the checkpoint for the scrutiny of any person affected thereby.

**SEC. 3. *Training of Checkpoint Personnel.*** – No person shall be stationed at any checkpoint without first undergoing extensive training for not less than one (1) month on checkpoint management, maintenance or operation, as well as human relations. The city or provincial commander of the Philippine National Police (PNP) shall conduct the training.

**SEC. 4. *A Conduct of Checkpoint Personnel.*** – Any person manning the checkpoint shall wear his official uniform complete with name patch or nameplate at all times. He shall likewise courteously identify himself, his unit and commanding officer, and shall present a proper warrant or mission order to any person subject to search. He shall be careful in the handling of the person searched or of the things, papers and effects seized, and shall be prohibited from holding such person or thing longer than required by the attendant circumstances.

Any frisking or bodily searched by virtue of a warrant or mission order shall be conducted with due respect for human dignity by an authorized person of the same sex.

**SEC. 5. *Influence of Liquor.*** – Any person who is under the influence of liquor or any other intoxicating substance shall not be allowed to man the checkpoint.

**SEC. 6. *Arrest.*** – The person effecting an arrest shall inform the arrested person of his constitutional rights. The person arrested shall be turned over to the city or municipal judge of the city or municipality of the place where the checkpoint is

maintained within the item specified in Article 125 of the Revised Penal Code from the time of such arrest. The judge concerned shall serve written notice to the prosecutor concerned within twenty-four (24) hours from the turnover of the arrested person. If warranted, the prosecutor shall file the necessary complaint or information within ten (10) days from notice. Otherwise, the person arrested shall be released.

**SEC. 7. *Seizure.*** – The person effecting seizure of a thing shall issue the corresponding receipt to the owner or possessor thereof, particularly describing the thing seized. The thing seized shall be turned over to the city or municipal judge of the city or municipality of the place where the checkpoint is maintained within three (3) hours from the time of seizure. The judge concerned shall serve written notice to the prosecutor concerned within twenty-four (24) hours from the turnover of the thing seized. If warranted, the prosecutor shall file the necessary complaint or information within ten (10) days from notice. Otherwise, the thing shall be held in trust for its owner until its return to him.

**SEC. 8. *Liability of Parties.*** – Persons manning the checkpoint shall be liable for any damage caused by reason of any unreasonable search or seizure. In such a case, recourse may be had against the government, which can then claim reimbursement from the erring person. This right of recourse is not limited by the insolvency of the tortfeasor.

This section shall be without prejudice to the filing of a case under Article 32, par. (9) of the Civil Code of the Philippines and Article 129 of the Revised Penal Code.

**SEC. 9. *Dismantling of Checkpoints.*** – Any checkpoint shall be immediately dismantled when there is no more clear and present danger to national security, public safety or public health.

**SEC. 10. *Penalties.*** – Any violation of the provisions of this Act shall be punished with the corresponding penalty prescribed by the Revised Penal code in addition to any administrative sanction that may be prescribed by the Revised penal Code in addition to any administrative sanction that may be prescribed by law.

**SEC. 11. *Repealing Clause.*** - All laws, decrees, orders including Executive Order Nos. 59 and 272, rules and regulations, and all other issuances, or parts thereof, which are inconsistent with this Act are hereby repealed or modified accordingly.

**SEC. 12. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,