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SENATE

S.B. No. 1802

Introduced by Senator Ramon Bong Revilla, Jr.

EXPLANATORY NOTE

In the Philippine setting, pornography is a continuing concern facing the government. While laws have been passed to address the seemingly unabated proliferation of pornographic materials, recent developments in technology have made it even more difficult to curb pornography.

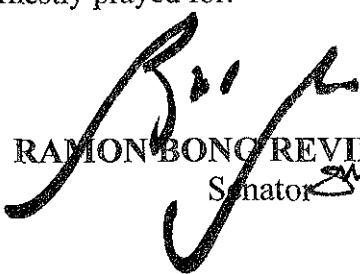
The government thus has a compelling interest in ensuring that criminal laws against pornography remain effective and enforceable to keep abreast with modern technology.

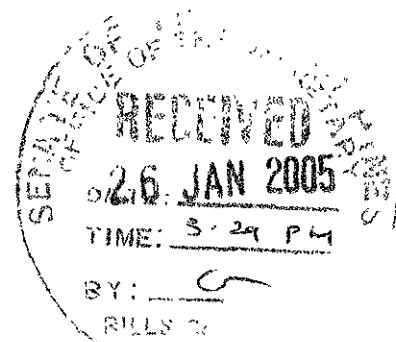
The government should exert positive efforts to stamp out pornography in all mediums to uphold and promote good morals, proper values, and decency of every human being.

This proposed measure neither intends to amend nor repeal the provisions of Republic Act No. 9208 otherwise known as "*Anti-Trafficking in Persons Act of 2003*." It in fact, supplements it. This bill aims to criminalize the publication, broadcast, exhibition of pornographic materials including images that appear in traditional media such as, but not limited to, paper, celluloid, film, magnetic tapes, or through airwaves, or through the use of computers, the internet, cyberspace, Internet Chat, Chat rooms, Web Sites, Electronic Mails, optical media, or other electronic media, and other technological advancements thereof to protect the morals of the public.

At present, proliferation of pornographic materials through these mediums are not clearly punishable. And even if they are punishable, the penalties are inconsequential that perpetrators are not deterred from continuing to engage in such immoral and indecent activities.

It is the State's duty to safeguard its interest against the menace of publication, broadcast and exhibition of pornographic materials through electronics and other high technology equipments that tend to disrupt peace and order in the country. Thus there is a need for a new law that would combat pornography in this age of modern technology. As such the immediate passage of this bill is earnestly prayed for.


RAMON BONG REVILLA JR.
Senator



SENATE

S.B. No. 1822

Introduced by Senator Ramon Bong Revilla, Jr.

AN ACT

PUNISHING THE PUBLICATION, BROADCASTING, AND EXHIBITION OF PORNOGRAPHIC MATERIALS THAT APPEAR IN TRADITIONAL MEDIA SUCH AS, BUT NOT LIMITED TO, PAPER, CELLULOID, FILM, MAGNETIC TAPES, OR THROUGH AIRWAVES, OR THROUGH THE USE OF COMPUTERS, THE INTERNET, CYBERSPACE, INTERNET CHAT, WEB SITES, ELECTRONIC MAILS, OPTICAL MEDIA, OR OTHER ELECTRONIC MEDIA, AND OTHER TECHNOLOGICAL ADVANCEMENTS THEREOF, PROVIDING PENALTIES AND FOR OTHER PURPOSES

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

SECTION 1. Title – This Act shall be known and cited as the “*Anti-Pornography Act of 2005*”

SEC. 2. Declaration of Policy – It is hereby declared the policy of the State to protect all individuals from the proliferation of pornographic materials and to curb nefarious activities involving pornography. In particular, the State recognizes its duty to safeguard its interest against the menace of publication, broadcast and exhibition of pornographic materials through electronics and other high technology equipments that are contrary to public morals and decency in the country

SEC. 3. Definition of terms –

1) ***Pornography*** – refers to any representation, through publication, exhibition, cinematography, indecent shows, information technology by whatever means, of a person (whether minor or adult) engaged in real or simulated explicit sexual activities or any other representation of the sexual parts or a person for primarily sexual purpose.

2) ***Pornographic Materials*** – Any image or images, article or articles, writing or writings, speech or speeches, depicting pornography;

3) ***Explicit Sexual Activities*** – Real or simulated

- (a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
- (b) bestiality or sexual intercourse including genital-genital, oral-genital, anal-genital, or oral-anal, between humans and animals;
- (c) masturbation with or without the use of foreign objects;
- (d) sadistic or masochistic abuse; or
- (e) lascivious exhibition of the genitals, breast, or pubic area of any person;

4) **Publication** –

- (a) the act or process of publishing;
- (b) to make generally known;
- (c) to disseminate to the public;
- (d) to produce or release for distribution; or
- (e) a published work

whether in traditional media such as, but not limited to, paper, celluloid, film, magnetic tapes, or through airwaves, or through the use of computers, the internet, cyberspace, Internet Chat, Chat rooms, Web Sites, Electronic Mails, optical media, or other electronic media, and other technological advancements thereof.

5) **Broadcast** –

- (a) the act or process of broadcasting or transmitting;
- (b) to make generally known by means of transmitting;
- (c) to disseminate to the public by means of transmitting;
- (d) to produce or release for distribution; or
- (e) a broadcasted work

whether in traditional media such as, but not limited to, celluloid, film, magnetic tapes, or through airwaves, or through the use of computers, the internet, cyberspace, Internet Chat, Chat rooms, Web Sites, Electronic Mails, optical media, or other electronic media, and other technological advancements thereof.

6) **Exhibition** –

- (a) the act or process of exhibiting
- (b) to make generally known
- (c) to disseminate to the public
- (d) to produce or release for exhibition; or

whether live or in traditional media such as, but not limited to, celluloid, film, magnetic tapes, or through airwaves, or through the use of computers, the internet, cyberspace, Internet Chat, Chat rooms, Web Sites, Electronic Mails, optical media, or other electronic media, and other technological advancements thereof.

7) **Computer** – Any device or a group of inter-connect devices, which, pursuant to an operating system or program, performs automatic processing of data or any other function assigned to it.

8) **Internet** – An electronic communications network that connects computers, computer networks, organizational computer facilities and other computer-based communication devices around the world.

9) **World Wide Web/Cyberspace** - The totality of the electronic medium of computer networks, in which online communication takes place.

10) *Optical Media* - a storage medium or device in which information, including sounds and/or images, or software code, has been stored, either by mastering and/or replication, which may be accessed and read using a lens scanning mechanism employing a high intensity light source such as a laser or any such other means as may be developed in the future.

11) *Internet chat* – An internet service that allows users to participate in a real-time, synchronous exchange of images and remarks with one or more people over a computer network.

12) *Chat room* - a web site that provides real-time online interactive broadcast of images, remarks and discussions.

13) *Web site* - a group of World Wide Web pages usually containing hyperlinks to each other and made available online by an individual, company, educational institution, government, or organization

14) *Electronic Mail (E-Mail)* –

- (a) a means or system for transmitting messages, text, images electronically as between computers on a network;
- (b) messages, text, images sent and received electronically through an e-mail system;

SEC. 4. Prohibited Acts – It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

- (1) Publication, broadcast, or exhibition, of Pornographic Materials.
- (2) Soliciting, selling or giving away any pornographic material.
- (3) Destroying or concealing the effects or instruments of the body of the crime, in order to prevent its discovery.
- (4) Possession of any pornographic materials as defined in this act, with intent to publish, broadcast or exhibit.

SEC. 5. Penal Provisions –

- (a) Any person who shall cause the publication, broadcast, or exhibition, of Pornographic Materials shall be punished with imprisonment for not less than twelve (12) years but not more than twenty (20) years and pay a fine of not less than two hundred fifty thousand pesos (P250,000.00).
- (b) Any person who causes the publication, broadcast, or exhibition, of Pornographic materials depicting minors, or cause the publication, broadcasting, or exhibition of such pornographic materials to be viewed by minors, shall suffer the penalty of twenty (20) years imprisonment and a fine of not less than two hundred fifty thousand pesos (P250,000.00).
- (c) Any person who shall seek, solicit, acquire, sell or give away any pornographic material shall be punished with imprisonment for not less than twelve (12) years but not more than twenty (20) years and pay a fine of not less than two hundred fifty thousand pesos (P250,000.00).
- (d) Any person who aids in the commission of the acts in Section 5 (a) (b) shall be punished with twelve (12) years imprisonment and pay a fine of not less than one hundred thousand pesos (P100,000.00).

- (e) Any person who shall conceal or cause the destruction of the effects or instruments of the body of the crime, in order to prevent the discovery of the crimes in Section 5 (a) (b) shall be punished with twelve (12) years imprisonment and pay a fine of not less than one hundred thousand pesos (P100,000.00).
- (f) Any person who shall possess any pornographic materials as defined in this act with intent to publish, broadcast or exhibit shall be punished with twelve (12) years imprisonment and pay a fine of not less than one hundred thousand pesos (P100,000.00).
- (g) Officers and/or Directors of juridical persons shall be held liable for the criminal offense established in accordance with this law, committed for his benefit by his employee, acting either individually or as part of an organ of any legal person based on his power of representation, decision making processes, exercise of control and any other similar power of discretions. Provisions of Corporation Code as to the original liability of its Offices and Directors shall apply.
- (h) Officers and/or Directors shall be held liable for where lack of supervision or control of an employee has made possible the commission of the criminal offense established in accordance with this law, for the benefit of the juridical person by a natural person under its authority. Liability of a legal person herein shall not exclude the criminal proceeding against the employee who are perpetrators, or abettors of criminal offenses herein enumerated.
- (i) Public officers and Persons in Authority who shall commit any of the prohibited acts shall be punished with imprisonment of not less than twelve (12) years but not more than twenty (20) years, pay a fine of not less than two hundred fifty thousand pesos (P250,000.00), and shall suffer perpetual disqualification from holding any public office.

SEC. 6. Civil Liability – The prosecution of offenders based on this Act shall in no way prejudice the right of a party to file appropriate civil action.

SEC. 7. Extradition/Sanctions – Any violations related herein shall be subject to Extradition by any requesting state.

SEC. 8. Jurisdiction and Venue – The criminal and civil action for damages as provided in this Act, shall be filed simultaneously or separately with the Regional Trial Court of the province or city where the pornographic material was first published or broadcasted or exhibited or where any of the offended parties actually resides at the time of the commission of the offense: *Provided However*, That the civil action shall be filed in the same court where the criminal action is filed and vice versa: *Provided, further*, That the court where the criminal action or civil action for damages is first filed, shall acquire jurisdiction to the exclusion of other courts.

Preliminary investigation of criminal action as provided for in this act shall be conducted by the provincial or city prosecutor of the province or city, or by the municipal court of the city or capital of the province where such action may be instituted in accordance with the provisions of this article.

SEC. 9. Separability Clause – If for any provision of this Act is held invalid, the other provisions of this act shall not affected shall remain in full force and effect.

SEC. 10. Repealing Clause – All laws, decrees, orders, rules and regulations, or portion thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 11. Effectivity – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation, whichever comes earlier.

Approved,