

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

MAR 14 1962

SENATE
S. B. No. 1962

Introduced by Senator R. G. Biazon

EXPLANATORY NOTE

To carry out the policy of the State to safeguard the well being of its citizenry particularly the youth, from the harmful effects of dangerous drugs, Sec. 2 of RA 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, provides that "...the State needs to enhance further the efficacy of the law against dangerous drugs, it being one of today's more serious social ills. Towards this end, the government shall pursue an intensive and unrelenting campaign against the trafficking and use of dangerous drugs and other similar substances. The government shall however aim to achieve a balance in the national drug control program so that people with legitimate medical needs are not prevented from being treated with adequate amounts of appropriate medications, which include the use of dangerous drugs".

It has been four (4) years since the enactment of Republic Act No. 9165. Experience tells us that there is need to introduce amendments to Sections 3 (r), 22, 78, 79 and 93, as well as to introduce an additional Section 11-A for reasons stated accordingly as follows:

(a) Sec. 3 (r). – *Illegal Trafficking*. The purpose is to amplify and reconcile Sec 3(r) with Section 3 (jj) in relation to Section 5, and the proposed Section 11-A, and Article 2 of the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. The present definition includes "possession of controlled precursor and essential chemical" as a trafficking activity.

(b) Sec. 11- A. – *Possession of Controlled Precursors and Essential Chemicals*. The purpose is to penalize possession of controlled precursors and essential chemicals by an individual whose intent or purpose is to use such chemical for any of illegal activity specified in the section. This will help drug law enforcement efforts to curtail traffic in controlled precursor and essential chemicals and at the same time make distinction between possession for illegal intent or purpose and possession for legitimate use.

(c) Sec. 22. *Grant of Compensation, Reward and Award*. The purpose is change the current system of reward, which is based on the weight of the seized dangerous drug or controlled precursor and essential chemical regardless of purity. The amendment, which will be based on 100 per cent purity will result in payment of reward on the equivalent weight of such drug or chemical and preclude payment of reward on adulterants.

(d) Sec. 78. *Composition of the Board*. The purpose is to increase membership of the Board by including the Secretary of Communication and Transportation or his/her authorized representative because the DOTC is involved in the implementation of RA 9165 and its regulations. Moreover, the DOTC supervises,

the Philippine Coast Guard, which provide support to the PNP Maritime Group in maritime policing of Philippine territorial and inland waters. Likewise, the Executive Director of the Board should also be a made an Ex-Officio member because he is the Secretary of the Board.

The permanent representatives of the ex-Officio members of the Board should be at least Assistant Secretary to ensure regular attendance and quorum.

Further the Director of NBI and Chief PNP be reclassified from Permanent Consultants to Consultants only because they both represent law enforcement agencies and their respective department Heads are ex-officio members of the Board. Moreover, the Board needs to avail of services of expert consultants in other fields of drug abuse prevention and control.

(e) *Sec. 79. Meetings of the Board.* The purpose is to change the frequency of meeting to once a month from once a week because the DDB has already made policies, strategies and programs for the last 33 years. Moreover, this will ensure quorum with rightful representations.

(f) *Sec. 93. Reclassification, Addition or Removal of Any Drug from the List of Dangerous Drugs.* The purpose is to similarly empower the Board to add or remove any chemical from the list of controlled precursors and essential chemicals, as well as, clearly empower the Board to exempt from any specified regulatory control any drug preparation listed in Schedule III of the 1961 Single Convention on Narcotic Drugs, and in Schedule IV of the 1971 Convention on Psychotropic Substances, and chemical mixture, preparations or products containing controlled chemicals listed in Table 1 and II of 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which are integral part of RA 9165, to make them readily available for medical and legitimate industrial or personal use.

In view of the foregoing, early passage of this bill is earnestly requested.


RODOLFO G. BIAZON
Senator

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

MAR 14 PM 17

SENATE 1962
S. B. No. _____

Introduced by Senator Rodolfo G. Biazon

AN ACT
AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT 9165 OTHERWISE
KNOWN AS THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002

*Be it enacted by the Senate and House of Representative of the Philippines in
Congress Assembled:*

SECTION 1. Republic Act No. 9165, Section 3 (r) is hereby amended to read as follows:

“Sec. 3 (r). Illegal Trafficking – The illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation, diversion, and possession, for the purpose or with the intention of engaging in, or knowing that they are being or are to be used in or for any of such activities previously enumerated, of dangerous drug and/or controlled precursor and essential chemical.”

SECTION 2. A new Section shall be inserted after Section 11 of Republic Act No. 9165 which shall read as follows:

“**Sec. 11-A. Possession of Controlled Precursors and Essential Chemicals.** – The penalty ranging from twelve (12) years and one (1) day and fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who knowingly possess controlled precursors and essential chemicals, for the purpose or with the intention of illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and diversion.

The maximum penalty provided for under this Section, shall be imposed upon any person who, who organizes, manages or acts as “financier” of any of the illegal activity prescribed in this Section.”

SECTION 3. Republic Act No. 9165, Section 22 is hereby amended to read as follows:

"Sec. 22. Grant of Compensation, Reward and Award. – The board shall recommend to the concerned government agency the grant of compensation, reward and award to any person providing information and to law enforcers participating in the operation, which results in the successful confiscation, seizure or surrender of dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals:

Provided, That in computing the equivalent monetary value of such drug or chemical, the base for such computation shall be 100 per cent purity of such drug or chemical.

SECTION 4. Republic Act No. 9165, Section 78 is hereby amended to read as follows:

"Sec. 78. Composition of the Board. – The Board shall be composed of **[seventeen (17)] nineteen (19)** members wherein three (3) which are permanent members, the other **[twelve (12)] fourteen (14)** members shall be in an ex-officio capacity and the two (2) shall be regular members. The three (3) permanent members, who shall possess at least seven-year training and experience in the field of dangerous drugs and any of the following fields, in law, medicine, criminology, psychology or social work, who shall be appointed by the President of the Philippines. The President shall designate a Chairman, who shall have the rank of a Secretary from among the three (3) permanent members who shall serve for six (6) years. Of the two (2) other members, who shall have the rank of undersecretary, one (1) shall serve for four (4) years and other for two (2) years. Thereafter, the persons appointed to succeed such members shall hold office for a term of six (6) years and until their successors shall have been duly appointed and qualified.

The other **[twelve (12)] fourteen (14)** members who shall be *ex officio* members of the following are the following:

- 1) Secretary of the Department of Justice or his/her authorized representative;
- 2) Secretary of the Department of health or his /her authorized representative;
- 3) Secretary of the Department of National Defense or his/her authorized representative;
- 4) Secretary of the Department of Finance or his/her authorized representative;
- 5) Secretary of the Department of Labour and Employment or his/her authorized representative;

- 6) Secretary of the Department of the Interior and Local Governments or his/her authorized representative;
- 7) Secretary of the Department of Social Welfare and Development or his/her authorized representative
- 8) Secretary of the Department of Foreign Affairs or his/her authorized representative;
- 9) Secretary of the Department of Education or his/her authorized representative;
- 10) Secretary of the Department of Transportation and Communication or his/her authorized representative;**
- 11) Chairman of the Commission on Higher Education or his/her authorized representative;
- 12) Chairman of the national Youth Commission;
- 13) Director of the Philippine Drug Enforcement Agency; and
- 14) Executive Director, Dangerous Drugs Board**

Cabinet secretaries who are members of the Board may designate their duly authorized and permanent representatives whose ranks shall in no case be lower than **[undersecretary] assistant secretary**.

The two (2) regular members shall be as follows:

- (a) The President of the Integrated Bar of the Philippines or **his/her authorized representative; and**
- (b) The chairman or president of a non-government organization involves in dangerous drug campaign to be appointed by the President of the Philippines.

[The Director of the NBI and the Chief of the PNP shall be the permanent consultants of the Board, and shall attend all the meetings of the Board].

The Board shall engage the services of consultants, who are deemed experts in drug abuse prevention and control policies, strategies and programs, and international drug conventions, subject to the pertinent budgetary laws, rules and regulations on compensation, honoraria and allowances.

All members of the Board **[as well as its permanent consultants]** shall receive a *per diem* for every meeting actually attended subject to the pertinent budgetary laws, rules and regulations on compensation, honoraria and allowances: *Provided*, That where the representative of an *ex-officio* member **[or the permanent consultant of the Board]** attends a meeting in behalf of the latter, such representatives shall be entitled to receive the *per diem*."

SECTION. 5. Republic Act No. 9165, Section 79 is hereby amended to read as follows:

*"Sec. 79. Meetings of the Board. – The Board shall meet once a **[week] month** or as often as necessary at the discretion of the Chairman or at the call of any four (4) other members. The presence of **[nine (9)] ten (10) members** members shall constitute a quorum."*

SECTION 6. Republic Act No. 9165, Section 93 is hereby amended to read as follows:

*"Sec. 93 Reclassification, Addition or Removal of Any Drug and Chemical from the Lists of Dangerous Drugs or Controlled Precursors and Essential Chemicals. - The Board shall have the power to reclassify, add to or remove from the **lists of dangerous drugs and controlled precursors and essential chemicals**: **Provided, That the Board shall only remove from such lists, any of the dangerous drugs or controlled precursors and essential chemicals that it had added to the original lists which is annexed to this Act. Further, the Board shall have the power to exempt any dangerous drug preparation in Schedule III of the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and Schedule IV of the 1971 Convention on Psychotropic Substances, and any drug or chemical preparation or mixture containing any controlled precursors and essential chemicals listed in Table I and Table II of the 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances from any prescribed regulatory control under this Act and its implementing regulations: Provided, That such drugs are duly registered with the Bureau of Food and Drug for medical use.***

Proceedings to reclassify, add, or remove a drug, or other substance or chemical, or exempt it from any prescribed regulatory control may be initiated by the PDEA, the DOH, or by petition from any interested party, including the manufacturer of a drug or other substance or chemical, a medical society or association, pharmacy association, chemical association, a public interest group concerned with drug or chemical abuse, a national or local government agency, or an individual citizen. When a petition is received by the Board, it shall immediately begin its own investigation of the drug or chemical. The PDEA also may begin its own investigation of a drug at any time based upon the information received from law enforcement laboratories, national and local law enforcement and regulatory agencies or other sources of information.

The Board after notice and hearing shall consider the following factors with respect to each substance proposed to be reclassified, added or removed from

control, or exempted from any prescribed regulatory control:

- a) Its actual or relative potential for abuse;
- b) Scientific evidence of its pharmacological effect if known;
- c) The state of current scientific knowledge regarding the drug or other substance or chemical;
- d) Its evidence and history of current pattern of abuse, illicit traffic and diversion;
- e) The scope, duration, and significance of abuse, illicit traffic and diversion;
- f) Risk to public health;
- g) Whether the substance is an immediate precursor of a substance already controlled under this Act;
- h) Toxicology, including adverse reactions in humans
- i) Therapeutic and industrial use
- j) Whether the drug preparation is included in Schedule III of the 1961 Single Convention on Narcotic Drug, as amended by the 1972 Protocol or contain any dangerous drug listed in Schedule IV of the 1971 Convention on Psychotropic Substances or the chemical mixture or preparation or products contains chemical listed in Table I or Table II of the 1988 Convention Against Illicit Traffic in Narcotic Drug and Psychotropic Substances.
- k) Whether the preparation or mixture is compounded in such a way that it presents no, or negligible, risk of abuse or diversion and the substance cannot be recovered by readily applicable means in quantity liable to abuse or diversion so that the preparation or mixture does not give rise to a public health, social and law enforcement problem.
- l) Whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a dangerous drug;
- m) Whether the controlled precursor and essential chemical can be readily recovered from the drug or group of drugs or chemical mixture or end product containing the chemical.

The Board shall take into account the obligations and commitments to international treaties, conventions and agreements to which the Philippines is a signatory.

The Dangerous Drugs Board shall give notice to the general public of the public hearing of the reclassification, addition to or removal from the list of any

drug or chemical or other substance by publishing such notice in any newspaper of general circulation once a week for two weeks. **The Dangerous Drugs Board shall likewise give notice to the general public of its decision by publishing such notice in any newspaper of general circulation once a week for two weeks.**

The effect of such reclassification, addition or removal **from the lists of dangerous drugs and controlled precursors and essential chemicals, or exemption from any prescribed regulatory control measures** shall be as follows:

- a) In case a dangerous drug is reclassified as a **controlled precursors and essential chemicals**, the penalties for the violations of this Act involving **[the latter two categories of drugs]** controlled **precursors and essential chemicals** shall in case of conviction, be imposed in all pending criminal cases;
- b) In case a **controlled precursor[s]** and **essential chemical[s]** is reclassified as dangerous drug, the penalties for violation of this Act involving **such** controlled precursors and essential chemicals shall, in case of conviction be imposed in all pending criminal prosecutions;
- (c) In case of the addition of a new drug or chemical to the **lists** of dangerous drugs **[and] or controlled** precursors and essential chemicals, no criminal liability involving the same under this Act shall arise until after the lapse of fifteen (15) days from the last publication of such notice;
- (d) In case of removal of a **dangerous** drug from the list of dangerous drugs **[and precursors and essential chemicals]**, all persons convicted and/or detained for the use and/or possession of such a drug shall be automatically released and all pending criminal prosecution involving such a drug **[or chemical]** shall forthwith be dismissed;
- (e) In case of removal of a **controlled precursor and essential chemical** from the list of controlled precursors and essential chemicals, all persons convicted and/or detained for violation of this Act, involving such chemical shall be automatically released and all pending criminal prosecution shall **forthwith be dismissed;**
- (f) In case of exemption of drug preparations containing dangerous drug chemical mixture or preparation or product containing controlled precursor and essential chemical from any prescribed regulatory control, all persons convicted and/or detained for violation of this Act involving such drug or chemical, in relation to the corresponding prescribed regulatory control under this Act and its implementing regulations, shall be automatically released and all pending criminal and

administrative prosecution shall forthwith be dismissed.

- g) The Board shall, within five (5) days from the date of its promulgation submit to Congress a detailed reclassification, addition, removal of any drug or chemical or other substance from the lists of dangerous drugs or controlled precursors and essential chemicals, and exemptions from any prescribed regulatory control of dangerous drugs or controlled precursors and essential chemicals.**

SECTION 7. *Separability Clause.* – If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 8. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provision of this Act is hereby repealed, modified or amended accordingly.

SECTION 9. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspaper of general circulation.

Approved.