

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

8 APR 15 2007

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SENATE

S. No. 2158

Introduced by Senator Manuel "Lito" M. Lapid

EXPLANATORY NOTE

Following the bombing at the House of Representatives last 2007 which killed four people, including Basilan Representative Wahab Akbar and wounded Negros Oriental Representative Henry Teves and Gabriela Women's Partylist Representative Luz Ilagan, there is now a growing clamor for lawmakers to immediately pass a measure to increase the penalty for the crime of illegal possession and manufacture of explosives.

The deadly illegal undertaking of manufacturing blasting caps, detonating cords and ammonium nitrate for the production of bombs in the country traces its beginning back to the 1950s, when tanks, ammunition and explosive ingredients left behind by Japanese and American soldiers who fought in World War II could still be found in the beaches in the country. Encouraged perhaps by sightings of fish floating every time a bomb exploded at sea, the townsfolk found use for these remnants of war by devising their own explosives for use in fishing.

The making of blasting caps in the country started innocently enough where empty milk cans are formed into cylindrical containers approximately 4 centimeters in length and 5 to 5 centimeters in diameter. Then a primary explosive is placed inside the cylinder. This explosive is usually a mixture of ammonium nitrate — a highly regulated substance also used as fertilizer — and gasoline. One end of the cylinder is sealed to keep the explosive ingredients from spilling while the other end is attached to a safety fuse. The cylinder, which is the blasting cap, is next implanted in a mixture consisting of more explosives, mainly ammonium nitrate, inside a bottle from whose mouth protrudes the fuse. This fuse will be lit to ignite the explosives inside the bottle.

Today, the illegal explosives manufacturing industry is not limited to blasting caps. It also covers the trade in ammonium nitrate, which is a crucial ingredient in blasting caps and also in the making of dynamite. These days, this illegal blasting-cap trade boasts of a well-established network of financiers, dealers and sub-dealers, including licensed blasters, and has expanded operations all over the country.

Moreover, no one connected with the illegal trade has been arrested and placed in jail. Reports from the PNP indicate that these blasting caps illegally manufactured in the Philippines are more "sensitive" than their legally manufactured counterparts and are therefore capable of achieving greater impact. For dynamite fishers, this means a bigger fish catch. For the terrorist, this means a greater damage wrought on a target.

Data reveal that a kilogram of ammonium nitrate could produce 8 to 10 dynamites the size of a soda bottle. Assuming ammonium nitrate sells at Php1,800 per 50 kgs. and blasting caps at Php30 each, a piece of dynamite could cost less than Php20 to make. A blasting cap can be used to make two pieces of dynamite since each cap is designed in such a way that it has a cylinder at either end. The safety fuse forms the middle section; when cut, one will have two pieces of cylinders, each with its own fuse.

Originally meant as detonating devices for the explosives used in dynamite fishing, these blasting caps are now not only killing fish, but also sowing terror and killing innocent civilians in the major cities in the country, including Metro Manila, and perhaps even beyond Philippine borders.

It is for this reason that this measure is being proposed to empower our law enforcement officers to crush the terrorist movement in the country and provide a stiffer punishment to those persons found responsible for the illegal trade of volatile materials used in making terrorist weapons such as bombs, blasting caps and other bomb paraphernalias.

Under this proposed measure, any person who intends to import, possess or sell any chemicals used in the manufacture of bombs should file an application with the chief of the Philippine National Police indicating the purpose for the license or permit being requested. As such, only the person or entity who was able to secure the license or permit shall be allowed to purchase, import, or sell such chemical from license importers or dealers. Moreover, a permanent record of all transactions in connection with the chemicals shall be maintained and always open for inspection by appropriate authorities.

It is hoped that this measure will help stop the proliferation of the illegal manufacture of bombs, blasting caps and bomb paraphernalia in the country for the protection and welfare of the general public.


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


MANUEL "LITO" M. LAPID
Senator

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AN ACT
PROVIDING FOR THE STRICT REGULATION AND STIFFER PENALTIES
FOR THE ILLEGAL / UNLAWFUL IMPORTATION, MANUFACTURE,
ACQUISITION, SALE, DISPOSITION OR POSSESSION OF EXPLOSIVES
AND CHEMICALS OR ACCESSORIES USED IN THE MANUFACTURE OF
EXPLOSIVES, REPEALING FOR THIS PURPOSE EXECUTIVE ORDER NO.
522 AND AMENDING CERTAIN PROVISIONS OF PRESIDENTIAL
DECREE NO. 1866, AS AMENDED, AND FOR OTHER PURPOSES

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

SECTION 1. Authority to Import, Sell or Possess Chemicals or Accessories for Explosives. – Only persons or entities issued a manufacturer’s license, dealer’s license or purchaser’s license by the Philippine National Police (PNP) - Firearms and Explosives Division may import any of the chemicals or accessories that can be used in the manufacture of explosives or explosive ingredients from foreign suppliers, or possess or sell them to licensed dealers or end users, as the case may be.

SEC. 2. Types of Chemicals/Accessories Covered. – The chemicals and accessories mentioned in the preceding section shall exclusively refer to chlorates, nitrates, nitric acid and such other chemicals and accessories that can be used for the manufacture of explosives and explosive ingredients.

SEC. 3. Record of Transactions. – Any person or entity who intends to import, sell or possess the aforementioned chemicals or accessories shall file an application with the chief of the PNP, stating therein the purpose for which the license and/or permit is sought and such other information as may be required by the said official. The concerned person or entity shall maintain a permanent record of all transactions entered into in relation with the aforementioned chemicals or accessories, which documents shall be open to inspection by the appropriate authorities.

Failure to comply with the provision of this section shall constitute a violation and shall be penalized in accordance with Section 4 of this Act.

SEC. 4. Unlawful Importation, Acquisition, Sale, Disposition or Possession of Chemicals or Accessories That can be Used in the Manufacture of Explosives or Explosive Ingredients. – The penalty of imprisonment of not less than one (1) year but not more than five (5) years and a fine of not less than Fifty Thousand pesos (Php50,000.00) but not more than One Hundred Thousand pesos

(Php100,000.00) shall be imposed upon any person or entity who shall unlawfully import, acquire, sell, dispose of or possess chemicals or accessories that can be used in the manufacture of explosives or explosive ingredients, or who shall fail to comply with the provision of Section 3 of this Act: *Provided*, That if the guilty party is a corporation or a partnership, the fine to be imposed shall be the maximum amount.

In the event that a person or entity is found without authority in possession of chemicals or accessories or other devices which when combined together can be used in the manufacture of explosives or explosive ingredients, then the maximum penalties under Section 5 of this Act shall apply.

The same penalty shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any of the explosives owned by such firm, company, corporation or entity, to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs/section.

In addition thereto, any violation of this Act shall be sufficient cause for the cancellation of the license and the confiscation of all such chemicals or accessories, whether or not lawfully imported, purchased or possessed by the subject person or entity.

SEC. 5. Unlawful Importation, Manufacture, Acquisition, Sale, Disposition or Possession of Explosives or Instruments Used or Intended to be Used Therefor. – The penalty of *reclusion temporal* to *reclusion perpetua*, subject to the presence of mitigating circumstances, shall be imposed upon any person who shall unlawfully import, manufacture, assemble, acquire, sell, deal in, dispose of or possess any explosive or incendiary device or any part, machinery, tool or instrument thereof, whether chemical, mechanical, electronic, electrical or otherwise used or intended to be used for its manufacture, construction, assembly, delivery or detonation, where the explosive or incendiary device is capable or is intended to be capable of producing massive destruction to property or causing death or injury to any person or persons including, but not limited to, *pillbox bomb, molotov cocktail bomb, fire bomb, hand grenade, rifle grenade, mortar* and other explosive or incendiary device.

Any person who commits any of the crimes defined in the Revised Penal Code or special laws with the use of the aforementioned explosives, detonation agents or incendiary devices, which resulted in the death of any person or persons, shall be punished with the penalty of *reclusion perpetua*.

If the violation of this section is in furtherance of, or incident to, or in connection with the crime of rebellion, insurrection, sedition, or subversion, including the proposal or conspiracy to commit any of the aforesaid crimes, the penalty of *reclusion perpetua* shall be imposed.

The penalty of *reclusion perpetua* shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any of the explosives or incendiary devices owned by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs.

A person arrested under this section shall not be allowed to post bail.

SEC. 6. Presumption of Unlawful Manufacture. – The possession of any part, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation of explosives or explosive ingredients, by any person

whose business or employment does not lawfully deal with the manufacture of explosives, shall be *prima facie* evidence that such article is intended to be used in the unlawful / illegal manufacture, construction, assembly, delivery or detonation of explosives or explosive ingredients, and shall be penalized accordingly.

SEC. 7. *Disqualification from Public Office.* – If a public officer is found guilty of violating any of the provisions of this Act, he/she shall be perpetually disqualified from public office with automatic forfeiture in favor of the government of any benefits or privileges due him/her, in addition to the penalties mentioned in the preceding sections.

SEC. 8. *Implementing Rules and Regulations (IRR).* – The PNP, in consultation with the Department of Trade and Industry, the Department of Agriculture, the Fertilizers and Pesticides Authority, the Department of Environment and Natural Resources and the relevant stakeholders in the commercial and industrial chemical industry, shall promulgate, not later than ninety (90) days after the approval of this Act, such rules and regulations necessary to effectively implement this Act.

SEC. 9. *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.

SEC. 10. *Separability Clause.* – If, for any reason, any provision of this Act is declared to be unconstitutional or invalid, the other sections or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 11. *Effectivity Clause.* – This Act shall take effect after fifteen (15) days following its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,