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SENATE

S. NO. 13

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Introduced by Senator Antonio "Sonny" F. Trillanes IV

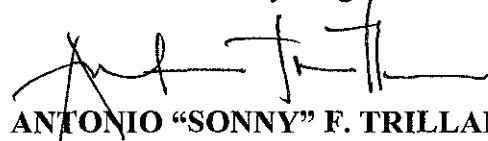
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**EXPLANATORY NOTE**

The 1987 Constitution declares that the maintenance of peace and order, the protection of life, liberty, and property, and promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy. However, the alarming rise of crimes due to the disposition and use of loose firearms runs counter to the aforementioned principle of the State. In the recent National Summit on Firearms Control, the Philippine National Police noted that in the 2005 Report of the World Health Organization and the UN Office of Drugs and Crime, the Philippines ranked 10<sup>th</sup> in the number of gun homicide rates worldwide. Furthermore, the PNP revealed that the current estimate of loose firearms in the country is now figured at 1,110,372. The PNP Report showed that in the 5,752 crime incidents recorded in 2008, there were 6,030 firearms involved therein – 5,999 of which were loose firearms and only 31 licensed. In addition, the most common crimes committed with loose firearms from 2006 to 2008 consistently included murder, homicide, physical injury, and robbery. The international think tank Small Arms Survey's (2007) figures, on the other hand, place the average total number of guns in circulation in the country at 3.9 million (high of 5 million and low of 2.8 million).<sup>1</sup> The data gap in the actual number of guns-in-circulation contributes to the difficulty of accurately pointing the finger to the problem, and also in the difficulty in making a systematic assessment of trends in arms proliferation.<sup>2</sup> Admittedly, firearms in the hands of irresponsible citizens is tantamount to increased perception of insecurity, loss of human lives, damage to property and destruction of valuable resources in the country.

It is in this light that this bill seeks to regulate the unlawful possession, manufacture, dealing in, acquisition or disposition, of firearms, ammunition, and instruments used in the manufacture of firearms and ammunition, by amending Presidential Decree No. 1866 as amended by Republic Act Nos. 8294 and 9516. This measure seeks to provide stiffer penalties for the violation of the same in order to more effectively deter the commission of these crimes. This bill also provides maximum penalty for violations committed by public officials whether in civilian or in military, police or law enforcement service, considering that they are supposedly mandated by their office to preserve the peace and order in society.

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

  
ANTONIO "SONNY" F. TRILLANES IV  
Senator

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<sup>1</sup> Philippine National Police chief Director General Jesus Verzosa. Powerpoint Presentation during the National Summit of Firearms Control. Philippine National Police, Camp Crame, Quezon City. May 18-19, 2009.

<sup>2</sup> Jennifer Santiago Oreta. Philippine Action Network on Small Arms (PhilANSA), Dept. of Political Science, Ateneo de Manila University. Powerpoint Presentation during the National Summit of Firearms Control. Philippine National Police, Camp Crame, Quezon City. May 18-19, 2009.

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AN ACT

AMENDING THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1866, ENTITLED "CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITIONS OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS AND AMMUNITION, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AS AMENDED BY REPUBLIC ACT NO. 8294 AND 9516

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

1 SECTION 1. *Short Title.* – This act shall be known as the "*Gun Control Act of 2010.*"

2  
3 SEC. 2. *Declaration of Policy.* – Pursuant to the Constitutional declaration that the  
4 primordial duty to maintain peace and order, protect life, liberty and property, and promote  
5 general welfare rests in the state, it is hereby declared the policy of the State to regulate the  
6 privilege of manufacturing, possessing, and selling of firearms.

7  
8 ARTICLE I  
9 DEFINITION OF TERMS

10  
11 SEC. 3. As used in this Act, the term –

- 12 a. "*Firearm*" means a gun, or other weapon, that is (or at any time was) capable of  
13 propelling a projectile by means of an explosive, and includes a blank fire firearm, or an  
14 airgun. Airsoft guns, for the purposes of this Act, are not considered as a firearm;
- 15 b. "*Ammunition*" includes
- 16 1. any article consisting of a cartridge case fitted with a primer and a projectile;
  - 17 2. any article consisting of a cartridge case fitted with a primer and containing a  
18 propelling charge and a projectile; or
  - 19 3. blank cartridges, airgun pellets, training cartridges or gas cartridges; or
  - 20 4. any other article prescribed for this definition.
- 21 c. "*Pistol or Handgun*" – a small firearm designed to be operated with one hand. A pistol  
22 or handgun may be categorized further as:
- 23 1. Single Shot - a firearm with no means in the mechanism for storing or loading more  
24 than a single cartridge housed in the chamber of the barrel;

- 1           2. Revolvers - firearm, usually a handgun, with a cylinder having several chambers so  
2           arranged as to rotate around an axis and be discharged successively by the same  
3           firing mechanism through a common barrel; and,
- 4           3. Semi-Automatic - firearm which fires, extracts, ejects and reloads once for each pull  
5           and release of the trigger. Also called Self-loading or Auto-loading.
- 6        d. *“Long Guns or Shoulder Arms”* - Any firearm fitted with a stock and designed to be  
7        used while held with both hands and supported by a shoulder. Long guns or shoulder  
8        arms may be categorized further as:
  - 9           1. Rifles - firearms having spiral grooves in the bore and designed to be fired from the  
10          shoulder.
  - 11          2. Shotgun - smooth bore shoulder firearm designated to fire cartridges containing  
12          numerous pellets or a single slug.
- 13       e. *“Automatic Weapons”* - A firearm design that continuously feeds cartridges, fires and  
14        ejects cartridge cases as long as the trigger is fully depressed and there are cartridges  
15        available in the feed system. Actuation of the mechanism may be from an internal power  
16        source such as gas pressure or recoil, or external power source, such as electricity.
  - 17          1. Machine gun – a fully automatic firearm that loads, fires and ejects continuously  
18          when the trigger is held to the rear until the ammunition is exhausted or pressure on  
19          the trigger is released.
  - 20          2. Sub-Machine gun - a lightweight automatic gun that shoots pistol ammunition, is  
21          usually fired from the shoulder or hip, and often has the capacity for shooting single  
22          rounds.
  - 23          3. Automatic Rifle - a fully automatic shoulder firearm that starts firing when the  
24          trigger is pulled and continues until the trigger is released or ammunition is  
25          exhausted.
- 26       f. *“Assault rifle”* refers to a selective fire rifle designed for combat that uses  
27        an intermediate cartridge and a detachable magazine. Assault rifles are the  
28        standard infantry weapons in most modern armies. A firearm must have at least the  
29        following characteristics to be considered an assault rifle:
  - 30          1. It must be an individual weapon with provision to fire from the shoulder (i.e.  
31          a buttstock);
  - 32          2. It must be capable of selective fire;
  - 33          3. It must have an intermediate-power cartridge: more power than a pistol but less than  
34          a standard rifle or battle rifle;
  - 35          4. Its ammunition must be supplied from a detachable magazine.
- 36       g. *“Lawfully Acquired/ Possessed Firearms”* means firearms procured/ purchased from any  
37        of the following sources:
  - 38          1. Licensed firearm holder, through transfer or sale;

- 2. Licensed firearm holder, through purchase
- 3. Importation/Purchase Abroad
- h. "*Possession*", in relation to a firearm, includes any case in which a person knowingly—
  - 1. has custody of the firearm; or
  - 2. has the firearm in the custody of another person.
- i. "*Person*" refers to either natural or juridical person;
- j. "*Firearm Part*" includes a barrel, breech, pistol slide, frame, cylinder, trigger mechanism, operating mechanism or magazine designed as, or reasonably capable of forming, part of a firearm;
- k. "*Gun Smuggling*" refers to the importation into the country, through the airports, seaports or coastlines, of firearms of any make or caliber, or ammunition of any quantity without lawful authority, including the evasion of customs, taxes and duties thereon;
- l. "*Gun Running*" refers to the transport within the country of firearms of more than five (5) pieces or ammunition of more than one hundred (100) rounds without lawful authority;
- m. "*Loose Firearm*" refers to any firearm which has not been registered by the Firearms and Explosives Division (FED) of the PNP Civil Security Group (hereinafter referred to as FED-PNP).
- n. "*Organized Threat Groups*" include such groups that have commenced acts of hostility with the duly constituted authorities of the state by violating the laws particularly affecting the people, territory, sovereignty and government;
- o. "*Criminal Syndicates*" include such elements as organized crime groups, criminal gangs and wanted persons.

**ARTICLE II**  
**PENAL PROVISIONS**

**SEC. 4. *Unlawful Acquisition or Possession of Firearms or Ammunition.*** – Any person who shall unlawfully acquire or possess any firearm shall be imposed with the penalty of prision mayor in its minimum period and a fine of not less than forty thousand pesos (P40,000.00).

Private individuals are allowed to lawfully possess up to three (3) firearms only. *Provided however,* That if private individuals possess four (4) or more lawfully acquired firearms, the penalty of reclusion temporal in its minimum period and a fine of not less than one hundred thousand pesos (P100,000) shall be imposed.

Private individuals participating in shooting competitions sanctioned by gun clubs or shooting organizations legally accredited by the PNP are allowed to legally own or possess a maximum of seven (7) firearms.

1 In case of unlawful possession or acquisition of ammunition, the penalty of imprisonment  
2 and fine shall be based on the quantity of ammunition indicated hereunder:

| NUMBER OF ROUNDS | IMPRISONMENT                   | FINE       |
|------------------|--------------------------------|------------|
| 1-50             | Prision Correccional (minimum) | P30,000.00 |
| 51-100           | Prision Correccional (medium)  | P50,000.00 |
| 101 and over     | Prision Correccional (maximum) | P80,000.00 |

3 The same penalty shall be imposed upon the owner, president, manager, director or other  
4 responsible officer of any public or private firm, company, corporation or entity, who shall  
5 willfully or knowingly allow any of the firearms owned by such firm, company, corporation, or  
6 entity to be used by any person or persons found guilty of violating the provisions of the  
7 preceding paragraphs or willfully or knowingly allow any of them to use unlicensed firearm or  
8 firearms without any legal authority to be carried outside of their residence in the course of their  
9 employment.

10  
11 **SEC. 5. *Unlawful Acquisition or Possession of Firearms.*** - The penalty of reclusion  
12 temporal in its minimum period shall be imposed upon any person who shall unlawfully acquire  
13 or possess firearms. The Armed Forces of the Philippines (AFP) or the Philippine National  
14 Police (PNP) and other authorized law enforcement agencies shall lawfully acquire or possess all  
15 firearms in their inventory.

16 The next higher penalty as prescribed in this section shall be imposed if the violation  
17 under this section is committed by any government employee or official, whether elective or  
18 appointive.

19 Private individuals who already have licenses to possess firearms categorized as “Long  
20 Gun”, “Automatic Weapon”, or “Assault Rifle” shall turnover such firearms upon effectivity of  
21 this act. The turned over firearms shall be applied for the exclusive use of the AFP or PNP,  
22 subject to the rules and regulations of the PNP regarding the registrations of firearms with the  
23 FED-PNP.

24 **SEC. 6. *Privately Owned Security Agencies.*** – Security agencies, upon passing the  
25 requirements prescribed by the PNP, shall be entitled to lawfully acquire or possess hand guns,  
26 long guns, and assault rifles, provided that the rifles and assault rifles in their possession are  
27 limited to those with a caliber of 9mm. below.

28 The penalty of reclusion temporal in its minimum period shall be imposed upon any  
29 owner/s of security agencies that shall unlawfully acquire or possess firearms.

30  
31 **SEC. 7. *Unlawful Manufacture, Sale or Disposition of Firearms and Ammunition.*** –  
32 The penalty of reclusion temporal and a fine of five hundred thousand pesos (P500,000.00) shall  
33 be imposed upon any person, who, unless authorized by law, shall engage in the manufacture,  
34 sale or disposition of firearms or ammunition.

1           *Provided,* That laborers/ workers of the above manufacturing company shall suffer the  
2 penalty of prision correccional.

3           *Provided, further,* That the penalty of reclusion perpetua shall be imposed if the violation  
4 under this Section is committed by any member of the Armed Forces of the Philippines, the  
5 Philippine National Police, or any government official whether elective or appointive, and the  
6 sale or disposition is made to any organized threat group and/or criminal syndicate.

7  
8           **SEC. 8. *Commission of Another Crime.*** – If any other crime punishable under the  
9 Revised Penal Code and other special laws was committed by the person arrested, the violation  
10 of this Act shall be considered a distinct and separate offense.

11           **SEC. 9. *Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of***  
12 ***Machinery, Tool or Instruments Used or Intended to be Used in the Manufacture of Firearms***  
13 ***or Ammunition.*** – (a) Any person who shall unlawfully manufacture, deal in, acquire, dispose or  
14 possess machinery, tool or instruments used or intended to be used in the manufacture of  
15 firearms or ammunition shall be liable for the penalty of reclusion temporal in its maximum  
16 period.

17           (b) The penalty of reclusion perpetua shall be imposed if the violation hereunder is  
18 committed by any member of the Armed Forces of the Philippines, the Philippine National  
19 Police, or any government official, whether elective or appointive, and the sale or disposition is  
20 made to any organized threat group and/or criminal syndicate.

21           (c) The possession of any machinery, tool or instrument used directly in the manufacture  
22 of firearms or ammunition, by any person whose business or employment does not lawfully deal  
23 with the manufacture of firearms or ammunition, shall be prima facie evidence that such article is  
24 intended to be used in the unlawful/ illegal manufacture of firearms or ammunition.

25           **SEC. 10. *Without Permit to Carry.*** – The penalty of prision mayor in its maximum  
26 period shall be imposed upon any person who shall carry any licensed firearm outside of his  
27 residence without any legal authority therefore. In addition, the offender shall be disqualified to  
28 apply for firearm license within a period of six (6) months after service of sentence.

29  
30           **SEC. 11. *Coverage of the Term “Unlicensed Firearm”.*** – The term “*unlicensed*  
31 *firearm*” shall include:

32           (a) Firearms with expired license which has not been renewed for a period of six (6)  
33 months from the date of expiration thereof; and

34           (b) Firearms which are not registered at the FED-PNP.

1           **SEC. 12. Confiscation.** – Every penalty imposed for the violation of this Act shall carry  
2 with it the confiscation and forfeiture of the firearms, ammunition, machinery, tools or  
3 instruments in favor of the government to be applied exclusively for the use of the PNP, subject  
4 to the rules and regulations of the Philippine National Police regarding the mandatory prior  
5 registration of the firearms with the FED-PNP.

6  
7           **SEC. 13. Confiscated, Captured, Seized or Recovered Firearms, Ammunition,**  
8 **Machinery, Tools or Instruments.** – Firearms, ammunition, machinery, tools or instruments  
9 which have been used in the commission of a crime or which have been otherwise confiscated,  
10 captured, seized or recovered from crime and/or battle scenes, shall be deposited solely with the  
11 Police Evidence Custodian of the Police Provincial Headquarters for Safekeeping.

12           During the pendency of the case, the firearms, ammunition, machinery, tools or  
13 instruments shall not be disposed, alienated or transferred and the same shall be in *custodia legis*  
14 and no bond shall be admitted for the release of the same.

15           *Provided, however,* That after the termination of the case and/or when they are no longer  
16 necessary as evidence in court, the confiscated, captured, seized or recovered firearms or major  
17 part thereof shall be turned over solely to the FED-PNP for registration, proper accounting and  
18 disposition.

19  
20           **SEC. 14. Liability of Evidence Custodians.** – Notwithstanding the provision of the  
21 Revised Penal Code on malversation of public funds or property, the penalty of prision mayor in  
22 its medium period and fine of thirty thousand pesos (P30,000.00) shall be imposed upon any  
23 public officer or employee who misappropriates, misapplies or fails to account for confiscated or  
24 seized firearms, ammunitions, machinery, tools or instruments.

25  
26           **SEC. 15. Transfer of Firearms.** – Any person may transfer possession of his licensed  
27 firearm to another person after accomplishing the necessary forms and undergoing the legal  
28 processes prescribed by the FED-PNP. The penalty imposed under Section 6 of this Act shall  
29 apply to any person who violates the provision of this section.

30  
31           **SEC. 16. Tampering of Firearms' Serial Number.** – The penalty of reclusion temporal  
32 in its maximum period shall be imposed upon any person who shall unlawfully tamper, change,  
33 deface or erase the serial number of any firearm.

34           The next higher penalty shall apply if the violation under this Section is committed by  
35 any member of the Armed Forces of the Philippines, the Philippine National Police, or any  
36 government employee or official whether elective or appointive

1           **SEC. 17. *Unauthorized Issuance of Authority to Carry Firearm and/or Ammunition***  
2 ***Outside of Residence.*** - The penalty of *prision mayor* shall be imposed upon any person, civilian  
3 or military, who shall issue authority to carry firearm and/or ammunition outside of residence,  
4 without authority therefor.

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6           **SEC. 18. *Gun Smuggling or Gun Running.*** – The penalty of reclusion perpetua under  
7 the Revised Penal Code shall be imposed upon any person found guilty of gun smuggling or gun  
8 running.

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10           **SEC. 19. *Lost Firearms and Ammunition.*** – Holders of licenses and permits under this  
11 Act are required to report lost firearms or ammunition within forty-eight (48) hours from loss or  
12 discovery of loss thereof to the FED-PNP. Holders of licenses or permits who willfully fail to  
13 report lost firearms and ammunition shall suffer the penalty of *prision correccional* under the  
14 Revised Penal Code.

15  
16           **SEC. 20. *Administrative Liability of Public Official.*** – In addition to the criminal  
17 liabilities prescribed in this Act, the penalty of perpetual disqualification from any public office,  
18 elective or appointive, or dishonorable discharge from the military or police service, as the case  
19 may be and forfeiture of all retirement privileges and benefits, shall be imposed on the violator if  
20 he or she is a public official, whether in civilian, military, police or law enforcement service.

21  
22           **SEC. 21. *Firearms in the Government Arsenal.*** – All firearms in the government arsenal  
23 of the Armed Forces of the Philippines shall, without exemption, be registered with the FED-  
24 PNP. The penalty of reclusion perpetua shall be imposed if the violation under this Section is  
25 committed by any member of the Armed Forces of the Philippines, the Philippine National  
26 Police, or any government employee or official, whether elective or appointive.

27  
28           **SEC. 22. *Non-Applicability of the Probation Law.*** – Except for violation under Section  
29 8, any person convicted by this Act, regardless of the penalty imposed by the court, cannot avail  
30 of the privilege granted by the Probation Law or Presidential Decree No. 968, as amended.

31  
32           **SEC. 23. *When Committed By a Corporation, Agency, Association or Any Other***  
33 ***Entity.*** – If a corporation, agency, association or any other entity violates any penal provision of  
34 this Act, the penalty shall be imposed upon the guilty officer or officers of such corporation,  
35 agency, association or any other entity.



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**ARTICLE III**  
**FINAL PROVISIONS**

**SEC. 24. *Firearms and Ammunitions Database.*** – The PNP is hereby mandated to create a “Firearms and Ammunitions Database” which shall also include ballistics records of all firearms in the possession of private individuals, legal entities and government agencies to prevent these firearms from being used in crime or falling into the wrong hands. The sum necessary for the initial setting up of the “Firearms and Ammunitions Database” is hereby authorized to be appropriated from the National Treasury for use of the PNP.

**SEC. 25. *Amnesty Provision.*** – Any person who possesses loose firearms may surrender the same to the Philippine National Police for custody and apply for the corresponding license as required by this Act within one (1) year from the effectivity of the same. Concerned holders of said firearms may avail of this amnesty only within the period. Each firearm submitted for licensing shall have its own distinct firearm description.

**SEC. 26. *Implementing Rules and Regulations.*** – The Department of Interior and Local Government shall, within thirty (30) days from the effectivity of this Act, jointly prescribe and promulgate the rules and regulations for the uniform implementation of the provisions of this Act.

**SEC. 27. *Repealing Clause.*** – The relevant portions of Presidential Decree No. 1866, as amended by Republic Act No. 8294, and all laws, decrees, orders, rules, and regulations or other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

**SEC. 28. *Separability Clause.*** – If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in force and in effect.

**SEC. 29. *Effectivity Clause.*** – This Act shall take effect fifteen days following the completion of its publication either in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,