

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

8 JUL 24 11 28

SENATE



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S. No. 2464

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Introduced by Senator Manny Villar

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### EXPLANATORY NOTE

It is the duty of the State to give special value to the dignity of every human person and to promote and safeguard its integrity and the moral, spiritual and social well-being of its citizenry, especially the youth in general and women in particular, from the pernicious effects of obscenity and pornography.

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, and other technological advancements thereof to protect the morals of the society.

Approval of this bill is earnestly sought.

MANNY VILLAR

FOURTEENTH CONGRESS OF THE  
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**AN ACT PROHIBITING AND PENALIZING THE PRODUCTION, PRINTING, PUBLICATION, IMPORTATION, SALE, DISTRIBUTION AND EXHIBITION OF OBSCENE AND PORNOGRAPHIC MATERIALS AND THE EXHIBITION OF LIVE SEXUAL ACTS, AMENDING FOR THE PURPOSE ARTICLE 201 OF THE REVISED PENAL CODE, AS AMENDED**

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

SECTION 1. *Title.* – This Act shall be known as the “Anti-Obscenity and Pornography Act of 2008”.

SEC. 2. *Declaration of Policy.* – It is the policy of the State to give special value to the dignity of every human person and to promote and safeguard its integrity and the moral, spiritual and social well-being of its citizenry, especially the youth in general and women in particular, from the pernicious effects of obscenity and pornography.

To effectively enforce this policy, the government shall wage a relentless campaign against obscenity and pornography. Likewise, the government shall see to it that educational institutions are complying with their constitutional mandate to strengthen ethical and spiritual values and to develop moral character and personal discipline.

SEC. 3. *Definition of Terms.* – As used in this Act, the following terms shall mean:

(a) “Obscene” refers to anything that is indecent or offensive or contrary to good customs or religious beliefs, principles or doctrines, or tends to corrupt or deprave the human mind, or is calculated to excite impure thoughts or arouse prurient interest, or violates the proprieties of language and human behavior, regardless of the motive of the producer, printer, publisher, writer, importer, seller, distributor or exhibitor such as, but not limited to:

- (1) showing, depicting or describing sexual acts;
- (2) showing, depicting or describing human sexual organs or the female breasts;
- (3) showing, depicting or describing completely nude human bodies;
- (4) describing erotic reactions, feelings or experiences on sexual acts; or

(5) performing live sexual acts of whatever form.

(b) "Pornographic or pornography" refers to objects or subjects of film, television shows, photography, illustrations, music, games, paintings, drawings, illustrations, advertisements, writings, literature or narratives, contained in any format, whether audio or visual, still or moving pictures, in all forms of film, print, electronic, outdoor or broadcast mass media, or whatever future technologies to be developed, which are calculated to excite, stimulate or arouse impure thoughts and prurient interest, regardless of the motive of the author thereof.

(c) "Mass media" refers to film, print, broadcast, electronic and outdoor media including, but not limited to, internet, newspapers, tabloids, magazines, newsletters, books, comic books, billboards, calendars, posters, optical discs, magnetic media, future technologies, and the like.

(d) "Materials" refers to all movies, films, television shows, photographs, music, games, paintings, drawings, illustrations, advertisements, writings, literature or narratives, whether produced in the Philippines or abroad.

(e) "Sex" refers to the area of human behavior concerning sexual activity, sexual desires and instinct, and their expressions.

(f) "Sexual act" refers to having sex or the act of satisfying one's sexual instinct.

SEC. 4. *Punishable Acts.* – The following acts are declared illegal and punishable:

(a) Producing, printing, showing, exhibiting, importing, selling, advertising or distributing obscene or pornographic materials in all forms of mass media;

(b) Causing the showing or exhibition, distributing or the printing, publication or advertising, or the selling of obscene or pornographic materials in all forms of mass media;

(c) Showing, exhibiting, selling, or distributing obscene or pornographic movies in whatever format, whether produced in the Philippines or abroad, in any restaurant, club or other places open to the public, including private buildings, places or houses where the viewers are not limited to them owners thereof and the members of his family;

(d) Writing any obscene or pornographic article in any print or electronic medium;

(e) Performing, demonstrating, acting or exhibiting any obscene or pornographic act in any form of mass media; and

(f) Performing, or allowing the performance of, live sex or live sexual act in public, public places or any place open to public viewing.

SEC. 5. *Penalties.* – The following penalties shall be imposed upon any person found guilty of committing any of the prohibited acts under Section 4 of this Act:

(a) For producing, printing, showing, exhibiting, importing, selling, advertising or distributing obscene or pornographic materials in all forms of mass media, the penalty of *prision mayor*, imprisonment of not less than six (6) years

and one (1) day nor more than twelve (12) years and a fine of not less than Five hundred thousand pesos (P500,000.00) nor more than One million pesos (P1,000,000.00) shall be imposed;

(b) For causing the showing or exhibition, distributing or the printing, publication or advertising, or the selling of obscene or pornographic materials in all forms of mass media, the penalty of imprisonment of not less than three (3) years nor more than six (6) years and a fine of not less than Two hundred thousand pesos (P200,000.00) nor more than Five hundred thousand pesos (P500,000.00) shall be imposed;

(c) Showing, exhibiting, selling or distributing obscene or pornographic movies in whatever format, whether produced in the Philippines or abroad, in any restaurant, club or other places open to the public, including private buildings, places or houses where the viewers are not limited to the owners thereof and the members of his family, the penalty of imprisonment of not less than three (3) years nor more than six (6) years and a fine of not less than Two hundred thousand pesos (P200,000.00) nor more than Five hundred thousand pesos (P500,000.00) shall be imposed;

(d) For writing any obscene or pornographic article in any print or electronic medium, the penalty of imprisonment of not less than three (3) years nor more than six (6) years and a fine of not less than Two hundred thousand pesos (P200,000.00) nor more than Five hundred thousand pesos (P500,000.00) shall be imposed;

(e) For performing, demonstrating, acting or exhibiting any obscene or pornographic act in any form of mass media, the penalty of imprisonment of not less than one (1) year nor more than three (3) years and a fine of not less than One hundred thousand pesos (P100,000.00) nor more than Three hundred thousand pesos (P300,000.00) shall be imposed; and

(f) For performing, or allowing the performance of, live sex or live sexual act in public, public places or any place open to public viewing, the penalty of imprisonment of not less than one (1) year nor more than three (3) years and a fine of not less than One hundred thousand pesos (P100,000.00) nor more than Three hundred thousand pesos (P300,000.00) shall be imposed.

In any case, if the offender is a juridical person, the president, general manager, members of the board of directors, editor-in-chief and the managers or heads of the sales, marketing and advertising departments or sections thereof, as the case may be, shall be criminally liable: *Provided*, That, if the offender is a foreigner, he shall, after service of sentence or payment of the fine, be subject of deportation and forever barred from entry into the country.

In case the offender is below eighteen (18) years of age, he or she shall be considered a victim of child abuse pursuant to the provisions of Republic Act No. 7610, otherwise known as the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act", and shall be placed under the protective custody of the Department of Social Welfare and Development.

Any person found guilty of committing any of the acts punishable under this Act shall not be entitled to the benefits of the Probation Law.

*SEC. 6. Witness Protection and Immunity from Prosecution.* – Any person who provides material information, whether testimonial or documentary, necessary for the investigation or prosecution of any one committing any of the

acts punishable under this Act and who testifies against such person shall be placed under the Witness Protection Program pursuant to Republic Act No. 6981 and shall be immune from any criminal prosecution, subject to the pertinent provisions of Presidential Decree No. 1732, otherwise known as the Decree Providing Immunity from Criminal Prosecution to Government Witnesses, and the pertinent provisions of the Rules of Court.

*SEC. 7. Duties of Government Agencies Concerned.* – In addition to the law enforcement agencies responsible for monitoring and implementing the provisions of existing laws on pornography, the following government agencies are hereby mandated to provide assistance and support to ensure the effective implementation of this Act:

- (a) Philippine Information Agency (PIA);
- (b) Movie and Television Review and Classification Board (MTRCB);
- (c) Optical Media Board (OMB);
- (d) National Telecommunications Commission (NTC);
- (e) National Youth Commission (NYC);
- (f) Department of Public Works and Highways (DPWH); and
- (g) Metropolitan Manila Development Authority (MMDA).

The said agencies shall, in addition to their regular functions, exercise the following duties:

- (1) Monitor all mass media that fall within their respective jurisdiction;
- (2) Seek the assistance of local government units (LGUs) to identify the persons responsible for the proliferation of obscene and pornographic materials;
- (3) Initiate the prosecution of all persons involved in violation of this Act, Article 201 of the Revised Penal Code, as amended, and other related laws;
- (4) Receive complaints from the general public anent the proliferation of *obscene materials within its jurisdiction and act accordingly on such complaints;*
- (5) Recommend the cancellation of business permits of those found violating this Act, Article 201 of the Revised Penal Code, as amended, and other related laws; and
- (6) Perform such acts necessary to carry out the objectives of this Act.

*SEC. 8. Disposition of Materials.* – Any prohibited material including tools, instruments, facilities and equipment used in the production of obscene and pornographic materials shall, after lawful seizure and final conviction of the offender, be forfeited in favor of the government and destroyed in the presence of the representatives of the Department of Justice (DOJ), the Philippine National Police (PNP) and anyone from the religious, civic or youth organizations of such place in the manner as the court may order: *Provided, however,* That when the accused is acquitted, the materials seized shall nevertheless be forfeited in favor of the government and destroyed: *Provided, further,* That if the acquittal results from a finding that the materials seized are not obscene or pornographic under this Act, the materials shall be returned to the accused.

*SEC. 9. Implementing Rules and Regulations.* – Within ninety (90) days from the effectivity of this Act, the DOJ, the Department of the Interior and Local Government (DILG), the PNP, the PIA, the MTRCB, the OMB, the NTC, the NYC, the MMDA, the DPWH and other concerned government agencies shall jointly promulgate the implementing rules and regulations as may be necessary

to ensure the efficient and effective implementation of the provisions of this Act: *Provided*, That the absence of such implementing rules and regulations shall not prevent the arrest, prosecution and conviction of any person committing an offense under this Act.

SEC. 10. *Separability Clause.* – If, for any reason, any section or provision of this Act, or any portion thereof, or the application of such section, provision or portion thereof to any person, group or circumstance is declared invalid or unconstitutional, the remaining provisions of this Act shall not be affected by such declaration and shall remain in force and effect.

SEC. 11. *Repealing Clause.* – The provisions of Article 201 of the Revised Penal Code, as amended, and the provisions of all other laws, decrees, executive orders, rules and regulations which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

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

Approved,