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SENATE

S. No. 206

RECEIVED BY: 

Introduced by Senator Gregorio B. Honasan II

EXPLANATORY NOTE

Republic Act (RA) No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 was enacted to address our country's increasing problem on illegal drugs. However, ten (10) years after its effectivity, illegal drugs continue to be a menace in our society. Based on the data submitted by the Philippine Drug Enforcement Agency (PDEA) from 2002 up to 31 December 2012, there are a total of 81,368 drug cases filed before the various Regional Trial Courts monitored by the PDEA. Of this number, 4,199 cases resulted in conviction, 3,781 in dismissal and 6,177 in acquittal. PDEA also reported that 17% of those acquitted and 6% of those dismissed were due to technicality for failure to observe the requirements set forth under Section 21 of RA 9165.

Section 21 of the said law provides for the procedures to be followed by the apprehending team and other concerned agencies on the custody and disposition of confiscated, seized, and/or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/ paraphernalia and/or laboratory equipment. This provision mandates that the inventory and photograph of illegal drugs should be done immediately upon their seizure and confiscation at the place where the search or buy-bust operation was conducted and in the presence of a representative from the media and the Department of Justice and any elected public official.

This bill seeks to provide clear procedures for the custody and disposition of dangerous drugs thereby preserving the evidentiary value of confiscated items and to prevent the dismissal of drug cases due to the failure of law enforcers to follow the stringent requirements of Section 21 of RA 9165.

Among the salient features of this bill are as follows:

1. Strengthens the anti-drug campaign by amending the procedure for the custody and disposition of dangerous drugs and penalizing the possession of controlled precursors and essential chemicals, instruments or paraphernalia and laboratory equipment;
2. Mandates that the taking of the inventory and photograph of seized and confiscated items be witnessed by an elected public official who has

jurisdiction over the scene of the crime, together with a representative of the Department of Justice or the media;

3. Provides for the filing of administrative cases against the required witnesses who without valid cause fail to attend the inventory of seized and confiscated items;
4. Mandates that the conduct of the physical inventory and the taking of the photograph of seized and confiscated items be at the place where the search warrant is served or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable; and
5. Renders the seizures and custody over said items valid, as long as the integrity and evidentiary value of the seized items are properly preserved.

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



GREGORIO B. HONASAN II
Senator

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



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S. No. 206

Introduced by Senator Gregorio B. Honasan II

AN ACT
AMENDING SECTION 21 OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN
AS THE "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002

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

SECTION 1. Section 21 of Republic Act No. 9165, otherwise known as the
"Comprehensive Dangerous Drugs Act of 2002," is hereby amended to read as
follows:

**"SEC. 21. Custody and Disposition of Confiscated, Seized, and/or
Surrendered Dangerous Drugs, Plant Sources of Dangerous
Drugs, Controlled Precursors and Essential Chemicals,
Instruments/Paraphernalia and/or Laboratory Equipment.** – The
PDEA shall take charge and have custody of all dangerous drugs,
plant sources of dangerous drugs, controlled precursors and essential
chemicals, as well as instruments/paraphernalia and/or laboratory
equipment so confiscated, seized and/or surrendered, for proper
disposition in the following manner:

"1) The apprehending team having initial custody and control of, the
DANGEROUS drugs, **CONTROLLED PRECURSORS AND
ESSENTIAL CHEMICALS, INSTRUMENTS OR PARAPHERNALIA
AND LABORATORY EQUIPMENT** shall, immediately after seizure
and confiscation, physically inventory and photograph the same in the
presence of the accused or the person/s from whom such items were
confiscated and/or seized, or his/her representative or counsel, **WITH
AN ELECTED PUBLIC OFFICIAL WHO HAS JURISDICTION OVER
THE SCENE OF THE CRIME, TOGETHER WITH A
REPRESENTATIVE OF THE DEPARTMENT OF JUSTICE OR THE
MEDIA** [a representative from the media and the Department of
Justice (DOJ), and any elected public official] who shall be required to
sign the copies of the inventory and be given a copy thereof[.];
**PROVIDED, THAT THE FAILURE ON THE PART OF THE INVITED
REPRESENTATIVES TO ATTEND THE INVENTORY WITHOUT A
VALID CAUSE WOULD MERIT ADMINISTRATIVE SANCTIONS:
PROVIDED, FURTHER, THAT THE PHYSICAL INVENTORY AND
PHOTOGRAPH SHALL BE CONDUCTED AT THE PLACE WHERE
THE SEARCH WARRANT IS SERVED; OR AT THE NEAREST**

POLICE STATION OR AT THE NEAREST OFFICE OF THE APPREHENDING OFFICER/TEAM, WHICHEVER IS PRACTICABLE, IN CASE OF WARRANTLESS SEIZURES: PROVIDED, FINALLY, THAT NON-COMPLIANCE OF THESE REQUIREMENTS UNDER JUSTIFIABLE GROUNDS, AS LONG AS THE INTEGRITY AND THE EVIDENTIARY VALUE OF THE SEIZED ITEMS ARE PROPERLY PRESERVED BY THE APPREHENDING OFFICER/TEAM, SHALL NOT RENDER VOID AND INVALID SUCH SEIZURES AND CUSTODY OVER SAID ITEMS;

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SEC. 2. Separability Clause. – If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provisions not otherwise affected shall remain valid and subsisting.

SEC. 3. Repealing Clause. – All laws, issuances or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 4. Effectivity Clause. – This Act shall take effect after fifteen (15) days from its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,