

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




Senate
Office of the Secretary

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SENATE

Senate Bill No. 1399

RECEIVED BY: 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Republic Act No. 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 almost eight (8) years since the enactment of Republic Act No. 9165. However, PDEA is still beset with concerns such as limited personnel and lack of facilities. For instance, PDEA is able to establish only one Forensic Laboratory in its Headquarters in Quezon City, although the law requires it to establish one forensic laboratory in each provincial PNP office. Likewise, there is still no established permanent location for the PDEA Academy.

This bill seeks to introduce amendments to Sections 3(h), 3(j), 3(r), 4, 8, 11, 20, 21, 22, 26, 30, 33, 78, 79, 80, 82, 84(m), 84(o), 85, 86, 87, 93, 101, and ARTICLE VIII including Sections 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 72, 73, 74, 75, and 76 as well as to introduce additional Sections 3(11), 3(mm), 3(nn), 3(oo), 3(pp), and 3(qq), 11-A, 12-A, and 84(s) to address the said specific concerns.

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


JINGGOY EJERCITO ESTRADA
Senator

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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 the House of Representatives of the Philippines in Congress Assembled:

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

"SEC. 3 (h). Controlled Precursors and Essential Chemicals. - Include those listed in Tables I and II of the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances as enumerated in the attached annex, which is an integral part of this Act. IT ALSO INCLUDES CHEMICALS, WHICH ARE HEREINAFTER ADDED TO THE LIST OF CONTROLLED PRECURSORS, AND ESSENTIAL CHEMICALS PURSUANT TO SECTION 93 OF THIS ACT."

SEC. 2. Section 3 (j) is hereby amended to read as follows:

"SEC. 3 (j). Dangerous Drugs. - Include those listed in the Schedules annexed to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 Single Convention on Psychotropic Substances as enumerated in the attached annex, which is an integral part of this Act. IT ALSO INCLUDES DRUGS, WHICH ARE HEREINAFTER ADDED TO THE LIST OF DANGEROUS DRUGS PURSUANT TO SECTION 93 OF THIS ACT."

SEC. 3. 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, Chemical Diversion, and possession of any dangerous drug and/or controlled precursor and essential chemical FOR THE PURPOSE OR WITH INTENTION OF ENGAGING IN, OR KNOWING THAT THEY ARE BEING OR ARE TO BE USED IN OR FOR ANY OF SUCH ACTIVITIES PREVIOUSLY ENUMERATED,"

SEC. 4. A new Section 3 (11) shall be inserted after Section 3 (kk) which shall read as follows:

“SEC. 3 (LL). *CHEMICAL DEPENDENCE.* - A CONDITION OF MENTAL OR MENTAL AND PHYSICAL DEPENDENCE ON A CONTROLLED PRECURSORS AND ESSENTIAL CHEMICAL OR VOLATILE SUBSTANCE WITH CENTRAL NERVOUS EFFECT, WHICH IS CHARACTERIZED BY THE PERIODIC OR CONSTANTLY REPEATED CONSUMPTION OF THIS SUBSTANCE AND WHOSE CHARACTERISTICS VARY DEPENDING UPON KIND OF THE TAKEN CONTROLLED PRECURSORS AND ESSENTIAL CHEMICAL.”

SEC. 5. A new Section 3 (mm) shall be inserted after Section 3 (ll) which shall read as follows:

“SEC. 3 (MM). *“DRUG”.* - MEANS: (1) ARTICLES RECOGNIZED IN THE OFFICIAL UNITED STATES PHARMACOPOEIA, OFFICIAL HOMEOPATHIC PHARMACOPOEIA OF THE UNITED STATES, OR OFFICIAL NATIONAL FORMULARY, OR ANY SUPPLEMENT TO ANY OF THEM; AND

(2) ARTICLES INTENDED FOR USE IN THE DIAGNOSIS, CURE, MITIGATION, TREATMENT, OR PREVENTION OF DISEASE IN MAN OR OTHER ANIMALS; AND (3) ARTICLES (OTHER THAN FOOD) INTENDED TO AFFECT THE STRUCTURE OR ANY FUNCTION OF THE BODY OF MAN OR ANIMALS; AND (4) ARTICLES INTENDED FOR USE AS A COMPONENT OF ANY ARTICLES SPECIFIED IN CLAUSES (1)(2),, OR (3), BUT NOT INCLUDE DEVICES OR THEIR COMPONENTS, PARTS, OR ACCESSORIES.”

SEC. 6. A new Section 3 (nn) shall be inserted after Section 3 (mm) which shall read as follows:

“SEC. 3 (NN). *“PROPERTY”.* - MEANS: (A) ANY PROPERTY, SITE, SURROUNDING A STRUCTURE; AND (B) INCLUDES SINGLE-FAMILY STRUCTURE, PART OF A STRUCTURE, OR THE GROUNDS, RESIDENCES, OUTBUILDINGS, GARAGES, UNITS OF MULTIPLEXES, CONDOMINIUMS, APARTMENT BUILDINGS, WAREHOUSES, HOTELS, MOTELS, BOATS, MOTOR VEHICLES, TRAILERS, MANUFACTURED HOUSING, SHOPS, OR BOOTHS.”

SEC. 7. A new Section 3 (oo) shall be inserted after Section 3 (nn) which shall read as follows:

“SEC.3 (OO)*“P ROPERLY DISPOSED”* MEANS TO DISCARD AT A LICENSED OR AUTHORIZED FACILITY IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS, AND NOT REUSED OR SOLD.”

SEC. 8. A new Section 3 (pp) shall be inserted after Section 3 (oo) which shall read as follows:

"SEC. 3 (PP). "OWNER OF RECORD" MEANS (A) THE OWNER OF PROPERTY AS SHOWN ON THE RECORDS OF THE REGISTER OF DEEDS IN THE CITY OR PROVINCE WHERE THE PROPERTY IS LOCATED; AND (B) MAY INCLUDE AN INDIVIDUAL, FINANCIAL INSTITUTION, COMPANY, CORPORATION, OR OTHER ENTITY."

SEC. 9. A new Section 3 (qq) shall be inserted after Section 3 (pp) which shall read as follows:

"SECTION 3 (QQ). "WASTE" MEANS REFUSE, GARBAGE, OR OTHER DISCARDED MATERIAL, EITHER SOLID OR LIQUID."

SEC. 10. Section 4 is hereby amended to read as follows:

"SEC. 4. *Importation AND/OR EXPORTATION of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* - The penalty of life imprisonment [to death] and a fine ranging from Five hundred thousand pesos (P500, 000.00) to Ten million pesos shall be imposed upon any person, who, unless authorized by law, shall import or bring into OR EXPORT FROM the Philippines any dangerous drugs, regardless of the quantity and purity involved, including any or all species of opium poppy or any part thereof or substances derived therefrom even for floral, decorative and culinary purposes.

"The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a 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, unless authorized by law, shall import AND/OR EXPORT any controlled precursor and essential chemical.

"The maximum penalty provided for under this Section shall be imposed upon any person, who unless authorized under this Act, shall import or bring into OR EXPORT FROM the Philippines any dangerous drug and/or controlled precursor and essential chemical through the use of a diplomatic passport, diplomatic facilities or any other means involving his/or her official status intended to facilitate the unlawful entry of the same. In addition, the diplomatic passport shall be confiscated and cancelled.

X X X"

SEC. 11. Section 8 is hereby amended to read as follows:

"SECTION 8. *Manufacture of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.*

x x x

"THE OFFENDER OR LESSOR OF THE PROPERTY OR OWNER OF RECORD SHALL BE HELD LIABLE TO PAY THE COST OF CLEAN UP OF THE CLANDESTINE LABORATORY ON THE PROPERTY, UNLESS THE LESSOR OF THE PROPERTY OR OWNER OF RECORD CAN EACH PROVE LACK OF KNOWLEDGE OF SUCH CLANDESTINE MANUFACTURE.

"IN ANY SELLING OR HIRING OF PROPERTY, IT SHALL BE THE DUTY OF THE OWNER OF RECORD OR HIS AUTHORIZED REPRESENTATIVE TO DISCLOSE ACTUAL KNOWLEDGE OF PRIOR USE OF THE PROPERTY AS A CLANDESTINE LABORATORY TO THE BUYER OR LESSEE. THE LESSEE SHALL DISCLOSE TO THE BUYER THAT THE PROPERTY BEING LEASED WILL NOT BE USED FOR ILLICIT MANUFACTURE OF DRUGS AND CHEMICALS IN VIOLATION OF THIS ACT."

SEC. 12. Section 11 is hereby amended by inserting an additional Section 11 (4) to read as follows:

"SECTION 11. *Possession of Dangerous Drugs.*

x x x.

"4) IMPRISONMENT OF SIX (6) YEARS AND ONE (1) DAY TO TWELVE (12) YEARS AND A FINE RANGING FROM FIFTY THOUSAND PESOS (P50, 000.00) TO TWO HUNDRED THOUSAND (P200,000.00) IF THE QUANTITIES OF DANGEROUS DRUGS ARE LESS THAN TWO (2) GRAMS OF OPIUM, MORPHINE, HEROIN, COCAINE OR COCAINE HYDROCHLORIDE, MARIJUANA RESIN OR MARIJUANA RESIN OIL, METHAMPHETAMINE HYDROCHLORIDE OR "SHABU" OR OTHER DANGEROUS DRUGS SUCH AS BUT NOT LIMITED TO METHYLENEDOXYMETAMPHETAMINE (MDMA) OR "ECSTASY", PARAMETHOXYAMPHETAMINE (PMA), TRIMETHOXYAMPHETAMINE (TMA), LYSERGIC ACID DIETHYLAMINE (LSD), GAMMA HYDROXYBUTYRATE (GHB), AND THOSE SIMILARLY DESIGNED OR NEWLY INTRODUCED DRUGS AND THEIR DERIVATIVES, WITHOUT HAVING ANY THERAPEUTIC REQUIREMENTS, OR LESS THAN FIFTY (50) GRAMS OF MARIJUANA."

SEC. 13. A new Section shall be inserted after Section 11 which shall read as follows:

"SECTION 11-A. *POSSESSION OF CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS.* - THE PENALTY OF IMPRISONMENT RANGING FROM TWELVE (12) YEARS AND ONE (1) DAY TO TWENTY (20) YEARS 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, UNLESS AUTHORIZED BY LAW, SHALL POSSESS WITH INTENT TO DELIVER OR HAVE UNDER HIS/HER CONTROL CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS, KNOWING, OR

UNDER CIRCUMSTANCES WHERE ONE REASONABLY SHOULD KNOW THAT IT WILL BE USED FOR ADMINISTRATION, MANUFACTURE, SALE, TRADING, TRANSPORTATION, DISTRIBUTION, EXPORTATION AND DIVERSION.

"THE MAXIMUM PENALTY PROVIDED FOR UNDER THIS SECTION, SHALL BE IMPOSED UPON ANY PERSON WHO ORGANIZES, MANAGES OR ACTS AS "FINANCIER" OF THE ILLEGAL ACTIVITY PRESCRIBED IN THIS SECTION."

SEC. 14. A new Section shall be inserted after Section 12 which shall read as follows:

"SECTION 12-A. *POSSESSION OF LABORATORY EQUIPMENT, CONTROLLED PRECURSOR AND ESSENTIAL CHEMICALS.* - THE FOR THE ILLICIT MANUFACTURE OF DANGEROUS DRUGS AND PENALTY OF IMPRISONMENT RANGING FROM TWELVE (12) YEARS AND ONE (1) DAY TO TWENTY (20) YEARS 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 UNLESS AUTHORIZED BY LAW, SHALL POSSESS OR HAVE UNDER HIS/HER CONTROL ITEMS OF LABORATORY EQUIPMENT, SUCH AS, BUT NOT LIMITED TO, REACTION VESSEL, ENCAPSULATING MACHINES, TABLETING MACHINES, ROTARY EVAPORATORS, LABORATORY EQUIPMENT WITH A CAPACITY FOR LARGE VOLUME PRODUCTION (E.G., ROUND BOTTOM FLASKS OF 25 LITRES OR ABOVE AND RELATED CONDENSERS, SEPARATING FUNNELS AND HEATING APPARATUS) KNOWING, OR UNDER CIRCUMSTANCES WHERE ONE REASONABLY SHOULD KNOW THAT IT WILL BE USED FOR ILLEGAL MANUFACTURE OF DANGEROUS DRUGS AND/OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS IN VIOLATION OF THIS ACT. THE DANGEROUS DRUGS BOARD, SHALL BY REGULATION, LIST SUCH INDISPENSABLE ITEMS OF EQUIPMENT PECULIAR TO SUCH ILLEGAL MANUFACTURE.

THE UNAUTHORIZED POSSESSION OF SUCH INDISPENSABLE ITEMS OF EQUIPMENT, INSTRUMENT AND APPARATUS SHALL BE *PRIMA FACIE* EVIDENCE THAT THE POSSESSOR HAS ILLEGALLY MANUFACTURED OR INTENDS TO MANUFACTURE DANGEROUS DRUGS OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS."

SEC. 15. Section 15 is hereby amended to read as follows:

"SEC. 15. Use of Dangerous Drugs **AND CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS.** - A person apprehended or arrested, who is found to be positive for use of any dangerous drug OR CONTROLLED PRECURSOR AND ESSENTIAL CHEMICAL AND A DEPENDENT, after a confirmatory test, AND A DEPENDENT AFTER DEPENDENCY EXAMINATION,

shall be imposed a penalty of a minimum of six (6) months TREATMENT AND rehabilitation in a government center AND AFTER CARE for the first offense, subject to the provisions of Article VIII of this Act. If not a dependent, he/she shall suffer the PENALTY OF IMPRISONMENT RANGING FROM SIX (6) MONTHS AND ONE (1) DAY TO SIX (6) YEARS IMPRISONMENT AND FINE OF FROM TEN THOUSAND PESOS (P10,000.00) TO FIFTY THOUSAND PESOS (P50,000.00). If apprehended using any dangerous drug OR CONTROLLED PRECURSOR AND ESSENTIAL CHEMICAL, for the second time he/she shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve years imprisonment and fine from Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00). Provided, That this Section shall not be applicable where the person tested is also found to have in his/her possession such quantity of any dangerous drugs provided for under Section 11 AND OF ANY CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS UNDER SECTION 11-A of this Act, in which case the provisions stated therein shall apply.

SEC. 16. Sections 21(2) and 21(4) are 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.

x x x

"2) Within twenty-four (hours) upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic laboratory for a qualitative and quantitative examination.

"WHERE A SEIZURE OF ILLICIT LABORATORY IS MADE, THE PDEA, SHALL PROPERLY DISPOSED WITHIN REASONABLE TIME, CHEMICALS WHICH ARE NOT LISTED AS CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS, REMAINING UNIDENTIFIED LIQUID OR SOLID CHEMICALS IN UNLABELED CONTAINERS AND/OR IN OPENED CONTAINERS THAT CANNOT BE RESEALED, AND WASTES, WHICH ARE NOT NEEDED AS EVIDENCE IN THE INVESTIGATION OR PROSECUTION OF THE CASE: PROVIDED, THAT SUCH ITEMS OF CHEMICALS AND WASTE SHALL BE SEPARATELY PHOTOGRAPHED AND INVENTORIED.

x x x

"4) After the filing of the criminal case, the Court shall, within seventy two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or

laboratory equipment, and through the PDEA shall within twenty four (24) hours thereafter proceed with the destruction or burning of the same, in the presence of the accused or the persons from whom such items were confiscated and/or seized, or his representative or counsel, a representative from the media and the Department of Justice, civil society groups and any elected public official.

"THE PROPERTY ON WHICH THE CLANDESTINE MANUFACTURE OF DRUGS AND/OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS WAS SEIZED SHALL BE CLEANED UP UNDER THE SUPERVISION OF THE BOARD, IN COOPERATION WITH THE DEPARTMENT OF HEALTH, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND LOCAL GOVERNMENT UNIT. The Board shall draw up guidelines on the manner of proper disposition and destruction of such items, INCLUDING CLEAN UP OF CLANDESTINE LABORATORY, which shall be borne by the offender OR IN THE CASE OF CLEAN UP OF CLANDESTINE LABORATORY, THE LESSOR OF THE PROPERTY OR OWNER OF RECORD SHALL ALSO BEAR THE COST, UNLESS THE LESSOR OF THE PROPERTY OR OWNER OF RECORD CAN EACH PROVE LACK OF KNOWLEDGE OF SUCH CLANDESTINE MANUFACTURE. *Provided*, That a representative sample duly weighed and recorded is retained."

SEC. 17. 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 AND LABORATORY EQUIPMENT: *PROVIDED, HOWEVER, THAT THE COMPUTATION OF MONETARY REWARD SHALL BE BASED ON 100 PER CENT PURITY OF THE DANGEROUS DRUGS, OR CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS: PROVIDED FURTHER, THAT QUANTITATIVE AND QUALITATIVE EXAMINATIONS ARE CONDUCTED BY THE FORENSIC LABORATORY EXAMINER WITHIN TWENTY (24) HOURS AFTER RECEIPT OF SEIZED ITEMS: PROVIDED, FINALLY, THAT OFFENDERS ARE IDENTIFIED OR APPREHENDED AND/OR CHARGED IN COURT.*"

SEC. 18. Section 26, is hereby amended to read as follows:

"**SECTION 26. *Attempt and Conspiracy.*** - Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

x x x

F) CHEMICAL DIVERSION."

SEC. 19. Section 33 is hereby amended to read as follows:

"SECTION 33. Immunity from Prosecution and Punishment. - Notwithstanding the provisions of Section 17, Rule 119 of the Revised Rules on Criminal Procedure and the provisions of Republic Act No. 6981 or the Witness Protection Security and Benefit Act of 1991, any person who has violated. Sections 7, [III, 11(3), 11 (4), 11-A,-12, 12A, 14 AND 15 [and 191, Article II of this Act, who voluntarily gives information about any violation of Sections 4, 5, 6, 8, 10, 13 and 16, Article II of this Act as well as any violation of the offenses mentioned if committed by a drug syndicate, or any information leading to the whereabouts, identities and arrest of all OR [of any of the members thereof; and who willingly testifies against such persons as described above, shall be exempted from prosecution or punishment for the offense with reference to which his/her information of testimony were given, and may plead or prove the giving of such information and testimony in bar of such prosecution: *Provided*, That the following conditions concur:

1. The information and testimony are necessary for the convictions of the persons described above;
2. Such information and testimony are not yet in the possession of the State;
3. Such information and testimony can be corroborated on its material point;
4. The informant or witness has not been previously convicted of a crime involving moral turpitude, except when there is no other direct evidence available for the State other than the information and testimony of said informant or witness; and,
5. The informant or witness shall strictly and faithfully comply without delay, or any condition or undertaking, reduced into writing, lawfully imposed by the State as further consideration for the grant of immunity from prosecution and punishment.

x x x."

SEC. 20. Section 51 is hereby amended to read as follows:

"SECTION 51. Local Government Units' **PROGRAMS AND Assistance.** - Local government units shall **UNDERTAKE LOCAL DRUG AND CHEMICAL PREVENTION AND CONTROL PROGRAMS IN COOPERATION AND COORDINATION WITH THE BOARD AND ITS MEMBER DEPARTMENTS AND NON-GOVERNMENTAL ORGANIZATIONS. THEY SHALL** appropriate a substantial portion of their respective annual budgets to assist in or enhance the enforcement of this Act giving priority to preventive or educational programs and the rehabilitation or treatment of drug **AND/OR CHEMICAL** dependents."

SEC. 21. The Title of Article VIII and Sections 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 68, 72, 73, 74, 75 and 76 of the same Article are hereby amended by deleting the words "drug dependent" wherever they appear and replacing them with the words "**DRUG AND/OR CHEMICAL DEPENDENT**".

SEC. 22. Section 78 is hereby amended to read as follows:

"SECTION 78. *Composition of the Board.* - The Board shall be composed of [seventeen (17)] **TWENTY (20)** members wherein three (3) of which are permanent members, the other [twelve (12)] **FIFTEEN (15)** 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 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)] **FIFTEEN (15)**-members who shall be *ex-officio* members of the Board 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 Labor and Employment or his/her authorized representative;
- 6) Secretary of the Department of Interior and Local Government 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) SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT OR HIS/HER AUTHORIZED REPRESENTATIVE;
- 12) Chairman of the Commission on Higher Education or his/her representative;
- 13) Chairman of the National Youth Commission or his/her representative;
- 14) Director General of the Philippine Drug Enforcement Agency or his/her representative;
- 15) EXECUTIVE DIRECTOR OF THE DANGEROUS DRUGS BOARD;

"[Cabinet Secretaries who are members of the Board] **EX-OFFICIO** members of the Board, except the Executive Director of the Board may designate their duly authorized and permanent representatives whose ranks shall in no case be lower than [undersecretary] ASSISTANT SECRETARY. THE EXECUTIVE DIRECTOR OF THE BOARD SHALL HAVE NO VOTING RIGHTS ON ISSUES BEFORE THE BOARD.

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

- (a) The President of the Integrated Bar of the Philippines or AUTHORIZED REPRESENTATIVE; and,
- (b) The chairman or president of a non-government organization HIS/HER involved 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] **EX-OFFICIO** consultants of the Board, and [shall] MAY attend all the meetings of the Board.

"THE BOARD MAY ENGAGE THE SERVICES OF CONSULTANTS WHO ARE DEEMED EXPERTS IN DRUG ABUSE AND CONTROL POLICIES, STRATEGIES AND PROGRAMS, RESEARCH, 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] **EX-OFFICIO** 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 [permanent] consultant attends a meeting in behalf of the latter, such PERMANENT representatives shall be entitled to receive the *per diem*."

SEC. 23. Section 79 is hereby amended to read as follows:

"SECTION 79. *Meetings of the Board.* - The Board shall meet once a [week] MONTH or as often as necessary at the call of the [discretion of the] Chairman or any four (4) other members. The presence of [nine (9)] ELEVEN (11) members shall constitute a quorum."

SEC 24. Republic Act No. 9165 Sec. 80 is hereby amended to read as follows:

"SECTION 80. *Secretariat of the Board.* x x x
The existing secretariat of the Board shall be under the administrative control and supervision of the Executive Director. It shall be composed of the following [divisions] **SERVICES:** Policy Studies, Research and Statistics; Preventive Education, Training

and Information; Legal Affairs; and the Administrative and Financial Management.”

SEC 25. Section 82, is hereby amended to read as follows:

“SECTION 82. *Creation of the Philippine Drug Enforcement Agency.* - x x x

“The PDEA shall be headed by a Director General with the rank of Undersecretary, who shall be responsible for the general administration and management of the Agency. The Director General of the PDEA shall be appointed by the President of the Philippines and shall perform such other duties that may be assigned to him/her. He must possess adequate knowledge, training and experience in the field of dangerous drugs **AND CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS CONTROL** and in any of the following fields: law enforcement, criminology, **CRIMINAL POLICING, LEGAL AND PROSECUTION, CRIMINOLOGY, AND INTELLIGENCE AND SECURITY ADMINISTRATION.** [law, medicine, psychology or social work]. **HE MUST ALSO POSSESS A POSTGRADUATE DEGREE, AND CAREER EXECUTIVE SERVICE ELIGIBILITY.**

“The Director General of the PDEA shall be assisted in the performance of his/her duties and responsibilities by two (2) deputies director general with the rank of Assistant Secretary: one for Operations and the other one for Administration. The two deputies director general shall likewise be appointed by the President of the Philippines upon recommendation **OF THE DIRECTOR GENERAL OF THE PDEA and CONCURRENCE** of the Board. The two (2) deputies director general shall possess the same qualifications as those of the Director General of the PDEA. The Director General and the two (2) deputies director general shall receive the compensation and salaries as prescribed by law.

“HAZARD PAY EQUIVALENT TO TWENTY FIVE (25) PER CENT OF MONTHLY SALARY SHALL BE GRANTED TO OFFICIALS, AGENTS, INVESTIGATORS AND OTHER PERSONNEL OF THE PDEA WHOSE GEOGRAPHICAL ASSIGNMENT OR FUNCTIONAL MISSION EXPOSE THEM TO GREAT DANGER OR RISKS, SUBJECT TO ACCOUNTING AND AUDITING REQUIREMENTS.”

SEC. 26. Sections 84 (m) and (o) are hereby amended to read as follows:

“SECTION 84. *Powers and Duties of the PDEA.*

X x x

“(m). Establish and maintain close coordination, cooperation and linkages with international drug control and administrative agencies and organizations, **WITH DRUG SUPPLY REDUCTION AND CHEMICAL DIVERSION CONTROL FUNCTIONS AND PROGRAMS**, and implement applicable provisions of international conventions and agreements relative to dangerous drugs **AND**

CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS to which the Philippines is a signatory;

x x x

"o) [Require all government and private hospitals, clinics, doctors, dentists and other practitioners to submit a report to it, in coordination with the Board, about all dangerous drugs and/or controlled precursors and essential chemicals which they have attended to for data and information purposes]. CONDUCT REGULATORY COMPLIANCE INSPECTION AND DANGEROUS DRUG AND CONTROLLED PRECURSOR DIVERSION CONTROL PROGRAM AND INVESTIGATION;

x x x

"s) DEPUTIZE, AS PDEA AGENT, QUALIFIED PERSONNEL AND/OR UNITS OF OTHER DEPARTMENT BUREAU, OFFICE, AGENCY, OR LOCAL GOVERNMENT UNITS TO ASSIST IN A MORE RESOLUTE IMPLEMENTATION OF THIS ACT."

SEC. 27. Section 85 is hereby amended to read as follows:

"SECTION 85. PDEA Academy. - Upon approval of the Board, the PDEA Academy shall be established either in Baguio or Tagaytay City and in such other places as may be necessary: *PROVIDED*, THAT UNTIL SUCH TIME THAT A FUNCTIONAL PDEA ACADEMY IS ESTABLISHED, PDEA IS AUTHORIZED TO CONDUCT ITS TRAINING IN ANY EXISTING TRAINING ACADEMY OR INSTITUTION OR FACILITY OPERATED BY ANY DEPARTMENT, BUREAU, OFFICE, AGENCY OR INSTRUMENTALITY OF THE GOVERNMENT, SUBJECT TO PRIOR CONSULTATION WITH AND AGREEMENT OF THE PARTIES CONCERNED."

SEC. 28. Section 86 is hereby amended by inserting a paragraph after the second paragraph to read as follows:

"SECTION 86. Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA and Transitory Provisions. - " x x x The transfer, absorption and integration of the different offices and units provided for in this Section shall take effect within eighteen (18) months from effectivity of this Act: Provided, That personnel absorbed and on detail service shall be given until five (5) years to finally decide to join the PDEA.

"HEADS OF PHILIPPINE NATIONAL POLICE, NATIONAL BUREAU OF INVESTIGATION, BUREAU OF CUSTOMS, ARMED FORCES OF THE PHILIPPINES OR OTHER GOVERNMENT AGENCIES AND LOCAL GOVERNMENT UNITS PERFORMING LAW ENFORCEMENT FUNCTIONS OR MISSIONS ARE AUTHORIZED TO CONTINUE PLACEMENT OF THEIR PERSONNEL ON DETAIL SERVICE WITH PDEA UPON REQUEST OF DG PDEA FOR A PERIOD NOT EXCEEDING FIVE

YEARS: *PROVIDED*, THAT DETAIL SERVICE WITH PDEA SHALL BE CONSIDERED AS CAREER SERVICE CONNECTED: *PROVIDED FURTHER* THAT AUTHORIZATION FOR THE DETAIL SERVICE FROM OTHER AGENCIES TO PDEA SHALL CEASE WHEN PDEA IS ABLE TO PROCURE A MINIMUM OF THREE THOUSAND (3,000) ORGANIC PDEA AGENTS: *PROVIDED* FINALLY, THAT PERSONNEL ON DETAIL SHALL BE GIVEN THE OPTION TO JOIN THE PDEA, SUBJECT TO PERTINENT LAWS, RULES AND REGULATION, AND QUALIFICATION REQUIREMENTS OF THE PDEA."

SEC. 29. Section 87 is hereby amended to read as follows:

"SECTION 87. Appropriations.

X X X

"All receipts derived from fines, fees and other income authorized and imposed in this Act, including ten percent (10%) of all unclaimed and forfeited sweepstakes and lotto prizes but less than twelve million pesos (P12,000,000.00) per year from the Philippine Charity Sweepstakes Office (PCSO), are hereby constituted as a special account in the general fund for the implementation of this Act: *Provided*, That, EXCEPT AS PROVIDED OTHERWISE ELSEWHERE IN THIS SECTION, no amount shall be disbursed to cover operating expenses of the Board and other concerned agencies: *PROVIDED HOWEVER*, THAT PDEA SHALL RETAIN THE TOTAL COLLECTION FOR DRUGS AND CHEMICAL FEES AND CHARGES TO FUND THE COMPLIANCE AND CHEMICAL DIVERSION CONTROL PROGRAM, PDEA ACADEMY DEVELOPMENT PROGRAM, AND FORENSIC LABORATORY DEVELOPMENT PROGRAM OTHER THAN WHAT IS PROVIDED FOR IN THE GENERAL APPROPRIATIONS ACT.: *Provided further*, That at least fifty percent (50%) of all the funds, EXCEPT FEES AND CHARGES COLLECTED BY PDEA, shall be reserved for assistance to government-owned and/or operated rehabilitation center."

SEC. 30. Section 93 is hereby amended to read as follows:

"SECTION 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, BY REGULATION, BUT NOT LISTED IN THE SCHEDULES UNDER INTERNATIONAL CONTROL SET BY THE 1961 SINGLE CONVENTION ON NARCOTIC DRUGS AS AMENDED BY THE 1972 PROTOCOL, 1971 CONVENTION ON PSYCHOTROPIC SUBSTANCES AND 1988 CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND

PSYCHOTROPIC SUBSTANCES. THE BOARD SHALL ALSO HAVE THE POWER TO EXEMPT ANY DANGEROUS DRUG PREPARATION AND ANY DRUG OR CHEMICAL PREPARATION OR MIXTURE OR PRODUCTS CONTAINING CONTROLLED PRECURSORS AND ESSENTIALS FROM ANY SPECIFIC PROVISION OF THE REGULATION UNDER THIS ACT: PROVIDED, THAT SUCH DANGEROUS DRUG PREPARATION OR ANY DRUG PREPARATION CONTAINING CONTROLLED PRECURSORS AND ESSENTIALS IS REGISTERED WITH THE BUREAU OF FOOD AND DRUGS AS A DRUG, AND PRODUCTS CONTAINING THE CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS ARE IN LEGITIMATE TRADE AND COMMERCE. Proceedings to reclassify, add, or remove a drug, or CHEMICAL or other substances, OR EXEMPT IT FROM ANY PRESCRIBED REGULATION may be initiated by the PDEA, the DOH, or by petition from any interested party, including the manufacturer of a drug OR OTHER SUBSTANCES 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 OR SUBSTANCE. The PDEA also may begin its own investigation of a drug OR CHEMICAL OR SUBSTANCE 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 CHEMICAL or other substance;
- 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 OR INDUSTRIAL USE;
- j) 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 OR LAW ENFORCEMENT PROBLEM;

- k) 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:
- l) WHETHER THE CONTROLLED PRECURSOR AND ESSENTIAL CHEMICAL CAN BE READILY RECOVERED FROM THE DRUG OR GROUPS 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 SUBSTANCE OR EXEMPTION FROM ANY PRESCRIBED REGULATION by publishing such notice in any newspaper of general circulation once a week for two weeks AND/OR PROVIDING INTERESTED PARTIES WITH DUE NOTICES. THE BOARD SHALL LIKEWISE GIVE NOTICE TO THE GENERAL PUBLIC OF ITS DECISIONS BY PUBLISHING THE REGULATION 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 REGULATION 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 precursors and essential chemicals is reclassified as dangerous drug, the penalties for violation of this Act, involving controlled precursors and essential chemicals shall in case of conviction be imposed in all pending criminal cases;
- c) In case of the addition of a new drug or chemical to the list of dangerous drug [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 drug OR CHEMICAL from the list of dangerous drugs [and] OR controlled precursors and essential chemicals, all persons convicted and/or detained for use and/or possession of such a drug or chemical shall be automatically released and all pending criminal prosecution involving such a drug under this Act shall forthwith be dismissed;
- e) IN CASE OF EXEMPTION OF DRUG PREPARATIONS CONTAINING DANGEROUS DRUGS, OR CHEMICAL

MIXTURE OR PREPARATION OR PRODUCT CONTAINING CONTROLLED PRECURSORS AND ESSENTIAL CHEMICALS FROM ANY SPECIFIC PROVISIONS OF IMPLEMENTING REGULATIONS, ALL PERSONS CONVICTED AND/OR DETAINED FOR VIOLATION OF THAT CORRESPONDING SPECIFIC REGULATION SHALL BE AUTOMATICALLY RELEASED AND ALL PENDING CRIMINAL PROSECUTION AND ADMINISTRATIVE PROCEEDINGS SHALL FORTHWITH BE DISMISSED.

- f) 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, BY REGULATIONS FROM ANY PRESCRIBED REGULATION UNDER THIS ACT."

SEC. 31. Section 101 is hereby amended to read as follows:

"PRESIDENTIAL DECREE 1619 [is] ARE hereby amended accordingly.

"SECTION 101. Amending Clause. – REPUBLIC ACT NO. 7659
AND"

SEC. 32. *Separability Clause.* - If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or this provision not otherwise affected shall remain valid and subsisting.

SEC. 33. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SEC. 34. *Effectivity Clause.* -This Act shall take effect fifteen (15) days after its publication in at least two (2) newspaper of general circulation.

Approved,