

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



Senate  
Office of the Secretary

13 SEP 17 P3:57

SENATE  
S. No. 1702

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Introduced by Senator Miriam Defensor Santiago

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#### EXPLANATORY NOTE

This bill seeks to provide a civil remedy for damages to persons injured as a result of the use of illegal drugs. To the extent possible, the cost of damage caused by the market for illegal drugs will be shifted to those who illegally profit from that market. This may deter those who have not yet entered into the distribution market for illegal drugs by establishing the prospect of substantial monetary loss. Illegal drug users will also be given an incentive to identify and pursue those who have provided them with illegal drugs in the past.

Through this bill, a new cause of action is established in favor of any person or entity suffering damages or increased expense because of illegal drug use, including the illegal drug user himself, against any person or entity that sold or was in the chain of distribution of the illegal drugs used by the individual illegal drug user and any person or entity involved in the sale or distribution of the type of illegal drugs used by that individual. The bill sets forth certain exceptions, what damages may be recovered, rules on contributory negligence, contribution among joint tortfeasors, prejudgment attachments, and other procedures.\*

*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO

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\* This bill was originally filed during the Thirteenth Congress, First Regular Session.



'13 SEP 17 P3:57

SENATE  
S. No. 1702

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1 AN ACT  
2 PROVIDING FOR THE CIVIL LIABILITY OF DRUG DEALERS IN FAVOR OF PERSONS  
3 INJURED BY ILLEGAL DRUGS

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

4 SECTION 1. *Short Title.* -This Act shall be known as the "Drug Dealer Liability Act."

5 SECTION 2. *Declaration of Policy.* - It is the policy of the State to promote the health  
6 and welfare of our people and to maintain peace and order. To this end, it is necessary to provide  
7 measures that will help eradicate the use of illegal drugs by allowing the facilitation of recovery  
8 of civil damages against drug dealers aside from the penal sanctions under existing law.

9 SECTION 3. *Definition of Terms.* - For the purposes of this Act, the term:

10 (A) "Illegal drug" shall have the same meaning as the term "dangerous drugs" under  
11 Republic Act No. 9165, as amended, also known as the "Dangerous Drugs Act of 2002," and  
12 shall include methamphetamine hydrochloride, commonly known as "*shabu*."

13 (B) "Individual drug user" means the individual whose use of a specified illegal drug  
14 is the basis of an action brought under this Act.

15 (C) "Participate in the marketing of illegal drugs" means to transport or import into  
16 the Philippines, sell, possess with the intent to sell, furnish, administer, or give away an illegal  
17 drug. "Participate in the marketing of illegal drugs" does not include the purchase or receipt of  
18 an illegal drug for personal use.

1 (D) "Period of illegal drug use" means in relation to the individual illegal drug user,  
2 the period of time from the individual's first use of a specified illegal drug to the accrual of the  
3 cause of action. The period of illegal drug use is presumed to commence two (2) years before the  
4 cause of action accrues unless the defendant proves otherwise.

5 (E) "Person" means an individual, government entity, corporation, firm, trust,  
6 partnership, or incorporated or unincorporated association existing under or authorized by  
7 existing law or the laws of a foreign country.

8 (F) "Specified illegal drug" means the type of illegal drug used by an individual  
9 illegal drug user which is the basis of an action brought under this Act.

10 SECTION 4. *Persons Injured By an Individual Illegal Drug User.* - Any one or more of  
11 the following persons may bring an action for damages caused by an individual's use of an  
12 illegal drug:

13 (A) A parent, legal guardian, child, spouse, or sibling of the individual illegal drug  
14 user;

15 (B) A person who was exposed to an illegal drug *in utero*;

16 (C) An employer of an individual drug user; or

17 (D) A medical facility, insurer, government entity, employer, or other entity that  
18 funded a drug treatment program or employee assistance program for the individual illegal drug  
19 user or that otherwise expended money in behalf of the individual drug user or a dependent of  
20 the individual drug user; and

21 (e) A person injured as a result of the willful, reckless, or negligent actions of an  
22 individual illegal drug user.

23 SECTION 5. *Persons Liable for Damages.* - A person entitled to seek damages under the  
24 preceding section may seek damages from one or more of the following:

25 (A) A person who sold, administered, or furnished, or is in the chain of the  
26 distribution of an illegal drug used by the individual drug user; or

1 (B) If established by clear and convincing evidence, a person who knowingly  
2 participated in the marketing of the specified illegal drug used by an individual illegal drug user  
3 during the individual drug user's period of illegal drug use.

4 SECTION 6. *Damages.* - A person injured by an illegal drug user under the preceding  
5 sections may bring an action to recover all of the following damages:

6 (A) Actual damages, including, but not limited to, the cost of treatment and  
7 rehabilitation, medical expenses, loss of economic or educational potential, loss of productivity,  
8 absenteeism, support expenses, accidents or injury, or any other pecuniary loss proximately  
9 caused by an individual's use of an illegal drug;

10 (B) Moral damages, including, but not limited to, physical and emotional pain,  
11 suffering, physical impairment, emotional distress, disfigurement, loss of employment, loss of  
12 companionship, services, and consortium, and other non-pecuniary loss proximately caused by  
13 an individual's use of an illegal drug;

14 (C) Exemplary damages;

15 (D) Reasonable attorney's fees; and

16 (E) Costs of suit, including, but not limited to, expenses for expert witnesses and  
17 expenses for investigative services to determine the identity of the defendants and the location of  
18 any assets of the defendants.

19 SECTION 7. *Suits by Illegal Drug User.* - An individual illegal drug user entitled to  
20 bring an action under this Act may seek damages only from thea person who sold, administered,  
21 or furnished, or is in the chain of distribution of an illegal drug used by the individual illegal  
22 drug user.

23 SECTION 8. *Limited Damages.* - An individual illegal drug user entitled to bring an  
24 action under this Act may recover only the following damages:

1 (A) Actual damages, including, but not limited to, the cost of treatment and  
2 rehabilitation, medical expenses, loss of economic or educational potential, loss of productivity,  
3 absenteeism, support expenses, accidents or injury, or any other pecuniary loss proximately  
4 caused by an individual's use of an illegal drug;

5 (B) Reasonable attorney's fees; and

6 (C) Costs of suit, including, but not limited to, expenses for expert witnesses and  
7 expense for investigative services to determine the identity of the defendants and the location of  
8 any assets of the defendants.

9 SECTION 9. *Non-Exclusiveness; Exceptions to Liability.* - Any cause of action  
10 established under this Act shall be in addition to and not in lieu of any other cause of action. A  
11 law enforcement officer or agency, or a person acting at the direction of a law enforcement  
12 officer or agency is not liable for participating in the marketing of illegal drugs if the  
13 participation is in furtherance of an official investigation.

14 SECTION 10. *Contributory Negligence.* - Contributory negligence shall not bar recovery  
15 by an individual illegal drug user, but may diminish the award of any damages in proportion to  
16 the amount of negligence attributable to the individual illegal drug user. Contributory negligence  
17 shall not be attributable to a plaintiff who is not an individual illegal drug user, unless the  
18 plaintiff willfully and knowingly gave illegal drugs or money for the purchase of the specified  
19 illegal drug.

20 SECTION 11. *Contribution Among and Recovery from Multiple Defendants.* - A person  
21 subject to liability under this Act has a right of contribution against any other person subject to  
22 liability under this Act. Contribution may be enforced either in the original action or by a  
23 separate action brought for that purpose. A plaintiff may seek recovery in accordance with this  
24 Act and other laws against a person whom a defendant has asserted a right of contribution.

1           SECTION 12. *Effect of Criminal Drug Conviction.* - A person against whom recovery is  
2 sought who has a criminal conviction for other than mere possession of the specified illegal drug  
3 under the "Dangerous Drugs Act of 2002" is estopped from denying participation in the illegal  
4 drug market. Such a conviction is also a *prima facie* evidence of the person's participation in the  
5 illegal drug market during the two years preceding the date of an act giving rise to a conviction.  
6 The absence of a conviction of a person against whom recovery is sought does not bar an action  
7 against that person.

8           SECTION 13. *Prejudgment Attachment and Execution of Judgment.* - At the  
9 commencement of the action or at any other time before entry of judgment, a plaintiff or any  
10 proper party may have the property of the adverse party attached as security for the satisfaction  
11 of any judgment that may be recovered under this Act. If attachment is issued, the defendant is  
12 entitled to an immediate hearing. The attachment may be removed if the defendant demonstrates  
13 that the assets will be available for a potential award or if the defendant posts a bond sufficient to  
14 cover a potential award. A person against whom a judgment has been rendered under this Act is  
15 not eligible to exempt any property, of whatever kind, from process to levy or process to execute  
16 on the judgment. Any assets sought to satisfy a judgment under this Act that have been named in  
17 a forfeiture action pending on the date that the attachment under this Act is sought or have been  
18 seized for forfeiture by any government agency may not be attached or used to satisfy a  
19 judgment unless and until the assets have been released following conclusion of the forfeiture  
20 action or released by the agency that seized the assets.

21           SECTION 14. *Statute of Limitations.* - Except as otherwise provided by this section, a  
22 claim under this Act shall not be brought more than two (2) years after the cause of action  
23 accrues under this Act when a person who may recover has reason to know of the harm from  
24 illegal drug use that is the basis of the cause of the action and has reason to know that the illegal  
25 drug use is the cause of the harm. For a plaintiff, the statute of limitations under this section is  
26 tolled while the individual potential plaintiff is incapacitated by the use of an illegal drug to the

1 extent that the individual cannot reasonably be expected to seek recovery under this Act or as  
2 otherwise provided by law. For a defendant, the statute of limitations under this section does not  
3 expire until six (6) months after the individual potential defendant is convicted of a criminal  
4 offense or as otherwise provided by law.

5 SECTION 15. *Stay of Action.* - On motion by a government agency involved in a drug  
6 investigation or prosecution, an action brought under this Act shall be stayed until the  
7 completion of the criminal investigation or prosecution that gave rise to the motion for a stay of  
8 the action.

9 SECTION 16. *Non-Retroactivity.* - No cause of action shall accrue based upon any act by  
10 a defendant that occurred prior to the effectivity date of this Act.

11 SECTION 17. *Separability Clause.* - If any provision or part thereof is held invalid or  
12 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain  
13 valid and subsisting.

14 SECTION 18. *Repealing Clause.* - Any law, presidential decree or issuance, executive  
15 order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent  
16 with the provisions of this Act is hereby repealed, modified, or amended accordingly.

17 SECTION 19. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its  
18 publication in at least two (2) newspapers of general circulation.

Approved,