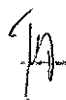


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 JUL -2 2011

SENATE

RECEIVED BY: 

Senate Bill No. 358

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE


Article II Section 1 of the 1987 Constitution provides:

“The Philippines is a democratic and republican state. Sovereignty resides in the people and all government authority emanates from them.”

Being a democratic and republican state, we adopted a system where a majority of our populace is given the chance to choose the persons who deserve to be invested with powers to govern them and promote their welfare for a period of time. This process is known as an election. A credible, honest, free, clean and orderly election, which is truly reflective of the will of the electorate, is what our country needs for it to move forward.

It is sad to note, however, that here in our country, the result of every election is, most often, mired by irregularities and anomalies that destroy the sanctity of the ballot. Some personalities, particularly candidates who are not faring well during elections, employ means, methods, schemes and machinations beyond what is legally allowed for their personal advancement. This practice should not be condoned by the government, but instead, sanctioned with the full extent of the law.

The immediate passage of this bill is therefore earnestly solicited.


JINGGOY EJERCITO ESTRADA
Senator

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

7 JUL -2 1977

RECEIVED BY:

SENATE

Senate Bill No. 358

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
TO AMEND ARTICLE XXII, SECTION 261 (DD) OF BATAS PAMBANSA BLG. 881, OTHERWISE KNOWN AS THE OMNIBUS ELECTION CODE, AS AMENDED, TO INCLUDE OTHER FORMS OF ELECTORAL FRAUD, PRESCRIBING PENALTIES THEREFOR AND FOR OTHER PURPOSES.

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

SECTION 1. Article 261 (dd) of the Batas Pambansa Blg. 881, otherwise known as the Omnibus Election Code, as amended, is hereby further amended to read as follows:

(dd) Other prohibitions:

(1) Any person who sells, furnishes, offers, buys, serves or takes intoxicating liquor on the days fixed by law for the registration of voters in the polling place, or on the day before the election or on the election day: Provided, that hotels and other establishments duly certified by the Department of Tourism as tourist oriented and habitually in the business of catering to foreign tourist may be exempted for justifiable reasons upon prior authority of the Commission: Provided, further, that foreign tourists taking intoxicating liquor in said authorized hotels or establishments are exempted from the provisions of this subparagraph.

(2) Any person who opens in any polling place or within a radius of thirty meters thereof on election days and during the counting of votes, booths or stalls of any kind for the sale, dispensing or display of wares, merchandise or refreshments, whether solid or liquid, or for any other purposes.

(3) Any person who holds on election day, fairs, cockfights, boxing, horse races, jai-alai or any other similar sports (Par. (iii),(d)).

(4) Refusal to carry election mail matter. Any operator or employee of a public utility or transportation company operating under a certificate of public convenience, including government,ent-owned or controlled postal service or its employees or deputized agents who refuse to carry official election mail matters free of charge during the election period. In addition to the penalty

prescribed herein, such refusal shall constitute a ground for cancellation or revocation of certificate of public convenience or franchise (Par. (kkk),(d)).

(5) Prohibition against discrimination in the sale of air time. Any person who operates a radio or television station who without justifiable cause discriminate against any political party, coalition or aggroupment of parties or any candidate in the sale of air time. In addition to the penalty prescribed herein, such refusal shall constitute a ground for cancellation or revocation of the franchise.

(6) VOTE-SHAVING/VOTE PADDING. IN ADDITION TO THE OFFENSE PENALIZED UNDER ARTICLE 261 (BB)(1)(B) HEREOF, ANY PERSON WHO INDUCES OR ATTEMPTS TO INDUCE ANY MEMBER OF THE BOARD OF ELECTION INSPECTORS OR BOARD OF CANVASSERS TO TAMPER, INCREASE OR DECREASE THE VOTES RECEIVED BY ANY CANDIDATE IN ANY ELECTION IN CONSIDERATION OF ANY PROMISE, OFFER, GIFT OR PRESENT, PECUNIARY OR OTHERWISE, FOR THE PURPOSE OF BENEFITING ANY CANDIDATE AND ENSURING HIS/HER ELECTION TO A PUBLIC OFFICE SHALL BE GUILTY OF THE CRIME OF VOTE SHAVING/VOTE PADDING.

VOTE SHAVING/VOTE PADDING OCCURS WHEN FOR THE PURPOSE OF BENEFITING AND ENSURING THE ELECTION OF ANY CANDIDATE TO A PUBLIC OFFICE, ANY MEMBER OF THE BOARD OF ELECTION INSPECTORS OR BOARD OF CANVASSERS IN CONSIDERATION OF ANY PROMISE, GIFT, OFFER OR PRESENTS, PECUNIARY OR OTHERWISE, FROM ANY PERSON, WILL ALTER, MODIFY OR CHANGE THE VOTES OBTAINED BY ANY CANDIDATE EITHER BY:

- (1) REDUCING THE VOTES OBTAINED BY ANY OR ALL CANDIDATES AND ADDING IT TO THE VOTES OBTAINED BY THE FAVORED CANDIDATE;
- (2) KNOWINGLY ADDING VOTES TO THE ACTUAL VOTES OBTAINED BY THE FAVORED CANDIDATE;
- (3) KNOWINGLY REDUCING THE ACTUAL VOTES OBTAINED BY ANY CANDIDATE EXCEPT THAT OF THE FAVORED CANDIDATE.

ANY PERSON FOUND GUILTY OF THE OFFENSE OF VOTE SHAVING/VOTE PADDING SHALL BE PUNISHED WITH IMPRISONMENT OF NOT LESS THAN TWENTY YEARS BUT NOT MORE THAN FORTY YEARS; PROVIDED, THAT, IF THE OFFENDER IS A PUBLIC OFFICIAL OR EMPLOYEE, THE PENALTY SHALL BE DEATH; PROVIDED, FURTHER, THAT IN ADDITION TO THE PENALTY IMPOSED HEREIN, THE OFFENDER THAT LIKewise SUFFER THE ACCESSORY PENALTY ATTACHED TO THE PRINCIPAL PENALTY IMPOSED AND DEPRIVATION OF THE RIGHT TO SUFFRAGE.

SEC. 2. Separability Clause. – If any provision or part of this Act is declared invalid or unconstitutional, other provisions hereof which are not effected thereby shall continue to be in full force and effect.

SEC. 3. Repealing Clause. - All provisions of law, orders, decrees, including rules and regulations inconsistent herewith are hereby repealed or modified accordingly.

SEC. 4. Effectivity Clause. - This Act shall take effect fifteen (15) days following its publication in the Official Gazette or at least two (2) national newspapers or general circulation.

Approved,