

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

8 JUN 14 2017

**SENATE
S. NO. 1997**

RECEIVED DATE 

Introduced by Senator Antonio "Sonny" F. Trillanes IV

EXPLANATORY NOTE

It is the constitutional right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose (Bill of Rights, Article III, Section 2). Likewise, our Constitution grants other defined rights to a person who has been arrested.

The installation and maintenance of checkpoints due to the existence of a clear and present danger to national security, public safety, or public health have given rise to deplorable incidents caused by irresponsible and abusive checkpoint personnel, thereby resulting in serious violations of the aforementioned constitutional rights of the people. In the light of the recent decision of our Supreme Court upholding the authority of the military or police to install checkpoints, it becomes imperative for a law to be enacted to safeguard the defined constitutional rights of the people against unreasonable searches or seizures or any other infringements of their constitutional rights.

Even the Supreme Court became aware in a later decision that some checkpoints have become "points of thievery and extortion" and therefore clarified that checkpoints may be set up only "under exceptional circumstances as when the lives and safety of the people are in grave peril." The court further held that "for as long as the vehicle is neither searched nor its occupants subjected to a body search and the inspection of the vehicle is limited to a "visual search", checks cannot be regarded as violation of an individual's right against unreasonable search".

The early approval of this bill is therefore urged.


ANTONIO "SONNY" F. TRILLANES IV
Senator

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**AN ACT
REGULATING THE INSTALLATION AND MAINTENANCE OF CHECKPOINTS**

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

1 **SEC. 1. *When Checkpoints can be Maintained.*** – No checkpoints shall be maintained
2 except under exceptional circumstances such as when there is a clear and present danger to
3 national security, public safety or public health or when the survival of the organized
4 government is on the balance, or when the lives or safety of the people are in grave peril.

5
6 **SEC. 2. *Establishment of Checkpoints.*** No checkpoint shall be established or
7 maintained without a warrant issued by competent authority and the mission order authorizing
8 the same: Provided, however, That when a warrant cannot be obtained due to lack of material
9 time, a checkpoint shall be maintained on the strength of a mission order duly issued in
10 accordance with law by the proper authorities accompanied by the application for a warrant.
11 Unless a proper application for a warrant is made, mission orders shall have no force and effect.

12 The Chief Executive of the locality where the checkpoint is to be established or
13 maintained shall be furnished with a copy of the pertinent documents.

14 In the absence of a warrant or mission order, checkpoint personnel shall limit the scope of
15 their inquiry to visual inspection and ascertaining the identity and other personal circumstances
16 of the person, or in case a vehicle is being inspected, checkpoint personnel shall have the right to

1 ascertain the identity of its registered owner. Pursuant to or in the course of the inquiry,
2 contraband or other prohibited goods or items in plain view may be validly seized.

3 The mission orders, as well as the regulations and guidelines thereof, shall be posted at
4 the city hall or municipal building and at the public market of the place, as well as at the
5 checkpoint site itself as soon as the checkpoint is established. In any case, the pertinent
6 documents shall be made available at the checkpoint for the scrutiny of any person affected
7 thereby.

8
9 **SEC. 3. *Authorized Personnel to Man Checkpoints.*** Only duly authorized persons shall
10 be stationed at any checkpoints. The Checkpoint Personnel shall be able to supervise the
11 checkpoints after undergoing a specific training to man the checkpoints.

12
13 **SEC. 4. *Training of Checkpoint Personnel.*** – No person shall be stationed at any
14 checkpoint without first undergoing extensive training for not less than one (1) month on
15 checkpoint management, maintenance or operation as well as on human relations. The city or
16 provincial commander of the Philippine National Police (PNP) shall be responsible in the
17 conduct of the training.

18
19 **SEC. 5. *Conduct of Checkpoint Personnel.*** – Any person manning the checkpoint shall
20 wear his official uniform complete with name patch or nameplate at all times. He shall likewise
21 courteously identify himself, his unit and commanding officer, and shall present a proper warrant
22 or mission order to any person subject to search. He shall be careful in the handling of the person
23 searched or of the things, papers and effects seized, and shall be prohibited from holding such
24 person or thing longer than required by the attendant circumstances.

25 Any frisking or bodily search by virtue of a warrant or mission order shall be conducted
26 with due respect for human dignity by an authorized person of the same sex.

27

1 **SEC. 6. *Influence of Liquor.*** – Any person who is under the influence of liquor or any
2 other intoxicating substance shall not be allowed to man the checkpoint.

3
4 **SEC. 7. *Arrest.*** – The person effecting an arrest shall inform the arrested person of his
5 constitutional rights. The person arrested shall be turned over to the city or municipal judge as
6 the case may be of the place where the checkpoint is maintained within the item specified in
7 Article 125 of the Revised Penal Code from the time of such arrest. The judge concerned shall
8 serve written notice to the prosecutor concerned within twenty-four (24) hours from the turnover
9 of the arrested person. If warranted, the prosecutor shall file the necessary complaint or
10 information within ten (10) days from notice. Otherwise, the person arrested shall be released.

11
12 **SEC. 8. *Seizure.*** – The person effecting seizure of a thing shall issue the corresponding
13 receipt to the owner or possessor thereof, particularly describing the thing seized. The thing
14 seized shall be turned over to the city or municipal judge as the case may be of the place where
15 the checkpoint is maintained within three (3) hours from the time of seizure. The judge
16 concerned shall serve written notice to the prosecutor concerned within twenty-four (24) hours
17 from the turnover of the thing seized. If warranted, the prosecutor shall file the necessary
18 complaint or information within ten (10) days from notice. Otherwise, the thing shall be held in
19 trust for its owner until its return to him.

20
21 **SEC. 9. *Liability of Parties.*** – Persons manning the checkpoint shall be liable for any
22 damage caused by reason of any unreasonable search or seizure. In such a case, recourse may be
23 had against the government, which can then claim reimbursement from the erring person. This
24 right of recourse is not limited by the insolvency of the tortfeasor.

25 This section shall be without prejudice to the filing of a case under Article 32, par. (9) of
26 the Civil Code of the Philippines and Article 129 of the Revised Penal Code.

1 **SEC. 10. *Dismantling of Checkpoints.*** – Any checkpoint shall be immediately
2 dismantled when there is no more clear and present danger to national security, public safety or
3 public health.

4
5 **SEC. 11. *Penalties.*** – Any violation of the provisions of this Act shall be punished with
6 the corresponding penalty prescribed by the Revised Penal code in addition to any administrative
7 sanction that may be prescribed by the Revised Penal Code including any administrative sanction
8 that may be prescribed by law.

9
10 **SEC. 12. *Repealing Clause.*** - All laws, decrees, orders including Executive Order Nos.
11 59 and 272, rules and regulations, and all other issuances, or parts thereof, which are inconsistent
12 with this Act are hereby repealed or modified accordingly.

13
14 **SEC. 13. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after its
15 publication in two (2) newspapers of general circulation.

Approved,