

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

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SENATE
S. No. 2867

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Introduced by Senator Ramon "Bong" Revilla, Jr.

EXPLANATORY NOTE

The statistics of recent years show that there has been a decline in alcohol-related accidents. While this may be good news to all of us, the fact remains that these accidents still and does happen. And no matter how minimal these alcohol-related accidents statistics yield, these dry statistics actually represent real people and real lives. These lives are at stake every time a person who is under the influence of alcohol, drugs or other prohibited substances decides to take control of a steering wheel, thus becoming an imminent danger to themselves and to the hapless others.

Research shows that a driver with a blood alcohol concentration (BAC) of 0.08% is 11 times more likely than the non-drinking driver to be involved in a crash. As the amount of alcohol in the driver's system rises mathematically on the BAC scale, the likelihood of a traffic accident also multiplies. At 0.10% BAC, or greater, a driver is seven times more likely to be involved in a fatal motor vehicle crash than is a driver who has not consumed alcoholic beverages, and a driver with an alcohol concentration of 0.15% or greater is about 25 times more likely to figure in such accident.

With this in mind, it thus becomes a matter of utmost importance to protect the public from further being threatened of losing their lives and property by reason of the recklessness of these irresponsible operators of motor vehicles.

Passage of this bill is therefore earnestly sought.



RAMON "BONG" REVILLA, JR.

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Introduced by Senator Ramon "Bong" Revilla, Jr.

**AN ACT
DEFINING AS A CRIME THE ACT OF DRIVING UNDER THE
INFLUENCE OF ALCOHOL AND/OR PROHIBITED DRUGS AND
SUBSTANCES AND PROVIDING FOR PENALTIES THEREFOR**

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

SECTION 1. *Short Title.* – This Act shall be known as the "Anti-Drunk Driving Act of 2008."

Sec. 2. *Declaration of Policy.* – It is hereby declared to be the policy of the State to reduce, with the end in view of totally eliminating, death and physical injuries, as well as destruction and damage to property, due to accidents caused by persons driving or operating any kind of motor vehicle while under the influence of any kind of alcoholic beverage and/or prohibited drug.

Sec. 3. *Driver Education.* – Every applicant for a driver's license shall complete a course of instruction that provides information on driver and safety matters, including the effects of consumption of beverage alcohol products and the use of illegal drugs, prescription drugs, and non-prescription drugs on the ability of a person to operate a motor vehicle; the hazards of driving under the influence; and the penalties for driving under the influence.

The driver's license test shall include written questions concerning the effects of consumption of beverage alcohol products and the use of illegal drugs, prescription drugs, and non-prescription drugs on the ability of a person to operate a motor vehicle and the legal and financial consequences resulting from violation of the law prohibiting driving under the influence.

Sec. 4. *Prohibited Act.* – It shall be unlawful for any person to drive or operate any motor vehicle while under the influence of alcoholic beverages, prohibited drugs and/or other prohibited substances.

A person shall be considered under the influence of alcoholic beverages if it shall be established that he has a Blood Alcohol Concentration (BAC) level of 0.08% or more.

Sec. 5. *Administrative License Suspension.* – Right after arrest, when a driver suspected of violating this Act fails the chemical test as prescribed herein, a notice of suspension shall be served on him. The notice serves as a temporary permit to drive which shall be valid for a period not exceeding 45 days within which the suspension may be challenged. The permit shall automatically be revoked without need of any further order or declaration to that effect: Provided, however, that this section shall not be applicable to persons who have been previously arrested for allegedly violating the provisions of this act, regardless of

the findings in the previous criminal prosecution, and those who have previously been found guilty of violating Art. 365 of the Revised Penal Code.

Criminal Prosecution under this Act shall proceed separately and independently and shall not be replaced by Administrative License Suspension.

Sec. 6. *Driver's Right to Contest.* – If the driver controverts the finding of the apprehending or investigating police officer, the burden lies with him or her to prove that he is not under the influence of alcohol, drugs and/or other prohibited substances by immediately securing a blood test which result must show the time the same was taken and that the blood alcohol concentration level did not exceed point zero eight percent (0.08%). For purposes of this Section, "immediately" shall mean within two (2) hours from the apprehension or investigation. Such contest against the finding of the apprehending or investigating police officer must be done within the period provided in the next preceding section for challenging an administrative license suspension.

Sec. 7. *Duty of Apprehending or Investigating Police Officer.* – The apprehending or investigating police officer must inform the driver of his or her right to remain silent, that anything he or she says can be used against him or her, and he or she has a right to counsel before questioning. The officer must likewise inform the driver of his or her right to contest the apprehending or investigating officer's finding and the consequence of his or her waiver or failure to do the same within the period provided in the next two preceding sections.

Sec. 8. *Classification of Offense.* – Any offense committed in violation of this Act and the resulting violation of the Revised Penal Code shall be treated as acts *malum prohibitum*.

Sec. 9. *Implied Consent.* – Any person who drives or operates a motor vehicle on a street, road, highway or a public or quasi-public area shall be deemed to have given consent to a test or tests of such person's blood, breath, urine or other bodily substance for the purpose of determining his/her BAC level or the presence of prohibited drugs under the following circumstances:

(a) If he exhibits some indication of alcohol/drug impairment while in motion, such as speeding, swerving, weaving in traffic or coming dangerously close to stationary objects or other vehicles;

(b) If he is stopped for a traffic violation or any other offense alleged to have been committed while in motion;

(c) If he is involved in an accident;

(d) If he is about to enter an expressway, toll way, subdivision or public or private facility and the authorities thereat finds any reasonable basis to require screening tests such as alcoholic breath, slurred speech, sluggish or delayed reaction indicative that he may be under the influence of alcohol or prohibited drugs.

Sec. 10. *Screening Test.* – When a law enforcement officer has probable cause to believe a driver to be driving under the influence due to manifestations, including erratic driving, poor coordination, or the presence of the smell of alcohol and/or other prohibited substances, the officer shall conduct field sobriety tests. If the driver fails the field sobriety tests, the driver shall be required to undergo confirmatory chemical tests.

Sec. 11. **Confirmatory Tests.** – Upon determination of probable cause of violation of this Act and as provided under the next preceding section, confirmatory chemical tests shall immediately be administered at the direction of the apprehending law enforcement officer at the laboratory of any authorized hospital, clinic or test center. Such tests shall consist of blood or urine sample analysis or any equivalent test to be conducted by any authorized medical or laboratory authority to determine the suspect's BAC level or the presence of any prohibited drug in his or her system.

Sec. 12. **Mandatory Confirmatory Chemical Testing.** – Any driver or operator of a motor vehicle involved in a vehicular accident resulting in death or physical injuries shall be subjected to mandatory confirmatory chemical tests to determine the presence and/or concentration of alcohol and/or drugs.

Sec. 13. **Penalties.** – Any person found guilty of violating the provisions of this Act shall be sentenced to suffer any of the following penalties:

(a) First offense - a fine of Three Thousand Pesos (P3,000.00) and suspension of the offender's license to drive for six (6) months, or imprisonment for not more than thirty (30) days, at the discretion of the court: Provided, that if during the period that the offender's license to drive was suspended, he commits the same offense again, in addition to the penalty specified in this paragraph, he will be sentenced to not less than thirty (30) days but not more than forty-five (45) days of imprisonment.

(b) Second offense - a fine of Five Thousand Pesos (P5,000.00), suspension of the offender's license to drive for one (1) year and imprisonment of not more than thirty (30) days: Provided, That if during the period that the offender's license to drive was suspended, he commits the same offense again, in addition to the penalty specified in this paragraph, he will be sentenced to not less than six (6) months but not more than twelve (12) months of imprisonment.

(c) Third and all subsequent offenses - a fine of Twenty Thousand Pesos (P20,000.00), suspension of the offender's license to drive for three (3) years and sixty (60) days imprisonment: Provided, That the additional penalty of not less than one (1) year but not more than three (3) years of imprisonment shall be imposed upon the offender who shall commit the same offense during the period when his license to drive is suspended.

(d) In cases wherein a violation of this Act results to a violation of the Revised Penal Code or other laws, the penalty to be imposed is that provided under the Revised Penal Code had the act complained of been intentional, or *arresto mayor*, whichever is higher, and suspension of the offender's license to drive for five years.

(e) If serious physical injuries resulted by reason of such violation, the penalty imposed shall be *prision mayor*, as defined under the Revised Penal Code, a fine ranging from Twenty Thousand Pesos (P20,000.00) to Fifty Thousand Pesos (P50,000.00) and suspension of the offender's license to drive for five years.

(f) If death resulted by reason of such violation, the penalty imposed shall be *reclusion temporal*: Provided, That the additional fine of not less than Fifty Thousand Pesos (P50,000.00) for every resulting death shall be imposed if several deaths occur by reason thereof.

The periods for the additional penalty of suspension of license to drive imposed by this section shall begin to run after service of sentence, as provided heretofore.

The provisions of Article 39 of the Revised Penal Code imposing subsidiary imprisonment shall be applicable to this Act in case of non-payment of the fines herein provided.

Sec. 14. ***Circumstances Affecting Criminal Liability.*** – The appropriate provisions of Article 14 of the Revised Penal Code, in so far as they are applicable, shall have the effect of aggravating the accused's criminal liability under this Act.

The Provisions of Articles 11, 12, 13 and 15 of the Revised Penal Code, in so far as they shall work to justify, exempt or exculpate the accused from criminal liability, or to mitigate such liability, shall be inapplicable for purposes of this Act.

Sec. 15. ***Implementing Rules and Regulations.*** - It shall be the duty of the Land Transportation Office of the Department of Transportation and Communication, in consultation with the other stakeholders, to promulgate the necessary implementing rules and regulation for the proper implementation of this Act.

Sec. 16. ***Separability Clause.*** – If any part, section, or provision of this Act shall be held invalid or unconstitutional, the other provisions shall not be affected thereby.

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

Approved,