

Law on Firearms in the Philippines

Owning a gun in the Philippines is not easy since there is no constitutional right to bear arms. The law, therefore, strictly regulates owning a firearm.

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Since 1907 various laws have been enacted to regulate the ownership and use of firearms. The first law was Act No. 1780, which is lengthily titled as "An Act to Regulate the Importation, Acquisition, Possession and Transfer of Firearms and to Prohibit the Possession of Same Except in Compliance with the Provisions of this Act." Subsequently, various laws have superseded this Act until in 1983 [Presidential Decree \(PD\) 1866](#) was enacted and codified all laws relating to firearms and ammunition. Finally, in 1997 Republic Act (RA) 8294 was enacted and amended PD 1866.

Definition of Firearms

Although PD 1866 remains as the basic law on firearms, it does not define what a firearm is. Neither does its amending law, RA 8294, provide such definition. Instead, the Implementing Rules and Regulations of PD 1866 provide the definition, to wit: a firearm "includes rifles, muskets, carbines, shotguns, revolvers, pistols and all other deadly weapons from which a bullet, ball, shot, shell or other missile may be discharged by means of gunpowder or other explosives. The term also includes air rifles and air pistols not classified as toys under the provisions of

Executive Order No. 712 dated 28 July 1981. The barrel of any firearm shall be considered a complete firearm."

Notice under this definition that air rifles and air pistols are included under the term firearm, as long as they are not classified as toys under Executive Order (EO) No. 712. EO 712, which was enacted pursuant to the legislative powers of then President Ferdinand Marcos, regulates the sale, use, possession or manufacture of air rifles/pistols and airsoft guns. Pursuant to the delegation of authority granted under this law to the chief of the national police, then police Director General Avelino Razon issued Philippine National Police Circular No. 11 in 2007, which ruled that air rifles/pistols and airsoft guns be treated as firearms with respect to their licensing, possession, manufacture and transport.

Thus, in *Orceo v. Comelec*, G.R. No. 190779 (March 26, 2010), the Supreme Court has upheld the resolution of the Commission on Elections in including airsoft guns during the election period gun ban, which prohibits the possession and transport of firearms during the election period even if the person possessing or transporting them is licensed to possess or carry firearms.

The definition also considers the barrel of any gun as a complete firearm.

Requirements for Possession of Firearms

It is illegal to own or possess firearms, including their ammunitions, without license. A person with a license to possess firearm alone cannot carry or transport a firearm outside of his or her residence; he or she must additionally have a license to carry firearm. The licenses to possess and carry firearms are issued by the chief of the national police. With respect to police and military personnel, their authority to possess and carry firearms are covered by mission orders, which are issued by their respective commanders or superiors as enumerated under the Implementing Rules and Regulations to PD 1866.

Furthermore, subject only to certain exceptions such as those involving police and military personnel on duty, the carrying or transport of firearms during election period is prohibited even by license holders.

Penalty for Illegal Possession of Firearms

RA 8294 has lowered the penalties for illegal possession of firearms and bases the penalty imposable on whether the involved firearm is high or low powered. The penalty of *prision correccional* in its maximum period (with an imprisonment duration of 4 years, 6 months and 1 day to 6 years) and a fine of not less than P15,000.00 shall be imposed for unlawful possession of a low powered firearm, and *prision mayor* in its minimum period (with an imprisonment

duration of 6 years and 1 day to 8 years) and a fine of not less than P30,000.00 for unlawful possession of high powered firearm.

According to Section 1 of RA 8294, A low powered firearm is defined as a rimfire handgun, a .380, .32 or other firearm of similar firepower. A high powered firearm includes those with bores bigger in diameter than .38 caliber and 9 millimeter, such as caliber .40, .41, .44, .45 and lesser calibered firearms but considered powerful such as caliber .357 and .22 center-fire magnum, as well as firearms with firing capability of full automatic and by a burst of two or three.

Commission of Illegal Possession of Firearms with Other Crimes

In *Peope v. Ladjaalam*, G.R. Nos. 136149-51 (September 19, 2000), interpreting Section 1 of RA 8294, the Supreme Court ruled that a person in possession of an unlicensed firearm who committed another crime cannot be prosecuted for simple illegal possession of firearms. If the other crime committed is murder or homicide, the use of unlicensed firearm will merely serve as an aggravating circumstance for the crime (the penalty will be increased); if the unlicensed firearm is used in connection with rebellion, sedition, insurrection or attempted *coup de'etat* , the same will be absorbed or become an element of these crimes; and for any other crime, the accused will be prosecuted only for the committed crime without any effect for the unlicensed firearm. In other words, in all of the foregoing cases, the accused person cannot be separately charged with illegal possession of firearms.

References:

Presidential Decree 1866

Republic Act 8294

Revised Penal Code

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