

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fourteenth Congress
Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand seven.

Republic Act No. 9516 **December 22**
Amending Section 3 and 4 of PD 1866

AN ACT FURTHER AMENDING THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1866, AS AMENDED, ENTITLED CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AND FOR OTHER RELEVANT PURPOSES"

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

Section 1. Section 3 of Presidential Decree No. 1866, as amended, is hereby further amended to read as follows:

"Section 3. *Unlawful Manufacture, Sales, Acquisition, Disposition, Importation or Possession of an Explosive or Incendiary Device.* - The penalty of *reclusion perpetua* shall be imposed upon any person who shall willfully and unlawfully manufacture, assemble, deal in, acquire, dispose, import or possess any explosive or incendiary device, with knowledge of its existence and its explosive or incendiary character, where the explosive or incendiary device is capable of producing destructive effect on contiguous objects or causing injury or death to any person, including but not limited to, hand grenade(s), rifle grenade(s), 'pillbox bomb', 'molotov cocktail bomb', 'fire bomb', and other similar explosive and incendiary devices.

"*Provided*, That mere possession of any explosive or incendiary device shall be *prima facie* evidence that the person had knowledge of the existence and the explosive or incendiary character of the device.

"*Provided, however*, That a temporary, incidental, casual, harmless, or transient possession or control of any explosive or incendiary device, without the knowledge of its existence or its explosive or incendiary character, shall not be a violation of this Section.

"*Provided, Further*, That the temporary, incidental, casual, harmless, or transient possession or control of any explosive or incendiary device for the sole purpose of surrendering it to the proper authorities shall not be a violation of this Section.

"*Provided, finally*, That in addition to the instances provided in the two (2) immediately preceding paragraphs, the court may determine the absence of the intent to possess, otherwise referred to as '*animus possidendi*', in accordance with

the facts and circumstances of each case and the application of other pertinent laws, among other things, Articles 11 and 12 of the Revised Penal Code, as amended."

Section 2. Section 4 of Presidential Decree No. 1866, as amended, is hereby further amended to read as follows:

"SEC 3-A. *Unlawful Manufacture, Sales, Acquisition, Disposition, Importation or Possession of a Part, Ingredient, Machinery, Tool or Instrument Used or Intended to be Used for the Manufacture, Construction, Assembly, Delivery or Detonation.* - The penalty of *reclusion perpetua* shall be imposed upon any person who shall willfully and unlawfully manufacture, assemble, deal in, acquire, dispose, import or possess any part, ingredient, machinery, tool or instrument of any explosive or incendiary device, whether chemical, mechanical, electronic, electrical or otherwise, used or intended to be used by that person for its manufacture, construction, assembly, delivery or detonation, where the explosive or incendiary device is capable or is intended to be made capable of producing destructive effect on contiguous objects or causing injury or death to any person.

"*Provided*, That the mere possession of any part, ingredient, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation of any explosive or incendiary device, by any person whose business activity, or employment does not lawfully deal with the possession of such article shall be *prima facie* evidence that such article is intended to be used by that person in the unlawful/illegal manufacture, construction, assembly, delivery or detonation of an explosive or incendiary device.

"*Provided, however*, That a temporary incidental, casual, harmless or transient possession or control of any part, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation of any explosive or incendiary device, without the knowledge of its existence or character as part, ingredient, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation of any explosive or incendiary device, shall not be a violation of this Section.

"*Provided, Further*, That the temporary, incidental, casual, harmless, or transient possession or control of any part, ingredient, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation of any explosive or incendiary device for the sole purpose of surrendering it to the proper authorities shall not be a violation of this Section.

"*Provided, finally*, That in addition to the instances provided in the two (2) immediately preceding paragraphs, the court may determine the absence of the intent to possess, otherwise referred to as '*animus possidendi*', in accordance with the facts and circumstances of each case and the application of other pertinent laws, among other things, Articles 11 and 12 of the Revised Penal Code, as amended."

Section 3. Insert a new Section 3-B, 3-C, 3-D, 4, 4-A, 4-B, 4-C, 4-D, 4-E, 4-E and 4-F in Presidential Decree No. 1866 to read as follows:

"SEC. 3-B. *Penalty for the Owner, President, Manager, Director or Other Responsible Officer of Any Public or Private Firm, Company, Corporation or Entity.* - The penalty of *reclusion perpetua* shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any explosive or incendiary device or parts thereof owned or controlled by such firm, company,

corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs.

"SEC. 3-C. *Relationship of Other Crimes with a Violation of this Decree and the Penalty Therefor.* - When a violation of Section 3, 3-A or 3-B of this Decree is a necessary means for committing any of the crimes defined in the Revised Penal Code or special laws, or is in furtherance of, incident to, in connection with, by reason of, or on occasion of any of the crimes defined in the Revised Penal Code or special laws, the penalty of *reclusion perpetua* and a fine ranging from One hundred Thousand pesos (P100,000.00) to One million pesos (P1,000,000.00) shall be imposed.

"SEC. 3-D. *Former Conviction or Acquittal; Double Jeopardy.* - Subject to the provisions of the Rules of Court on double jeopardy, if the application thereof is more favorable to the accused, the conviction or acquittal of the accused or the dismissal of the case for violation of this Decree shall be a bar to another prosecution of the same accused for any offense where the violation of this Decree was a necessary means for committing the offense or in furtherance of which, incident to which, in connection with which, by reason of which, or on occasion of which, the violation of this Decree was committed, and vice versa.

"SEC. 4. *Responsibility and liability of Law Enforcement Agencies and Other Government Officials and Employees in Testifying as Prosecution Witnesses.* - Any member of law enforcement agencies or any other government official and employee who, after due notice, fails or refuses, intentionally or negligently, to appear as a witness for the prosecution of the defense in any proceeding, involving violations of this Decree, without any valid reason, shall be punished with *reclusion temporal* and a fine of Five hundred Thousand pesos (P500,000.00) in addition to the administrative liability he/she may be meted out by his/her immediate superior and/or appropriate body.

"The immediate superior of the member of the law enforcement agency or any other government employee mentioned in the preceding paragraph shall be penalized with *prision correccional* and a fine of not less than Ten Thousand pesos (P10,000.00) but not more than Fifty thousand pesos (P50,000.00) and in addition, perpetual absolute disqualification from public office if despite due notice to them and to the witness concerned, the former does not exert reasonable effort to present the latter to the court.

"The member of the law enforcement agency or any other government employee mentioned in the preceding paragraphs shall not be transferred or reassigned to any other government office located in another territorial jurisdiction during the pendency of the case in court. However, the concerned member of the law enforcement agency or government employee may be transferred or reassigned for compelling reasons: *Provided*, That his/her immediate superior shall notify the court where the case is pending of the order to transfer or reassign, within twenty-four (24) hours from its approval: *Provided, further*, That his/her immediate superior shall be penalized with *prision correccional* and a fine of not less than Ten thousand pesos (P10,000.00) but not more than Fifty thousand pesos (P50,000.00) and in addition, perpetual absolute disqualification from public office, should he/she fail to notify the court of such order to transfer or reassign.

"Prosecution and punishment under this Section shall be without prejudice to any liability for violation of any existing law.

"SEC 4-A. *Criminal Liability for Planting of Evidence.* - Any person who is found guilty of 'planting' any explosive or incendiary device or any part, ingredient, machinery, tool or instrument of any explosive or incendiary device, whether chemical, mechanical, electronic, electrical or otherwise, shall suffer the penalty of *reclusion perpetua*.

"Planting of evidence shall mean the willful act by any person of maliciously and surreptitiously inserting, placing, adding or attaching, directly or indirectly, through any overt or covert act, whatever quantity of any explosive or incendiary device or any part, ingredient, machinery, tool or instrument of any explosive or incendiary device, whether chemical, mechanical, electronic, electrical or otherwise in the person, house, effects or in the immediate vicinity of an innocent individual for the purpose of implicating incriminating or imputing the commission of any violation of this Decree.

"SEC. 4-B. *Continuous Trial.* - In cases involving violations of this Decree, the judge shall set the case for continuous trial on a daily basis from Monday to Friday or other short-term trial calendar so as to ensure speedy trial. Such case shall be terminated within ninety (90) days from arraignment of the accused.

"SEC. 4-C. *Authority to Import, Sell or Possess Chemicals or Accessories for Explosives.* - Only persons or entities issued a manufacturer's license, dealer's license or purchaser's license by the Philippine National Police (PNP)-Firearms and Explosives Division may import any of the chemical or accessories that can be used in the manufacture of explosives or explosive ingredients from foreign suppliers, or possess or sell them to licensed dealers or end users, as the case may be.

"SEC. 4-D. *Types of Chemicals/Accessories Covered.* - The chemicals and accessories mentioned in the preceding Section shall exclusively refer to chlorates, nitrates, nitric acid and such other chemicals and accessories that can be used for the manufacture of explosives and explosive ingredients.

"SEC. 4-E. *Record of Transactions.* - Any person or entity who intends to import, sell or possess the aforecited chemicals or accessories shall file an application with the chief of the PNP, stating therein the purpose for which the license and/or permit is sought and such other information as may be required by the said official. The concerned person or entity shall maintain a permanent record of all transactions entered into in relation with the aforecited chemicals or accessories, which documents shall be open to inspection by the appropriate authorities.

"SEC. 4-F. *Cancellation of License.* - Failure to comply with the provision of Section 4-C, 4-D and 4-E shall be sufficient cause for the cancellation of the license and the confiscation of all such chemicals or accessories, whether or not lawfully imported, purchased or possessed by the subject person or entity."

Sec. 4. Separability Clause. - If, for any reason, any provision of this Act is declared to be unconstitutional or invalid, the other Sections or provisions thereof which are not affected thereby shall continue to be in full force and effect.

Sec. 5. Repealing Clause. - All laws, decrees, orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

Sec. 6. Effectivity. - This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved

(Sgd.) **PROSPERO C.
NOGRALES**
Speaker of the House of
Representatives

(Sgd.) **MANNY VILLAR**
President of the Senate

This Act which is a consolidation of Senate Bill No. 2230 and House Bill No. 3242 was finally passed by the Senate and the House of Representative on October 8, 2008 and November 24, 2008, respectively.

(Sgd.) **MARILYN B.
BARUA-YAP**
Secretary General
House of Representatives

(Sgd.) **EMMA LIRIO-
REYES**
Secretary of Senate

Approved: **DEC 22, 2008**

(Sgd.) **GLORIA MACAPAGAL-ARROYO**
President of the Philippines

Ref.: http://www.lawphil.net/statutes/repacts/ra2008/ra_9516_2008.html

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