

HOUSE OF REPRESENTATIVES )  
 REPUBLIC OF THE PHILIPPINES )  
 First Regular Session )



HOUSE OF REPRESENTATIVES  
 House Bill No. 1278

Introduced by Hon. Emmanuel Joel J. Villanueva

### EXPLANATORY NOTE

Thousands of years ago, the Romans celebrated an annual holiday called "Lupercal/". On that day, everyone, including the most respected leaders of the land, indulged themselves in activities that were forbidden the rest of the year – rape, adultery, homosexuality, bestiality, child molestation and literally – any other sexual perversion that crossed their minds. No matter how violent or bizarre these acts were, they imposed no legal sanction.

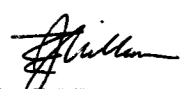
Today, there is no need for such a holiday. We seemingly celebrate "lupercal" everyday. No other age can boast of many serial sex murders, rapes, divorces, prostitution and child molestation. We are today – in most, if not all part the world, saturated with the filth of overindulgence and part – a big part of this filth, is pornography and its twin sister – violence.

Research shows that there is a statistical correlation between the availability of pornography and the rise of sex crimes in a country. Sexual offenders blame the addiction to pornography as the catalyst of their committing the crime. It is alarming that the accessibility of pornographic materials grows at an unprecedented rate. The streets peddle tabloids, which contain sexually offensive pictures and articles. Even magazine stands and billboards are not exempt from this culture of overindulgence and prurient desires. The direct victims of which, are children who are unwitting recipients of whatever they are exposed to.

There is an urgent need to strengthen the campaign against pornography. We no longer can regulate on the basis of fairly loose guidelines. Proliferation of obscene and pornographic materials and rampant exhibition of lewd shows in our midst have threatened the moral fibers of our society. In the middle of all these are the youth who are the heaviest users and primary audience of mass media. If left unrestrained, these corrupt practices will pervade, permanently imposing their detrimental effects psychologically, morally, and physically.

This proposed measure seeks to prohibit the public demonstration of sexual acts, the distribution, sale and production of pornographic materials and provides penalties for violations.

In view of the foregoing, the approval of this bill is earnestly sought.

  
**EMMANUEL JOEL J. VILLANUEVA**

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**THIRTEENTH CONGRESS**

House Bill No. 1278

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**INTRODUCED BY HON. EMMANUEL JOEL J. VILLANUEVA**

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**AN ACT PROHIBITING THE PUBLICATION,  
SALE OR DISTRIBUTION, PRODUCTION, IMPORTATION AND  
EXHIBITION OF OBSCENE AND PORNOGRAPHIC MATERIALS AND THE  
DEMONSTRATION, PERFORMANCE OR EXHIBITION IN PUBLIC  
INDESCENT AND SEXUAL ACTS AND PROVIDING  
PENALTIES FOR VIOLATION THEREOF**

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

**SECTION 1. Title** – This act shall be known as the “**Anti-Obscenity and Pornography Act of 2002**”.

**SECTION 2. Declaration of Policy** – It is hereby a declared policy of the State to safeguard the morality of society, particularly the youth and women, against the eroding influence of immoral doctrines, obscene and pornographic publications and indecent shows.

**SECTION 3. Definition of Terms** – As used in this Act the following shall mean:

- a. “**Indecent**” shall mean any acts or scenes which are contrary to law or which are objectionable on either legal and/or moral grounds.
- b. “**Obscene**” shall mean any material or act or matter which is (1) offensive to morality and decency or visually erotic, indecent and lewd; (2) likely to corrupt and deprave by regarding or describing sex indecently; (3) if considered as a whole, its predominant appeal is to prurient, shameful or morbid interest in nudity, sex, excretion, sadism or masochism; (4) it goes substantially beyond customary limits of candor in describing or representing such matters; and (5) it is utterly without redeeming social importance and constitute a public nuisance.
- c. “**Pornography**” any obscene object in pornography, movies, videos, television, magazines, printed materials and live shows designed to stimulate sexual desire such as, but not limited to:
  1. Live sex shows whose participant (either heterosexual or homosexual) copulate or perform sexual acts normal, oral, and anal on stage;

2. Explicit picture or scenes depicting or describing homosexual and lesbian acts; heterosexual acts (in couplings, ménage a trios, orgies) normal, oral or anal; masturbation of male or female, including the practice of autoerotism; excretion such as urination and edema materials; sadomasochistic sex such as whippings, beatings, chainings, slashing and the like; bestiality (sex between humans and animals) and necrophilia (sex with the dead); bondage and sex;
  3. Depiction or description of sex mixed with sacrileges;
  4. Explicit pictures or scenes depicting or describing in sex acts with other children or with adults;
  5. Lewd, licentious, libidinous, lustful depiction or description of the body, of human male or female genitals, pubic region, buttocks, female breast below a point immediately above the top of the areola, human male genitals in a discernibly turgid state, human genitals in a state of sexual stimulation and fondling of erotic touching of human genitals, pubic region, buttock or female breast;
  6. Lewd depiction and description of sexual paraphernalia such as life-sized rubber dolls, dildos, artificial vagina, vibrators or sexual gadgets of any kind.
- d. **“Material”** shall mean any book, magazine, newspaper or other printed or written materials or any statue or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction of any article, equipment or machine.
  - e. **“Person”** shall mean any natural person or juridical entities like partnerships, firms, associations, corporations or other similar entities.
  - f. **“Knowingly”** shall mean having actual or constructive knowledge of the obscene and/or pornographic contents of the subject matter; failure to inspect the contents of such subject matter shall not be accepted as an excuse and will not exempt any person from criminal liability under this Act.
  - g. **“Distribution”** shall mean to transfer possession with or without consideration of any kind.

#### **SECTION 4. *Unlawful Acts***

- a. It shall be unlawful for any person to portray, depict, or present any of the indecent and obscene acts defined in section 3 of this Act, in writings or in pictures, books, magazines, tabloids, comics, newspapers, posters, cards, calendars, decals, stickers, painting, photographs, motion pictures, or video tape shows, displayed, sold or distributed in public, or in place of public accommodation.
- b. It shall be unlawful for any person to coerce, intimidate or fraudulently induce another into performing indecent acts for the purpose of pornography.
- c. It shall be unlawful for any person to force another to listen, read or view pornographic material in any place of employment, education, home or public place.

**SECTION 5. *Penalties.*** – The following penalties shall be imposed upon any person who shall commit any of the acts enumerated in section 3 and 4 hereof:

1. If the offender is the producer, financier, promoter, importer, writer, publisher, editor or printer of any of the materials hereinabove described, he shall be punished by a fine of not less than Five Hundred Thousand Pesos (P500,000) not more than One Million Pesos (P1,000,000) or by imprisonment of not less than 20 years but not more than 30 years or both such fine and imprisonment at the discretion of the court.

If such producer, financier, promoter, importer or printer is a judicial person, its president, manager, director or head shall be made liable thereby.

If such producer, financier, promoter, importer or printer is an alien, he shall be deported immediately after service of sentence and power barred from entry in the country.

2. If the offender is the demonstrator, performer, actor or exhibitor in any demonstration, performance, or exhibition involving any one of the indecent and sexual acts defined in section 3 and 4 of this Act, he shall be punished by a fine of not less than Two hundred Fifty thousand Pesos (P250,000) or imprisonment of not less than 2 years but not more than 6 years imprisonment or both at the discretion of the court: Provided, however, that in the case of the demonstrator, performer, actor, or exhibitor is below eighteen (18) year of age, he or she shall be considered on offended party pursuant to the provisions of Republic Act No.7610 or the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act," and shall be placed immediately under the protective custody of the Department of Social Welfare and Development.

If such demonstrator, performer, actor or exhibitor is an alien, he shall be deported immediately after service of sentence and forever barred from entry in the country.

This section shall not apply if the portrayal, depiction, representation or description has legitimate judicial, educational, scientific, cultural or medical or otherwise official purpose.

**SECTION 6. *Disposition of Materials.*** – Any prohibited materials including tools, instruments, facilities and equipment used in the production thereof, shall, after lawful seizure and final conviction of the offender, be forfeited in favor of the government and destroyed in the presence of the representatives of the Department of Social Welfare and Development, Department of Justice, Philippine National police and of religious, civic and youth organizations of such place in a manner as the court may prescribe: Provided, however, that when the accused is acquitted, the materials seized shall nevertheless be forfeited in favor of the Government and destroyed: Provided, further, That if the acquittal results from a finding that the materials seized are not obscene under this Act, the materials shall be returned to the accused.

**SECTION 7. *Separability Clause.*** – If any provision of this Act is declared unconstitutional, the other provisions not affected thereby shall continue to be in full force and effect.

**SECTION 8. *Repealing Clause.*** – Article 201 of the Revised Penal Code, as amended, is hereby further amended and all laws, decrees, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

**SECTION 9. *Implementing Rules and Regulations.*** – The concerned agency shall promulgate the necessary rules and regulations for the implementation of this Act.

**SECTION 10. *Effectivity.*** – This Act shall take effect fifteen (15) days following its complete publication in Official Gazette or in at least two (2) new national newspapers of general circulation in the Philippines.