CONGRESS OF THE PHILIPPINES
THIRTEENTH CONGRESS
First Regular Session



HOUSE OF REPRESENTATIVES

House Bill No. 1454

INTRODUCED BY **HON. CYNTHIA A. VILLAR**

EXPLANATORY NOTE

This bill aims to address four different but related areas of public concern: 1) the worsening traffic conditions in our cities; 2) the corresponding congestion along our sidewalks; 3) the guarantee of safe and convenient public access for all pedestrians, especially the disabled; and 4) the absence of adequate relief for pedestrians who suffer damage as a result of hazards to passage along our roads and sidewalks.

Thus, this bill proposes that all obstructions found along sidewalks and public roads be declared by Congress as nuisance *per se*. This would make them subject to summary abatement by our local governments. In this manner, local governments will not be tied down by the need to go through protracted court proceedings in order to guarantee safe and convenient pedestrian passage. At the same time, local governments will no longer have an excuse in delaying the removal of such obstructions. Public utilities and contractors who conduct construction and repair work along our roads and in the process endanger pedestrian safety are also subject to civil liabilities under this proposed law.

In order to protect against the undue deprivation of private property, the bill provides for a period within which the owner could go to court to prevent summary abatement. However, in order to guarantee against dilatory court actions, the property owner in such cases is required to post a bond.

With this bill, our roads will allow the free flow of vehicles as they were intended, pedestrians will be able to use the sidewalks without fear of falling into uncovered holes or being sideswiped as they try to avoid obstructions along the sidewalk and the persons with disabilities can now go out on the streets more safely.

Hence, approval of this bill is earnestly requested.

CYNTHIA A. VILLAR

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AN ACT PROVIDING MEASURES TO ENSURE PEDESTRIAN SAFETY AND CONVENIENCE

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

SECTION 1. *Short Title.* – This law shall be known as the "Pedestrian Safety Act of 2004".

SEC. 2. *Purposes.* – This Act has the following purposes:

a) To make all public roads and sidewalks safe and convenient for the use of pedestrians;

b) To improve the flow of traffic;

c) To promote the right of the disabled to safe and convenient access;

d) To authorize the appropriate local government units to institute the summary abatement of obstructions along public roads and sidewalks; and

e) To provide for civil liabilities against those who endanger pedestrian safety or convenience by their acts or omissions.

SEC. 3. *Definition of Terms.* – Unless the context clearly indicates another meaning, the following terms shall be construed as indicated below:

a) "Public Roads" – all streets, roads, bridges, highways and other thoroughfares constructed and maintained by the national government or by any local government unit: *Provided,* That any road or sidewalk not falling under this definition but which, upon determination by the appropriate local government unit, is deemed vital to pedestrian access or safety, shall be deemed a public road or sidewalk for the purposes of this Act;

b) "Sidewalk" – all specific areas running parallel to both sides of a public road, with a width and elevation as may be deemed appropriate for safe and convenient pedestrian passage by the appropriate local government unit in consultation with the Department of Public Works and highways (DPWH): *Provided,* That for public roads which, for reasons of lack of land area, easement or legal right protected by law, may not be provided with sidewalks, the appropriate local government unit shall designate passing lanes which may be lesser in dimension than regular sidewalks but which shall, in every case, be adequate for safe and convenient pedestrian passage;.

c) "Obstruction" – any structure, permanent or otherwise, movable or immovable, erected along, standing on, abutting or in any manner impeding safe and convenient passage through any public road or sidewalk shall be deemed an obstruction subject to summary abatement under this Act: *Provided,* That property of the government including structures erected or installed for the purpose of regulating the flow of traffic shall not be deemed obstructions.

SEC. 4. *Obstructions as nuisance per se.* – All obstructions along public roads and sidewalks are hereby presumed or declared nuisances *per se,* and thus, are subject to summary abatement without need of judicial proceedings.

SEC. 5. *Summary Abatement.* – All local government units, other than barangays, are hereby authorized to summarily abate any obstruction found within their respective territorial jurisdictions: *Provided,* that where the obstruction is immovable, permanent and claimed by any person to be his private property, its abatement shall be done only after a non-extendible five-day period from notice to such person of the intended abatement within which such person may show cause why the abatement should not be ensue: *Provided,* further, that where such person files an action in any court against the intended abatement, he shall furnish a bond to the local government unit concerned, in an amount equivalent to thrice the estimated value of the structure, if any, but in no case less than Five Thousand Pesos (P5,000.00), which bond shall be forfeited in the event the suit is found to be groundless.

SEC. 6. *Remedies to Compel Compliance.* – Any person may file, without need to pay any bond or filing fee, a petition for mandamus directed against the appropriate local government unit to compel such unit to summarily abate any specified obstruction within its territorial jurisdiction: *Provided,* That such person has previously asked, in writing, the chief executive of the local government unit concerned, for such summary abatement and that said chief executive has not acted on the matter within fifteen (15) days from receipt thereof or has determined that summary abatement is not proper.

In the event that the local government unit has determined that summary abatement is not proper, any person may file the proper action in court concerning the abatement of the nuisance unless the petition for mandamus in the preceding paragraph has been filed, in which case, said petition shall proceed as an ordinary action for abatement of nuisance. Said

petition shall be without prejudice to and shall not affect any claim for damages as provided in the following Section.

SEC. 7. *Damages for Acts or omissions Endangering Pedestrian Safety.* – Any person who suffers damage to his person or property as a result of an act or omission by another which endangers pedestrian safety may file an action for damages against any juridical or natural person or local government unit responsible for such act or omission, including but not limited to the following acts or omissions resulting in damage:

a) Failure to post a clearly marked and visible sign indicating on-going construction or repair work along a public or sidewalk;

b) Failure to obtain the permits from the appropriate local government agencies required in undertaking repair or construction work or in conducting any other activity requiring the use of a public road or sidewalk;

c) Failure to cover or provide adequate cover of any hole, ditch or digging along a public road or sidewalk;

d) Failure to put up or use adequate protective roofing above sidewalks or public roads adjacent to any construction or repair site;

e) Illegal parking of any vehicle along a public road or parking on a sidewalk;

f) Destroying, removing or in any manner tampering with any sign or notice indicating an existing hazard to pedestrian safety or any lamp or lamppost illuminating a public road or sidewalk;

g) Building or in any manner placing a connecting pipe or portion thereof on an elevated concrete or other connecting material across or along a sidewalk; and

h) Failure to act or perform adequate action by the local government unit concerned respecting the abatement of any obstruction within its territorial jurisdiction: *Provided,* that any person responsible for the construction or presence of any obstruction as defined in this Act shall, in addition to having such obstruction abated summarily, be liable for damages as provided in this Section; *Provided, further,* That where the person suffering damages is a person with disabilites, the award of exemplary or moral damages combined shall not be lower than Twenty Thousand Pesos (P20,000.00): *Provided, finally,* That should death result from such act or omission, the liability shall not be lower than One Hundred Thousand Pesos (P100,000.00).

SEC. 8. *Dissemination of Information to Public.* – The provisions of this Act shall be disseminated widely to the public by all local government units.

SEC. 9. *Amendment of Existing Laws.* – The existing provisions of the Civil Code (R.A.No. 3596) on nuisance as well as the Local Government Code (R.A. 7160) on the powers of the local government units as well as any other laws are hereby deemed amended to the extent provided for by this Act.

SEC. 10. *Separability Clause.* - Any portion or provision of this Act that may be declared unconstitutional shall not have the effect of nullifying other portions or provisions hereof as long as such remaining provisions can still subsist and be given effect.

SEC. 11. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,