

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Thirteenth Congress
First Regular Session

House Bill No. 2929



Introduced by Representative **Imee R. Marcos**

EXPLANATORY NOTE

One of the circumstances to either mitigate or aggravate the commission of a felony under the Revised Penal Code is intoxication. Under Article 15 of the Code, intoxication, if not habitual and not done subsequent to a plan to commit a felony is mitigating, while intoxication which is habitual and intentional is aggravating.

The Revised Penal Code, however, failed to define intoxication. It leaves to the discretion of the court to determine when a person is intoxicated, among other things. The Supreme Court, in the case of *People vs. Boduso*, 60 SCRA 60 (1974), held that "for the accused to be entitled to the mitigating circumstance of intoxication, it must be shown that xxx at the time of the commission of the criminal act, he has taken such quantity of alcoholic drinks as to blur his reason and deprive him of a certain degree of control, xxx." In the case of *People vs. Camano*, 115 SCRA 688 (1982), the Supreme Court ruled that intoxication will be considered as an aggravating circumstance if such is habitual that "it lessens individual resistance to evil thought and undermines will-power making its victim a potential evildoer."

From the above decisions of the Supreme Court, it may be drawn therefore that a person's degree of intoxication must be such that his reason is blurred and he has lost a certain degree of control. The undersigned concurs in this interpretation of the esteemed Supreme Court. However, this representation wonders how the lost of control and reason under the circumstance of "intoxication" now is different from the lost of control and reason under "imbecility or insanity" in Article 12 par. 1 of the Revised Penal Code, which is an exempting circumstance.

This author attempts to settle this uncertainty, by once and for all, setting a rebuttable presumption of intoxication, in addition to the Supreme Court's sound description of the same.

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

Imee R. Marcos
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Representative
2nd District, Ilocos Norte

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AN ACT
AMENDING ARTICLE 15 OF ACT NUMBERED THIRTY EIGHT HUNDRED AND FIFTEEN
(ACT NO. 3815) OTHERWISE KNOWN AS THE REVISED PENAL CODE, AS AMENDED

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

SECTION 1. Article 15 of the Revised Penal Code is hereby amended to read as follows:

Article 15. Their Concept. - xxx

xxx

The intoxication of the offender shall be taken into consideration as a mitigating circumstances when the offender has committed a felony in a state of intoxication, if the same is not habitual or subsequent to the plan to commit said felony but when the intoxication is habitual or intentional, it shall be considered as an aggravating circumstance.

A PERSON SUFFERS FROM ALCOHOL INTOXICATION WHEN THE QUANTITY OF ALCOHOL THE PERSON CONSUMES EXCEEDS THE INDIVIDUAL'S TOLERANCE FOR ALCOHOL AND PRODUCES AN IMPAIRMENT OF MENTAL AND PHYSICAL ABILITIES, AS TO BLUR HIS REASON AND DEPRIVE HIM OF A CERTAIN DEGREE OF CONTROL. PROVIDED: THAT, A PERSON WITH A BLOOD ALCOHOL LEVEL OF 0.9 % IS PRESUMED INTOXICATED.

SECTION 2. Separability Clause. - If any provision or section of this Act or the application thereof to any person or circumstance is held to be invalid, the other provisions or sections of this Act, and the application of such provision or section to other persons or circumstances, shall not be affected thereby.

SECTION 3. Repealing Clause. - Any law, presidential decree or issuance, executive order, rule or regulation contrary to, or inconsistent with the provisions of this Act is hereby repealed, modified, or amended accordingly.

SECTION 4. Effectivity. - This Act shall take effect fifteen (15) days following its complete publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,