

REPUBLIC OF THE PHILIPPINES
House of Representatives
Quezon City



THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3651

INTRODUCED BY HONORABLE ROQUE R. ABLAN, JR. and
HONORABLE ANTONIO V. CUENCO, *Bersamin*
Spino, Zubiri

EXPLANATORY NOTE

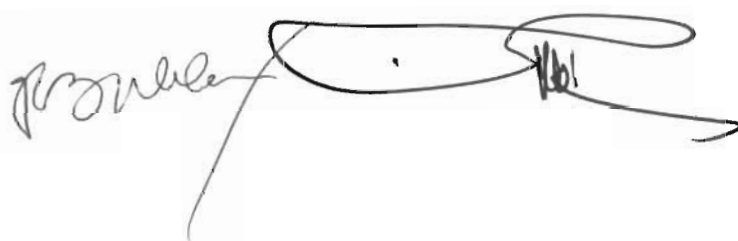
A most vexatious problem in the fight against dangerous drugs and which renders ineffectual the all-out-war stance of the government is the statute prohibiting and penalizing any intrusion into the privacy of communication through the methods specifically referred to as "wire-tapping" or "electronic eavesdropping" which may not be used by law enforcement agencies in the pursuit of suspected violators of R. A. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. Thus, any evidence that may be acquired by or come into possession of law enforcers through such methods is rendered inadmissible in court.

Technological advances in the field of communications have attained such a high degree of sophistication since then, but which were not yet foreseen nor contemplated at the time when protection of the privacy of communication as guaranteed by the Constitution was entered into the statute books as Republic Act No. 4200, otherwise known as "An Act to Prohibit and Penalize Wire Tapping and Other Related Violations of the Privacy of Communication, and for Other Purposes," which came into force and effect on June 19, 1965.

In the on-going war against the purveyors of dangerous drugs, whereas, the "enemy" has the advantage of sophisticated modern electronic equipment and paraphernalia enabling them to facilitate speedy and clandestine communication with each other as component units in the drug manufacturing and distribution network, our law enforcement is ham-strung by the statutory prohibition on the use of comparable and competitive equipment and/or methods that will give them a fighting chance against drug elements – at least if only to know what the "enemy" is planning to do.

This measure is not meant nor does it seek the repeal of the existing statute prohibiting wire-tapping; but rather, to introduce or insert new provision through amendment in R. A. 9165 that will allow the use of wire-tapping and other forms of electronic surveillance in the course of police action directed towards known and established drug purveyors for which any and all evidence gathered in connection therewith shall be admissible in court.

In light whereof, passage of this measure is hoped for in earnest.

A handwritten signature in dark ink, appearing to be "K. R. W.", with a long horizontal flourish extending to the right.A handwritten signature in dark ink, appearing to be "R. A. 9165", with a large, sweeping loop and a long horizontal flourish extending to the right.

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INTRODUCED BY HONORABLE ROQUE R. ABLAN, JR. and
HONORABLE ANTONIO V. CUENCO *Becerra, Zubiri*
Espino

AN ACT ALLOWING LAW ENFORCEMENT OFFICERS TO MONITOR AND RECORD COMMUNICATIONS AND CONVERSATIONS THROUGH WIRE-TAPPING, ELECTRONIC SURVEILLANCE AND OTHER MODERN COVERT INVESTIGATIVE TECHNIQUES UPON WRITTEN ORDER OF THE COURT IN CASE OF ANY ATTEMPT OR CONSPIRACY TO COMMIT ANY OF THE SPECIFIED UNLAWFUL ACTS PENALIZED UNDER ARTICLE II OF REPUBLIC ACT NO. 9165 OTHERWISE KNOWN AS THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002, AMENDING FOR THE PURPOSE SAID LAW.

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

SECTION 1. There shall be incorporated after Section 26 of Republic Act No. 9165 the following provisions:

“SECTION 26. Attempt or Conspiracy – Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

- a) Importation of any dangerous drug and/or controlled precursor and essential chemical
- b) Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical.
- c) Maintenance of a den, dive or resort where any dangerous drug is used in any form.
- d) Manufacture of any dangerous drug and/or controlled precursor and essential chemical: and
- e) Cultivation or culture of plants which are sources of dangerous drugs

Any law enforcement officer who is authorized by a written order of the Court may conduct wire-tapping activities electronic surveillance, consensual monitoring and other modern covert investigative techniques to obtain relevant information and record any communication or spoken word, in case of any attempt or conspiracy to commit any of the unlawful acts mentioned hereinabove. Provided, That such written order shall only be issued

or granted upon written application and the examination under oath or affirmation of the applicant and the witnesses he may produce and upon showing: (1) that there are reasonable grounds to believe that any of the unlawful acts enumerated hereinabove has been committed or is about to be committed; (2) that there are reasonable grounds to believe that evidence will be obtained essential to the conviction of any person for, or to the solution of, to the prevention of, any of such unlawful acts, and (3) that there are no other means readily available or obtaining such evidence.

The order granted or issued shall specify: (1) the identity of the person or persons whose communications, conversations, discussions, or spoken words are to be overheard, intercepted, or recorded and, in the case of telegraphic telephonic (land line or mobile) or electronic communications, the telegraph line telephone number, website or email address involved; (2) the identity of the drug enforcement officer authorized to overhear, intercept or record the communications, conversations, discussion, or spoken words; (3) the offense or offenses committed or sought to be prevented; and (4) the period of authorization. The authorization shall be effective for the period specified in the order which shall not exceed sixty (60) days from the issuance of the order, unless extended or renewed by the court upon being satisfied that such extension or renewal is in the public interest.

All recordings made under court authorization shall, within forty-eight (48) hours after the expiration of the period fixed in the order, be deposited with the court in a sealed envelope or sealed package, and shall be accompanied by an affidavit of the law enforcement officer who was granted such authority stating the number of recordings made, the dates and times covered by each recording, the number of tapes, discs, or records included in the deposit and certifying that no duplicates or copies of the whole or any part thereof have been made, or if made that all such duplicates or copies are included in the envelope or package deposited with the court. The envelope or package so deposited shall not be opened, or the recordings replayed, or used in evidence, or their contents revealed, except upon order of the court which shall not be granted except upon motion with due notice and opportunity to be heard by the person or persons whose conversation or communications have been recorded.

The court referred to in this section shall be understood to mean the Regional Trial Court within whose territorial jurisdiction the acts for which authority is applied for are to be executed."

SECTION 2. Any communication or spoken word, or the existence, contents, substance purport, effect, or meaning of the same or any part thereof, or any information therein contained, obtained or secured by any law enforcement officer in compliance with the preceding paragraphs and under the authority of the court shall be admissible in evidence in any judicial, quasi-judicial, legislative or administrative hearing or investigation.

SECTION 3. If for any reason any portion of this Act or the applications of such portion thereof to any person, group or circumstance is declared invalid or unconstitutional, the remainder of this Act shall not be affected by such declaration and shall remain in force and effect.

SECTION 4. Republic Act No. 9165 is hereby amended and all other laws, administrative orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act, are hereby amended or modified accordingly.