

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Philippines

FIFTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 116

INTRODUCED BY REPRESENTATIVE PEDRO P. ROMUALDO

EXPLANATORY NOTE

This proposed measure was certified as an urgent measure by the president last congress. It passed on third reading at the House of Representatives on October 15, 2009. The Senate approved this on second reading last March 2010 but due to lack of time, this bill did not reach third reading at the Senate.

As a background, Presidential Decree No. 1866 was signed by President Marcos in June 29, 1983 so police authorities can go after manufacturers of illegal firearms, curtail the proliferation and sale of illegal firearms or ammunitions in the market and address critical public safety concerns at that time.

Fourteen (14) years since the promulgation of P.D. 1866, the Tenth Congress passed in June 6, 1997, Republic Act No. 8294 entitled, "An Act 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 relevant purposes".

Congress responded to the clamor for a law that will rectify the injustice resulting from the disproportionate penalties imposed under P.D. No. 1866 for simple unlawful possession of firearms/explosives and other related offenses which are deemed contrary to the constitutional injunction against excessive penalties.

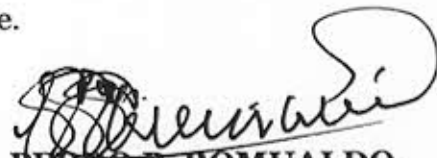
Twelve (12) years after we passed Republic Act no. 8294, Congress is again addressing critical situations in the entire country. The present law failed to deliver its deterrent effect and it somehow contributed to the proliferation of loose firearms. Violators continue to flaunt and disgrace the law with

impunity. The lowering of penalties has even ignited the passion of some offenders from transgressing the law and some quarters in our society believed that these offenders are in connivance with unscrupulous judges which can promulgate minimum period of sentences so they can easily get out from prison at the shortest time.

Today, Congress must respond to the call of the times to pass a law amending further P. D. 1866. Law enforcement agencies in the country have been calling for stiffer penalties to solve the proliferation of illegal firearms and explosives as well as illegal manufacture of firearms.

We must amend the existing law to address effectively the stringent policy requirements of our law enforcement agencies and ensure better protection of our communities and people. It is for the best interest of the Filipino people that we strengthen our public administration policies and enhance the capability of our judicial system as well as secure the safety and lives of our people through the effective maintenance of peace and order.

Let us support the early passage of this measure.



PEDRO P. ROMUALDO

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AN ACT

PROVIDING FOR STIFFER PENALTIES FOR CRIMES RELATING TO FIREARMS AND LIGHT WEAPONS, FURTHER AMENDING FOR THE PURPOSE 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 RELEVANT PURPOSES"

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

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

"SECTION 1. Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms, LIGHT WEAPONS or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearm, **LIGHT WEAPONS** or Ammunition. – The penalty of [prision correccional]**RECLUSION TEMPORAL** in its maximum period [and a fine of not less than Fifteen thousand pesos (P\ 15,000)] **TO RECLUSION PERPETUA** shall be imposed upon any person who shall unlawfully [manufacture, deal in,] acquire[, dispose] or possess any [low powered] firearm[,], [such as rimfire handgun, 380 or .32 and other firearm of similar firepower, part of firearm, ammunition, or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition: Provided, That no other crime was committed.] **THE TERM "FIREARM" REFERS TO ANY HANDHELD OR PORTABLE WEAPON FROM WHICH ANY BULLET, BALL SHOT OR MISSILE OR OTHER DEADLY PROJECTABLE MAY BE DISCHARGED BY MEANS OF EXPLOSION OR PERCUSSION OR ANY INSTRUMENT OR IMPLEMENT WHICH CAN BE READILY CONVERTED OR HAS BEEN CONVERTED TO BE CAPABLE OF DOING THE SAME. THE TERM ALSO INCLUDES AUTOMATIC RIFLES NOT EXCEEDING CALIBER 7.62 MM AND AIR, GAS OR SPRING OPERATED PISTOLS OR RIFLES NOT CLASSIFIED AS TOYS BY THE PHILIPPINE NATIONAL POLICE (PNP) IN**

COORDINATION WITH THE DEPARTMENT OF TRADE AND INDUSTRY. THE BARREL OF ANY FIREARM SHALL BE CONSIDERED AS A COMPLETE FIREARM.

"THE PENALTY OF RECLUSION PERPETUAL SHALL BE IMPOSED OF THEREE (3) OR MORE FIREARMS ARE UNLAWFULLY ACQUIRED OR POSSESSED.

"THE PENALTY OF RECLUSION PERPETUA SHALL BE IMPOSED UPON ANY PERSON WHO SHALL UNLAWFULLY ACQUIRE OR POSSESS A LIGHT WEAPON. THE TERM "LIGHT WEAPON" REFERS TO A WEAPON DESIGNED FOR USE BY TWO (2) OR MORE PERSONS SERVING AS A CREW OR MAY BE CARRIED AND USED BY A SINGLE PERSON WHICH SHALL INCLUDE DRUM-FED AND BELT-FED SUBMACHINE, LIGHT AND HEAVY MACHINE GUNS, HAND-HELD UNDER-BARREL AND MOUNTED GRENADE LAUNCHERS, PORTABLE ANTI-AIRCRAFT GUNS, PORTABLE LAUNCHERS OF ANIT-AIRCRAFT MISSILE SYSTEMS, AND MORTARS OF A CALIBER OF LESS THAN ONE HUNDRED (100) MILLIMETERS. A LIGHT WEAPON SHALL BE LAWFULLY ACQUIRED OR POSSESSED EXCLUSIVELY BY THE ARMED FORCES OF THE PHILIPINES (AFP) OR THE PHILIPPINE NATIONAL POLICE (PNP).

"IN ANY CASE, WHERE AN UNLICENSED FIREARM OR LIGHT WEAPON IS CARRIED IN PARTS BY, OR IS OTHERWISE IN THE POSSESSION OF TWO (2) OR MORE PERSONS, EACH AND EVERY ONE OF THOSE PERSONS SHALL BE DEEMED IN POSSESSION OF THE FIREARM OR LIGHT WEAPON.

"WHEN ANY OF THE ARMS CARRIED BY A GROUPED OF THREE (3) OR MORE PERSONS IS AN UNLICENSED FIREARM OR LIGHT WEAPON, IT SHALL BE PRESUMED THAT THE SAID GROUP IS A CRIMINAL SYNDICATE, AND IN CASE THE GROUP SHALL BE CONVICTED FOR VIOLATION OF ANY OF THE PROVISIONS OF THIS ACT AND OTHER EXISTING LAWS, THE PENALTY TO BE IMPOSED SHALL BE IN THE MAXIMUM PERIOD.

"The penalty of prision mayor in its minimum period [and a fine of Thirty thousand pesos (P\ 30,000)] **TO RECLUSION TEMPORAL IN ITS MAXIMUM PERIOD** shall be imposed [if the firearm is classified as high powered firearm which includes those with bores bigger in diameter than .38 caliber and .9 millimeter such as calibre .40, .41, .44, .45 and also lesser calibered firearms but considered powerful such as calibre .367 and calibre .22 center-fire magnum and other firearms with firing capability of full automatic and by burst of two or three: Provided, however, That no other crime was committed by the person arrested.] **UPON ANY PERSON WHO SHALL UNLAWFULLY POSSESS OR ACQUIRE AMMUNITION FOR FIREARMS. THE TERM "AMMUNITION" REFERS TO LOADED SHELLS FOR RIFLES, MUSKETS, CARBINES, SHOTGUNS, REVOLVERS, PISTOLS AND OTHER FIREARMS AND LIGHT WEAPON FROM WHICH A BULLET, BALL, SHOT, SHELL OR OTHER MISSILE MAY BE FIRED BY**

MEANS OF GUNPOWDER OR EXPLOSIVES. IT ALSO INCLUDES BLANK AMMUNITION, FUSES, PRIMERS, GRENADES, BOMBS AND OTHERS LIKE MISSILES, WHETHER OR NOT IT CAN BE USED WITH ARMS, AND ANY AMMUNITION CONTAINING, OR DESIGNED OR ADAPTED TO CONTAIN ANY NUCLEAR, BIOLOGICAL, RADIOLOGICAL, CHEMICAL OR EXPLOSIVE MATERIALS, ANY NOXIOUS LIQUID AND GAS.

"THE PENALTY OF RECLUSION TEMPORAL IN ITS MINIMUM PERIOD TO RECLUSION PERPETUA SHALL BE IMPOSED UPON ANY PERSON WHO SHALL UNLAWFULLY POSSESS OR ACQUIRE AMMUNITION FOR LIGHT WEAPONS.

"THE PENALTY OF PRISION CORRECCIONAL IN ITS MAXIMUM PERIOD TO PRISION MAYOR IN ITS MINIMUM PERIOD SHALL BE IMPOSED UPON ANY PERSON WHO SHALL UNLAWFULLY ACQUIRE OR POSSESS MAJOR PARTS OR COMPONENTS OF A FIREARM, LIGHT WEAPON OR AMMUNITION.

"THE PENALTY OF RECLUSION PERPETUA SHALL BE IMPOSED UPON ANY PERSON WHO SHALL UNLAWFULLY ENGAGE IN THE MANUFACTURE, SALE OR DISPOSITION OF FIREARMS, LIGHT WEAPONS OR AMMUNITION, COMPONENTS OR PARTS OF FIREARMS AND LIGHT WEAPONS AND AMMUNITION.

"THE PENALTY OF PRISION CORRECCIONAL IN ITS MINIMUM PERIOD TO PRISION MAYOR SHALL BE IMPOSED UPON THE LABORERS OR WORKERS OF THE MANUFACTURING COMPANY OR FIREARMS DEALER WHO SHALL KNOWINGLY AND WILLINGLY PARTICIPATE IN ANY OF THE UNLAWFUL ACTS MENTIONED IN THE PRECEDING PARAGRAPH.

"THE PENALTY OF RECLUSION TEMPORAL IN ITS MAXIMUM TO RECLUSION PERPETUA SHALL BE IMPOSED UPON SUCH LABORER, WORKER OR EMPLOYEE OF A LICENSED FIREARMS MANUFACTURING COMPANY OR LICENSED FIREARMS DEALER WHO SHALL UNLAWFULLY TAKE, SELL OR OTHERWISE DISPOSE OF PARTS OF FIREARMS WHICH THE COMPANY MANUFACTURES AND SELLS AND OTHER MATERIALS USED BY THE COMPANY IN THE MANUFACTURE OR SALE OF FIREARMS. THE BUYER OR THE POSSESSOR OF SUCH STOLEN PARTS OR MATERIALS SHALL SUFFER THE SAME PENALTY AS THE LABORER, WORKER OR EMPLOYEE.

"THE PENALTY OF PRISION MAYOR IN ITS MAXIMUM PERIOD TO RECLUSION TEMPORAL AND A FINE OF ONE HUNDRED THOUSAND PESOS (P\ 100,000.00) SHALL BE IMPOSED UPON ANY PERSON WHO SHALL UNLAWFULLY MANUFACTURE, DEAL IN, ACQUIRE, DISPOSE OF OR POSSESS MACHINERY, TOOLS OR INSTRUMENTS USED OR INTENDED TO BE USED IN THE

MANUFACTURE OF FIREARMS, LIGHT WEAPONS, PARTS AND AMMUNITION.

“IF THE BUSINESS OR EMPLOYMENT DOES NOT LAWFULLY DEAL WITH THE MANUFACTURE OF FIREARMS, LIGHT WEAPONS OR AMMUNITION, THE POSSESSION OF ANY MACHINERY, TOOL OR INSTRUMENT USED IN THE MANUFACTURE OF FIREARMS, LIGHT WEAPONS, PARTS, ACCESSORIES AND AMMUNITION SHALL BE PRIMA FACIE EVIDENCE THAT SUCH ARTICLE IS INTENDED TO BE USED IN THE UNLAWFUL OR ILLEGAL MANUFACTURE OF FIREARMS, LIGHT WEAPONS OR AMMUNITION.

“If homicide or murder is committed with the use of an unlicensed firearm **OR LIGHT WEAPON**, such use of an unlicensed firearm **OR LIGHT WEAPON** shall be considered as an aggravating circumstance.

‘IF ANY OTHER CRIME PUNISHABLE BY THE REVISED PENAL CODE AND OTHER SPECIAL LAWS WAS COMMITTED BY THE PERSON ARRESTED, THE VIOLATION OF THIS ACT SHALL BE CONSIDERED AS A DISTINCT AND SEPARATE OFFENSE: PROVIDED, HOWEVER, THAT [I]f the violation of this [Section] **ACT** is in furtherance of or incident to, or in connection with the crime of rebellion, or insurrection[, sedition], or attempted *coup d’etat*, such violation shall be absorbed as an element of the crime of rebellion, or insurrection[,sedition], or attempted *coup d’etat*.

“The [same] penalty of **RECLUSION TEMPORAL IN ITS MAXIMUM PERIOD TO 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 wilfully or knowingly allow any of the firearms **OR AMMUNITION** owned 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 or wilfully or knowingly allow any of them to use unlicensed firearms or firearms without any legal authority to be carried outside of their residence in the course of their employment.

“The penalty of [arresto mayor] **PRISION CORRECCIONAL IN ITS MINIMUM PERIOD TO PRISION MAYOR IN ITS MINIMUM PERIOD AND A FINE OF TWENTY THOUSAND PESOS (P20,000.00)** shall be imposed upon any person who shall carry any licensed firearm outside his residence without legal authority therefor.”

SEC. 2. Section 2 of the same Decree on “Presumption of Illegal Manufacture of Firearms or Ammunition” is hereby deleted.

SEC. 3. Section 5 of the same Decree, as amended, is hereby further amended to read as follows:

“SEC. 5. Tampering of Firearm[']s [Serial Number]. – ANY MODIFICATION MADE ON A FIREARM THAT SHALL ALTER ITS IDENTITY, INFORMATION OR BALLISTIC CHARACTERISTIC

SHALL REQUIRE THE ISSUANCE OF A NEW LICENSE. The penalty of [prision correccional] **RECLUSION TEMPORAL IN ITS MAXIMUM PERIOD TO RECLUSION PERPETUA** shall be imposed upon any person who shall unlawfully tamper[,] **WITH**, change, deface or erase the serial number, **OR MODIFY THE IDENTITY, INFORMATION OR BALLISTIC CHARACTERISTIC** of any firearm.”

SEC. 4. New sections designated as Sections 7, 8, 9, 10, 11 and 12 are hereby inserted to read as follows:

‘SEC. 7. FIREARMS, LIGHT WEAPONS OR AMMUNITION IN ‘CUSTODIA LEGIS’. – DURING THE PENDENCY OF THE CASE, SEIZED FIREARMS, LIGHT WEAPONS, AMMUNITION, MACHINERY, TOOLS OR INSTRUMENTS SHALL NOT BE DISPOSED OF, ALIENATED OR TRANSFERRED BUT SHALL BE IN THE CUSTODY OF THE COURT OR IN ‘CUSTODIA LEGIS’: PROVIDED, THAT THE COURT SHALL AUTHORIZE THE PNP TO HOLD SUCH FIREARMS, LIGHT WEAPONS, MACHINERY, TOOLS OR INSTRUMENTS FOR SAFEKEEPING DURING THE PENDENCY OF THE CASE AND TO DELIVER THE SAME OT THE COURT WHEN SO ORDERED: PROVIDED, FURTHER, THAT NO BOND SHALL BE ADMITTED FOR THE RELEASE OF THE SAME: PROVIDED, FINALLY. THAT ANY VIOLATION HEREOF SHALL BE PUNISHABLE BY RECLUSION TEMPORAL TO RECLUSION PERPETUA.’

“SEC. 8. CONFISCATION AND FORFEITURE. – EVERY PENALTY IMPOSED FOR VIOLATION OF THE PROVISIONS OF THIS ACT SHALL CARRY WITH IT THE ACCESSORY PENALTY OF CONFISCATION AND FORFEITURE OF THE FIREARMS, LIGHT WEAPONS, AMMUNITION, MACHINERY, TOOLS OR INSTRUMENTS IN FAVOR OF THE GOVERNMENT WHICH SHALL BE DISPOSED OF IN ACCORDANCE WITH LAW.”

“SEC. 9. LIABILITY FOR PLANTING OF EVIDENCE CONCERNING FIREARMS, LIGHT WEAPONS AND AMMUNITION. – THE PENALTY OF RECLUSION TERMPORAL IN ITS MAXIMUM PERIOD SHALL BE IMPOSED UPON ANY PERSON WHO SHALL WILLFULLY, MALICIOUSLY AND SURREPTITIOUSLY INSERT, PLACE, ADD OR ATTACH, DIRECTLY OR INDIRECTLY, THROUGH ANY OVERT OR COVERT ACT, ANY FIREARM, LIGHT WEAPON OR AMMUNITION IN THE PERSON, HOUSE, EFFECTS OR IN THE IMMEDIATE VICINITY OF AN INNOCENT INDIVIDUAL FOR THE PURPOSE OF IMPLICATING OR INCRIMINATING HIM/HER OR IMPUTING THE COMMISSION OF ANY VIOLATION OF THE PROVISIONS OF THIS ACT TO SAID INDIVIDUAL: PROVIDED, THAT IF THE PERSON FOUND GUILTY HEREIN IS A PUBLIC OFFICER OR EMPLOYEE, HE/SHE SHALL SUFFER THE PENALTY OF RECLUSION PERPETUA.”

“SEC. 10. ILLEGAL TRANSFER OF FIREARMS. – IT SHALL BE UNLAWFUL FOR ANY SELLER TO TRANSFER THE POSSESSION OF ANY FIREARM OR AMMUNITION OR ANY PART OF A FIREARM TO A

BUYER WHO HAS NOT YET OBTAINED OR SECURED THE NECESSARY LICENSE OR PERMIT THEREOF.

“ANY PERSON WHO SHALL VIOLATE THE PROVISION OF THE PRECEDING PARAGRAPH SHALL BE DISQUALIFIED TO APPLY FOR A LICENSE TO POSSESS OTHER FIREARMS AND ALL HIS EXISTING FIREARMS SHALL BE REVOKED.

“ANY PUBLIC OFFICER OR PERSONNEL WHO SHALL KNOWINGLY REGISTER AN UNLICENSED OR STOLEN FIREARM SHALL SUFFER THE PENALTY OF PRISION CORRECCIONAL IN ITS MINIMUM PERIOD TO PRISION MAYOR.”

“SEC. 1. ISSUANCE, REVOCATION, CANCELLATION AND SUSPENSION OF LICENSES AND PERMITS. – FIREARMS HAVE TO BE REGISTERED WITH THE FIREARMS AND EXPLOSIVES DIVISION OF THE PHILIPPINE NATIONAL POLICE (FED-PNP) TO BE CONSIDERED LICENSED. THE CHIEF, PNP OR HIS AUTHORIZED REPRESENTATIVE SHALL ISSUE LICENSES AND OTHER PERMITS TO ANY QUALIFIED NATURAL OR JURIDICAL PERSON WHO SHALL ACQUIRE, POSSESS, DEAL IN, SELL OR DISPOSE FIREARMS, PARTS OF FIREARMS, AMMUNITION AND AMMUNITION COMPONENTS. HE MAY ISSUE A PERMIT TO CARRY A FIREARM OUTSIDE OF RESIDENCE TO ANY QUALIFIED PERSON IN MERITORIOUS CASES AS MAY BE DETERMINED BY HIM AND UNDER CONDITIONS HE MAY IMPOSE.

“LIKEWISE, ANY PERSON WHO SHALL MANUFACTURE OR REPAIR FIREARMS, LIGHT WEAPONS, PARTS OF FIREARMS, AMMUNITION, AMMUNITION COMPONENTS, INSTRUMENTS USED OR INTENDED TO BE USED IN THE MANUFACTURE OF FIREARMS, LIGHT WEAPONS, PARTS OF FIREARMS, AMMUNITION AND AMMUNITION COMPONENTS SHALL FIRST SECURE A LICENSE FROM THE CHIEF, PNP.

“FIREARMS WITH EXPIRED LICENSES WHICH HAVE NOT BEEN RENEWED FOR A PERIOD OF SIX (6) MONTHS FROM THE DATE OF EXPIRATION THEREOF SHALL BE SURRENDERED, CONFISCATED OR FORFEITED IN FAVOR OF THE GOVERNMENT AFTER DUE PROCESS, ALL OTHER EXISTING FIREARMS LICENSES OF SUCH HOLDER OF AN UNRENEWED LICENSE SHALL BE SURRENDERED, CONFISCATED OR FORFEITED IN FAVOR OF THE GOVERNMENT. SAID HOLDER OF THE FIREARMS SHALL BE PERPETUALLY DISQUALIFIED FROM APPLYING FOR ANY FIREARM LICENSE.

“SEC. 12. GROUNDS FOR REVOCATION, CANCELLATION OR SUSPENSION OF LICENSE OR PERMIT. – THE CHIEF, PNP OR HIS AUTHORIZED REPRESENTATIVE MAY REVOKE, CANCEL OR SUSPEND A LICENSE OR PERMIT ON THE FOLLOWING GROUNDS:

“(A) COMMISSION OF A CRIME INVOLVING A FIREARM WHICH IS PUNISHABLE BY THE REVISED PENAL CODE AND SPECIAL LAWS:

“(B) CONVICTION BY A COMPETENT COURT OF A CRIME INVOLVING MORAL TURPITUDE OR ANY OFFENSE WHERE THE PENALTY CARRIES AN IMPRISONMENT OF MORE THAN SIX (6) MONTHS OR A FINE OF AT LEAST ONE THOUSAND PESOS (P\ 1,000.00);

“(C) LOSS OF FIREARM THROUGH NEGLIGENCE;

“(D) CARRYING OF FIREARM IN PROHIBITED PLACES;

“(E) CARRYING OF FIREARM OUTSIDE RESIDENCE OR WORKPLACE WITHOUT A PERMIT TO CARRY A FIREARM;

“(F) UNAUTHORIZED LOAN OF FIREARM TO ANOTHER PERSON;

“(G) DISMISSAL FOR CAUSE FROM THE SERVICE, IN CASE OF GOVERNMENT OFFICIALS/EMPLOYEES;

“(H) COMMISSION OF ANY OF THE ACTS PENALIZED UNDER REPUBLIC ACT NO. 9165 OR THE “COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002”; AND

“(I) SUBMISSION OF FALSIFIED DOCUMENTS OR MISREPRESENTATION IN THE APPLICATION TO OBTAIN A LICENSE OR PERMIT.”

SEC. 5. The PNP shall issue within ninety (90) days after the approval of this Act, the necessary rules and regulations relating to the administrative aspect of the provisions of this Act.

SEC. 6. If, for any reason, any section or provision of this Act is declared to be unconstitutional or invalid, the other sections or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 7. All laws, decrees, executive orders, rules and regulations and other issuances or parts thereof which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 8. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,