

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Fifteenth Congress

HOUSE BILL NO. 2765

Introduced by **DIWA Party-list Representative Emmeline Y. Aglipay**

EXPLANATORY NOTE

Drunk driving is an invisible killer in our country. Intoxication would have been the proximate cause of thousands of road accidents, but it is struck out of the equation solely because of the absence of the compulsion and means to determine whether or not one is driving under the influence of alcohol. Thus, deaths and injuries caused by driving under the influence of alcohol go largely undocumented.

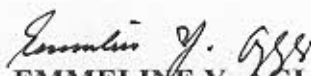
The Metro Manila Accident Reporting and Analysis System (MMARAS) of the Metro Manila Development Authority reported that only 11 people were injured in separate incidents of road crashes resulting from driving under the influence of alcohol in 2009.¹ Also, reports from the Philippine National Police Highway Patrol Group (PNP-HPG) revealed that alcohol-related accidents increased by 6.2 percent from 692 in 2008 to 735 in 2009.² These figures in themselves are alarming, but given that the Philippines has a population of over eighty-eight million people (as of 2007) it is unlikely that they even scratch the surface of the problem. Considering that according to the World Health Organization, between 33% and 69% of fatally injured drivers

¹ AAP addresses the drunk driving problem. *Automobile Association Philippines*. Retrieved from <http://www.aaphilippines.org/articles.aspx?ArticleID=92>

² AAP addresses the drunk driving problem. *Automobile Association Philippines*. Retrieved from <http://www.aaphilippines.org/articles.aspx?ArticleID=92>

(and between 8% and 29% of non-fatally injured drivers) consume alcohol before their crash, this is a situation which cannot be ignored.

One of the reasons the problem of drunk driving continues to go unreported and unrecognized is that the government has been remiss in providing a legal structure by which law enforcement operatives can ascertain the blood alcohol content of drivers. Unlike many of our ASEAN neighbours, the Philippines has yet to enact legislation specifically defining and targeting drunk driving in sufficient detail so as to allow law enforcement officers to identify and apprehend violators. This bill seeks to provide precisely that framework, and bring the national policy on drunk driving in line with international standards.


EMMELINE Y. AGLIPAY
DIWA Party-list Representative

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**AN ACT PENALIZING PERSONS
DRIVING UNDER THE INFLUENCE OF ALCOHOL**

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

SECTION 1. *Short Title.* – This Act shall be known as the “Driving Under the Influence of Alcohol (DUIA) Act of 2010”.

SECTION 2. *Policy.* – It is hereby declared the policy of the State to protect life, promote the general welfare of the people, and to maintain peace and order. It is the policy of the State to protect its people from hazards brought about by accidents resulting from driving under the influence of alcohol and similar intoxicating substances.

SECTION 3. *Definition of Terms.* – For purposes of this Act:

- (a) *Alcohol* refers to alcoholic beverages classified into beer, wine and spirits, the consumption of which produces intoxication;
- (b) *Breathalyzer* refers to a kind of equipment which can determine the blood alcohol concentration level of a person through one’s breath;
- (c) *Chemical tests* refer to breath, urine or blood tests to determine the blood alcohol concentration level and/or other positive indications of dangerous drugs;

(d) *Common Carrier of Hazardous Materials* refers to persons or corporations engaged in the business of carrying or transporting materials which are likely to cause fires or explosions, offering their services to the public;

(e) *Driving under the influence of alcohol* refers to the act of operating a motor vehicle while intoxicated with alcohol, by reason of which the driver's mental and motor skills are impaired; or when the driver's blood alcohol concentration level is zero point zero five (0.05) or more;

(e) *Field sobriety tests* refer to a battery of three tests administered and evaluated in a standardized manner to obtain validated indicators of impairment: the horizontal gaze nystagmus, the wall-and-turn and the one-leg stand;

(f) *Horizontal Gaze Nystagmus test* refers to a test in which the law enforcement officer observes the eyes of a suspect as the suspect follows a slowly moving object such as a pen or small flashlight, horizontally with his eyes. The law enforcement officer looks for three indicators of impairment in each eye: if the eye cannot follow a moving object smoothly, if jerking is distinct when the eye is at maximum deviation, and if the angle of onset of jerking is within 45 degrees of center.

(g) *Motor vehicle* refers to anything that carries people or goods powered by a motor or engine;

(h) *One-leg Stand test* refers to a test in which the driver is instructed to stand with one foot approximately six inches off the ground and count aloud by thousands (One thousand-one, one thousand-two, etc.) until told to put the foot down. The law enforcement officer times the subject for a 30 seconds. The law enforcement officer looks for four indicators of impairment, including swaying while balancing, using arms to balance, hopping to maintain balance, and putting the foot down.

(i) *Public Utility Vehicles* refer to motor vehicles carrying or transporting passengers for hire, offering their services to the public;

(j) *Wall-and-Turn test* refers to a test in which the driver is directed to take nine steps, heel-to-toe, along a straight line. After taking the steps, the driver must turn on one foot and return in the same manner in the opposite direction. The law enforcement officer looks for seven indicators of impairment: if the suspect cannot keep balance while listening to the instructions, begins before the instructions are finished, stops while walking to regain balance, does not touch heel-to-toe, uses arms to balance, loses balance while turning, or takes an incorrect number of steps.

SECTION 4. Driver's Education. – Every applicant for a driver's license shall complete a course of instruction that provides information on driver and safety matters, which shall

include the following: the effects of consumption of alcoholic beverages on the ability of a person to operate a motor vehicle; the hazards of driving under the influence of alcohol; and the possible penalties and liabilities that may be incurred for the violation of statutory prohibitions against driving under the influence of alcohol.

The driver's license test shall include written questions concerning the effects of consumption of alcoholic beverages, the ability of a person to operate a motor vehicle and the possible penalties and liabilities that may be incurred for the violation of statutory prohibitions against driving under the influence of alcohol.

SECTION 5. *Equipment.* – Within two (2) months from the effectivity of this law, the Philippine National Police (PNP) shall acquire sufficient breathalyzers to implement this law at designated problem locations nationwide, particularly areas highly susceptible to accidents, and areas in the vicinity of drinking establishments. Within four (4) months from the effectivity of this law, the Philippine National Police (PNP) shall acquire sufficient breathalyzers to implement this law nationwide. For purposes of acquiring this equipment and for the training seminars indicated in Section 6, the Philippine National Police (PNP) shall set aside at least two percent (2%) of their annual budget and/or shall find other sources of funding. For this purpose, the Philippine National Police (PNP) may partner with interested private parties.

SECTION 6. *Deputization.*—The PNP may deputize local traffic enforcement officers of cities and municipalities in order to enforce the provisions of this Act.

SECTION 7. *Law Enforcement Officer Education.* – Within one (1) month from the effectivity of this law, the Philippine National Police (PNP) shall conduct training seminars for members of its appropriate divisions (such as the Highway Patrol Group and deputized local traffic enforcement officers) with regard to the proper conduct of field sobriety tests and breathalyzer tests. Within the same span of time, the Philippine National Police (PNP) shall also publish guidelines and procedures for the proper conduct of field sobriety tests and breathalyzer tests, which guidelines shall be made available to the public, and made available for download via the official Philippine National Police website.

SECTION 8. *Punishable Act.* – It shall be unlawful for any person to drive a motor vehicle under the influence of alcohol. A law enforcement officer or a deputized local traffic

enforcement officer has probable cause to believe that a driver is driving under the influence of alcohol if apparent indications and manifestations are present, including the following: erratic driving; poor coordination; the smell of alcohol. If such probable cause exists, a law enforcement officer or deputized local traffic enforcement officer shall conduct field sobriety tests. If the driver fails in the sobriety tests, it shall be mandatory for the driver's blood alcohol concentration level to be determined through the use of a breathalyzer.

A law enforcement officer or deputized local traffic enforcement officer shall also conduct field sobriety tests upon reports from citizens that a driver is driving under the influence of alcohol.

SECTION 9. *Mandatory Alcohol Testing of Drivers Involved in Motor Vehicular Accidents.* – All drivers of motor vehicles involved in vehicular accidents resulting in loss of lives or physical injuries of serious nature shall be subjected to chemical tests to determine the presence and/or concentration of alcohol. Implementing guidelines for said tests shall be undertaken by the Land Transportation Office (LTO), the Philippine National Police (PNP), the Philippine Drug Enforcement Agency (PDEA) and other agencies with related functions.

SECTION 10. *Penalties.* – Without prejudice to criminal prosecution for violation of the Revised Penal Code or special penal laws, whenever applicable, a driver found to have been driving a motor vehicle while intoxicated, as determined by the breathalyzer test in Section 8 or the chemical tests in Section 9, shall be penalized as follows:

- (a) For the first offense – a fine of Five thousand pesos (Php5,000.00) and six (6) months suspension of driver's license. Within the period of suspension, the offender shall be required to render community service for a period of one (1) month. No driver's license shall be returned unless this requirement is complied with.;
- (b) For the second offense – a fine of Ten thousand pesos (Php10,000.00) and one (1) year suspension of driver's license. Within the period of suspension, the offender shall be required to render community service for a period of one (1) month. No driver's license shall be returned unless this requirement is complied with.;
- (c) For the succeeding offenses – a fine of fifteen thousand pesos (Php15,000.00), automatic revocation of driver's license and imprisonment for a period of not less than one month and one day nor more than one year, at the discretion of the court. No new driver's license shall be issued to the offender within three years from the revocation of the driver's license.

SECTION 11. *Increased Penalties for Pubic Utility Vehicles* - A driver of a public utility vehicle or common carrier of hazardous materials found to have been driving a motor vehicle while intoxicated, as determined by the breathalyzer test in Section 8 or the chemical tests in Section 9 of this Act, shall be punished with imprisonment for a period of not less than one month and one day nor more than one year, at the discretion of the court and by an automatic revocation of his/her driver's license.

The franchise holder of the public utility vehicle shall be liable for violations of Section 8 and 9 of this Act, as follows:

- 1) For the first violation, a fine of thirty thousand pesos (PhP30,000);
- 2) For the second violation, a fine of sixty thousand pesos (PhP60,000);
- 3) For the third violation, a fine of one hundred thousand pesos (PhP100,000), and automatic revocation of the franchise; Provided That the violations are cumulative with respect to the franchise holder, and regardless of whether or not they are committed by the same vehicle and/or driver.

SECTION 12. *Separability Clause*. – If, for any reason, any part or provision of this Act is declared invalid, such declaration shall not affect the other provisions of this Act.

SECTION 13. *Repealing Clause*. – The provisions of laws, decrees, executive orders, ordinances, rules and regulations inconsistent with this Act are hereby repealed, amended or modified accordingly.

SECTION 14. *Effectivity*. – This Act shall take effect fifteen (15) days following the completion of its publication in the *Official Gazette* or in two (2) national newspapers of general circulation.

Approved.