

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 4799

Introduced by HON. RENE LOPEZ RELAMPAGOS
District, Bohol

EXPLANATORY NOTE

It cannot be disputed that driving under the influence (DUI) of alcohol or drugs can have grave consequences for the intoxicated driver as well as anyone sharing the road with him. DUI of alcoholic beverages or drugs is a serious problem, constituting one of the largest group of traffic violations in our country and in many countries in the world. In the United States, studies of first offenders have found out that more than half of them are alcoholics or problem drinkers. There are higher percentages of problem drinkers among second offenders than among first offenders.

Unfortunately, there are no official studies made and published by the Land Transportation Office (LTO) in our country about first offenders and second offenders under DUI of alcohol and drugs. Our old law, specifically Republic Act (R.A.) No. 4136, as amended or the Land Transportation and Traffic Code, merely prohibits driving under the influence (DUI) of liquor or narcotic drug with a corresponding light penalty of P1,000.00 or imprisonment of not less than 3 months nor more than 6 months, or both, at the discretion of the court. But R.A. No. 4136, as amended, is grossly inadequate, as it does not provide what constitutes: 1) DUI of alcohol or drugs, 2) DUI of alcohol or drugs causing injury, 3) chemical test procedure for the purpose of determining the alcoholic content of the blood, breath or urine of the person apprehended for DUI of alcoholic beverages or drugs, and 4) penalty for repeat offenders of the prohibition against DUI of alcohol or drugs.

Moreover, the said law does not state what are the offenses involving alcohol and drugs, such as but not limited to: drinking while driving, drinking in motor vehicle, possession of drug or open container while driving, possession of open container in motor vehicle, possession of alcohol in vehicle of a person under 18 years old and storage of opened container in passenger compartment. Also, R.A. 4136, as amended does not provide penalties for: 1) DUI for persons under 18 years of age, 2) DUI of alcohol or drugs or combination of both, and 3) penalties for DUI causing injury, additional punishments, probation, procedures and presumptions affecting the burden of proof upon the trial of any criminal action or preliminary proceeding in a criminal action, arising out of acts alleged to have been committed by any person while DUI of alcohol or drugs.

There are two (2) bills on DUI in the Senate and House of Representatives filed during the past Congresses which unfortunately were not passed into law that will amend the said R.A. No. 4136, as amended. These are Senate Bill No. 1398 sponsored by then Senator Richard J. Gordon in the 13th Congress, First Regular Session and House Bill No. 7083 jointly sponsored by Representatives Monico O. Puentevella and Felix R. Alfelor, Jr. in the 14th Congress which was approved by the House of Representatives but was not approved by the Senate during the said period.

We are quoting and adopting with approval a portion of the explanatory note of then Senator Gordon's SB No. 1398, as follows:

"Drunk driving or driving under the influence of alcohol and/or drugs, which remains a worldwide leading factor in motor vehicle accidents, is a big problem in our country that has not been properly addressed. While official reports (or the lack thereof) do not accurately show the deleterious effects of drunk driving in our country, it cannot be denied that it is indeed a grave public concern that needs to be dealt with more seriously. Our antiquated laws, particularly Republic Act No. 4136, as amended, or the Land Transportation and Traffic Code, which merely prohibits driving under the influence of liquor or narcotic drug with a corresponding miniscule penalty for violation, do not address the seriousness of the matter. In many jurisdictions, driving under the influence of liquor and/drugs is considered a great concern that is combated through stricter penalties and methodical laws that seek to effectively and efficiently eliminate the problem."

Our country can learn from the lessons and experiences about DUI of a developed country like the United States. Quoting from an encyclopedia report (Wikipedia, The Free Encyclopedia), it asserts that:

"Driving under the influence (driving while intoxicated drunk driving, operating under the influence, drinking and driving, impaired driving) is the act of operating any motorized machinery after/during the consumption of alcohol or other drugs. DUI or DWI are synonymous terms that represent the criminal offense of operating (or in some jurisdictions merely being in physical control of) a motor vehicle while being under the influence of alcohol or drugs or a combination of both. It is a criminal offense in most countries."

"Some states in the United States now have two (2) statutory offenses. The first is the traditional offense, variously called driving under the influence of alcohol (DUI), driving while intoxicated/impaired (DWI) or operating while intoxicated/impaired (OWI). The second and more recent is the so-called illegal per se offense of driving with a blood-alcohol concentration (BAC) of 0.08% (previously 0.10%) or higher. In most states, the timing of the chemical test is important because the law mandates a result within a given time period after the driving stopped, usually two (2) hours. The first offense requires proof of intoxication, although evidence of BAC is admissible as rebuttably presumptive evidence of that intoxication; the second requires only proof of BAC at the time of being in physical control of a motor vehicle. An accused may be convicted of both offenses, but may only be punished for one. x x x"

"It is also a criminal offense in all states to drive a vehicle under the influence of drugs (DUID), or under the combined influence of alcohol and drugs, the drugs themselves need not be illegal, but can be prescription or even over-the-counter. In some states, the effects of some herbal remedies (such as Kava Kava extract) fall into this category. Several states also have enacted statutes to create a DUI offense by virtue of huffing noxious fumes, such as glue sniffing or inhaling similar volatile chemical fumes. DUI-impairment statutes require that violations be supported by evidence of impairment as a result of the drugs or drugs and alcohol, or by any noxious vapors. Some states have recently passed

laws making driving with mere presence of certain drugs (such as marijuana or its metabolites) a criminal offense. These new statutes are sometimes referred to as the DUI-drugs per se statutes."

"Some states also include a lesser charge of driving with a BAC of 0.05%; other states limit this offense to drivers under the age of 21. All states x x x also now have zero tolerance laws: the license of anyone under 21 driving with any detectable alcohol in their bloodstream (BAC limits of 0.01% or 0.02% apply in some state will be suspended. x x x"

"The blood-alcohol limit for commercial drivers is 0.04%. Commercial drivers are also subject to stricter punishments for exceeding the blood-alcohol limit. According to the U.S. National Highway Traffic Safety Administration (NHTSA), drivers are considered to be alcohol-impaired when their blood alcohol concentration (BAC) is .08 grams per deciliter (g/dL) or higher. Thus, any fatality occurring in a crash involving a driver with a BAC of 0.8 or higher is considered to be an alcohol-impaired-driving fatality. The term "driver" refers to the operator of any motor vehicle, including a motorcycle."

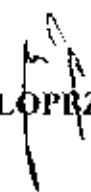
"Pilots of aircraft may not fly less than eight (8) hours after consuming alcohol, while under the impairing influence of alcohol or any other drug, or while showing a blood alcohol concentration equal to or greater than 0.04 grams per deciliter of blood."

"The various versions of "driving under the influence" generally constitute a misdemeanor (punishable by up to one year in jail). However, the offense may be elevated to a felony (punishable by a longer term in state prison) if the incident caused serious injury (felony DUI), death (vehicular manslaughter or vehicular homicide) or extensive property damage (a state specified dollar amount) or if the defendant has a designated number of prior DUI convictions within a given time period (commonly, 3 prior convictions within 7 years). California, which is being followed by a growing number of states, now charges second-degree murder where the legal state of mind of malice exists - that is, where the defendant exhibited a reckless indifference to the lives of others."

Among the Southeast Asian countries, the said encyclopedia recorded that the Philippines, Indonesia and Vietnam have no blood/alcohol limit. Alcohol is strictly regulated in Indonesia.

This bill seeks to address the problem of DUI in our country and to remedy the deficiencies of R.A. 4136, as amended, as we have emphasized above with respect to DUI of alcohol or drugs or combination of both. In order to accomplish that objective, this bill incorporates and adopts extensively the relevant provisions of the bills embodied in SB No. 1898 of then Senator Gordon, HB No. 7083 of then Representatives Puentevella and Alfelor, Jr. as well as the recent developments of DUI laws in the United States especially in the State of California and in other Asian countries like Singapore.

In view of the above, the early passage of this bill is earnestly requested.


RENE LOPRZ RELAMPAGOS

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HOUSE BILL No. **4799**

Introduced by **HON. RENE LOPEZ RELAMPAGOS**
1st District, Bohol

AN ACT
PENALIZING PERSONS DRIVING UNDER THE INFLUENCE
OF ALCOHOLIC BEVERAGES AND/OR DRUGS AND FOR OTHER PURPOSES

SECTION 1. Title. – This Act shall be known as the “Driving Under the Influence of Alcoholic Beverages and/or Drugs Act of 2011.”

SEC. 2. Policy. – It is the declared policy of the State to protect its people from hazards brought about by driving under the influence [DUI], driving under intense influence [DII], driving while intoxicated [DWI], operating while intoxicated [OWI], operating a motor vehicle while intoxicated [OMVI], driving under the combined influence of alcohol and/or other drugs, driving under the influence per se or drunk in charge (of a vehicle), operating a vehicle (while) impaired [OVI], and driving while ability impaired [DWAI], of alcoholic beverages and similar intoxicating substances and/or drugs that endanger lives and property.

SEC. 3. Definition of Terms. – For purposes of this Act,

(1) “Alcoholic Beverage” – includes any kind of liquid or of solid material intended to be ingested by a person which contains ethanol, also known as ethyl alcohol, drinking alcohol or alcohol, including but not limited to, alcoholic beverages, intoxicating liquor, malt beverage, beer, wine, spirits, liqueur, whiskey, rum, vodka, cordials, gin, brandy and any mixture of one or more alcoholic beverages whether found ingested separately or a mixture.

(2) “Breathalyzer” – refers to a kind of equipment or device which can determine or estimate the blood alcohol concentration (BAC) level and/or positive indication of dangerous drugs from a breath sample.

(3) “Motor Vehicle” – is a motor vehicle as defined in Sec. 3(a) of Republic Act No. 4136, as amended or the Land Transportation and Traffic Code.

(4) “Off-Highway Motor Vehicle” – includes, but is not limited to, the following:

- (A) Any motorcycle or motor-driven cycle.
- (B) Any motor vehicle commonly referred to as a sand buggy, dune buggy, or all-terrain vehicle.
- (C) Any motor vehicle commonly referred to as a jeep.

(5) "Camper trailer" - is a vehicle designed to be used on a highway, capable of human habitation for camping or recreational purposes, that does not exceed 16 feet in overall length from the foremost point of the trailer hitch to the rear extremity of the trailer body and does not exceed 96 inches in width and includes a tent trailer. Where a trailer telescopes for travel, the size shall apply to the trailer as fully extended. Notwithstanding any other provision of law, a camp trailer shall not be deemed to be a trailer coach.

(6) "Camper" - is a structure designed to be mounted upon a motor vehicle and to provide facilities for human habitation or camping purposes. A camper having one (1) axle shall not be considered a vehicle.

(7) "House car" - is a motor vehicle originally designed, or permanently altered, and equipped for human habitation, to which a camper has been permanently attached. A motor vehicle to which a camper has been temporarily attached is not a house car.

(8) "City" - includes every city and municipality within the Philippines.

(9) "Commercial vehicle" - is a motor vehicle of a type required to be registered under the Land Transportation and Traffic Code used or maintained for the transportation of persons for hire, compensation or profit or designed, used or maintained primarily for the transportation of property. Passenger vehicles and house cars that are not used for the transportation of persons for hire, compensation or profit are not commercial vehicles. Any vanpool vehicle is not a commercial vehicle. The term "commercial vehicle" also includes the "passenger automobiles" as defined under Section 3(b) of R.A. No. 4136, as amended.

(10) "Driver" - is a person who drives or is in actual physical control of a vehicle. The term "driver" does not include the tillerman or other person who, in an auxiliary capacity, assists the driver in the steering or operation of any articulated firefighting apparatus. The term "driver" also include the "driver" and "professional driver" as defined under Sections 3(d) and 3(e) of R.A. 4136, as amended.

(11) "Articulated vehicle" - shall mean any motor vehicle as defined in Sec. 3(c) of R.A. 4136, as amended.

(12) "Driver's License" - is a valid license to drive the type of motor vehicle or combination of vehicles for which a person is licensed under the Land Transportation and Traffic Code.

(13) "Driving Under Influence of Alcohol or Drugs" - is the act of operating a motor vehicle while intoxicated with alcohol and/or drugs which the driver's mental and motor skills are impaired, or when the driver's blood alcohol content/concentration level (BAC) is 0.06 or more.

(14) "Drug" - means any substance or combination of substances, other than alcohol, which could so affect the nervous system, brain or muscles of a person as to impair, to an appreciable degree, his ability to drive a vehicle in the manner that an ordinarily prudent and cautious man, in full possession of his faculties, using reasonable care, would drive a similar vehicle under like conditions.

(15) "Highway" - is a way or place of whatever nature, publicly maintained and open to the use of the public purposes of vehicular travel. Highway includes street. Highway shall also mean the "highway" as defined in Sec. 3(j) of R.A. No. 4136, as amended.

(16) "Motorcycle" - (A) is a motor vehicle having a seat or saddle for the use of the rider, designed to travel on not more than three (3) wheels in contact with the ground.

(B) A motor vehicle that has four wheels in contact with the ground, two (2) of which are a functional part of a sidecar, is a motorcycle if the vehicle otherwise comes within the definition of subdivision (A).

(C) A farm tractor is not a motorcycle.

(D) A three-wheeled motor vehicle that otherwise meets the requirements of subdivision (A), has partially or completely enclosed seating area for the driver and passenger, is used by local public agencies for the enforcement of parking control provisions and is operated at slow speeds on public streets, is not a motorcycle.

(17) "Motor-Driven Cycle" – is any motorcycle with a motor that displaces less than 150 cubic centimeters.

SEC. 4. Driving Under Influence of Alcohol and/or Drugs. – (1) It is unlawful for any person who is under the influence of any alcoholic beverages or drugs or under the combined influence of any alcoholic beverages and drugs, to drive a vehicle.

(2) It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

For purposes of this section, percent by weight, of alcohol in a person's blood is based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three (3) hours after the driving.

(3) It is unlawful for any person who is addicted to the use of any drug to drive a vehicle. This subdivision shall not apply to a person who is participating in a narcotic program approved by the Department of Health or Philippine Drug Enforcement Agency (PDEA) or other governmental agency with related functions.

(4) It is unlawful for any person who has 0.04 percent or more, by weight, of alcohol to drive a commercial motor vehicle, as defined in Section 3(9) of this Act.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three (3) hours after the driving.

SEC. 5. Driving Under Influence of Alcohol and/or Drugs Causing Injury. –

(1) It is unlawful for any person, under the influence of any alcoholic beverages or drugs or under the combined influence of any alcoholic beverages and drugs to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

(2) It is unlawful for any person, while having 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle and concurrently do any act forbidden by law, or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

(5) "Camper trailer" - is a vehicle designed to be used on a highway, capable of human habitation for camping or recreational purposes, that does not exceed 16 feet in overall length from the foremost point of the trailer hitch to the rear extremity of the trailer body and does not exceed 96 inches in width and includes a tent trailer. Where a trailer telescopes for travel, the size shall apply to the trailer as fully extended. Notwithstanding any other provision of law, a camp trailer shall not be deemed to be a trailer coach.

(6) "Camper" - is a structure designed to be mounted upon a motor vehicle and to provide facilities for human habitation or camping purposes. A camper having one (1) axle shall not be considered a vehicle.

(7) "House car" - is a motor vehicle originally designed, or permanently altered, and equipped for human habitation, to which a camper has been permanently attached. A motor vehicle to which a camper has been temporarily attached is not a house car.

(8) "City" - includes every city and municipality within the Philippines.

(9) "Commercial vehicle" - is a motor vehicle of a type required to be registered under the Land Transportation and Traffic Code used or maintained for the transportation of persons for hire, compensation or profit or designed, used or maintained primarily for the transportation of property. Passenger vehicles and house cars that are not used for the transportation of persons for hire, compensation or profit are not commercial vehicles. Any vanpool vehicle is not a commercial vehicle. The term "commercial vehicle" also includes the "passenger automobiles" as defined under Section 3(b) of R.A. No. 4136, as amended.

(10) "Driver" - is a person who drives or is in actual physical control of a vehicle. The term "driver" does not include the tillerman or other person who, in an auxiliary capacity, assists the driver in the steering or operation of any articulated firefighting apparatus. The term "driver" also include the "driver" and "professional driver" as defined under Sections 3(d) and 3(e) of R.A. 4136, as amended.

(11) "Articulated vehicle" - shall mean any motor vehicle as defined in Sec. 3(e) of R.A. 4136, as amended.

(12) "Driver's License" - is a valid license to drive the type of motor vehicle or combination of vehicles for which a person is licensed under the Land Transportation and Traffic Code.

(13) "Driving Under Influence of Alcohol or Drugs" - is the act of operating a motor vehicle while intoxicated with alcohol and/or drugs which the driver's mental and motor skills are impaired, or when the driver's blood alcohol content/concentration level (BAC) is 0.06 or more.

(14) "Drug" - means any substance or combination of substances, other than alcohol, which could so affect the nervous system, brain or muscles of a person as to impair, to an appreciable degree, his ability to drive a vehicle in the manner that an ordinarily prudent and cautious man, in full possession of his faculties, using reasonable care, would drive a similar vehicle under like conditions.

(15) "Highway" - is a way or place of whatever nature, publicly maintained and open to the use of the public purposes of vehicular travel. Highway includes street. Highway shall also mean the "highway" as defined in Sec. 3(j) of R.A. No. 4136, as amended.

(16) "Motorcycle" - (A) is a motor vehicle having a seat or saddle for the use of the rider, designed to travel on not more than three (3) wheels in contact with the ground.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a chemical test within three (3) hours after driving.

(3) In proving the person neglected any duty imposed by law in driving the vehicle, it is not necessary to prove that any specific provision of Republic Act No. 4136, as amended or the Land Transportation and Traffic Code was violated.

(4) It is unlawful for any person, while having 0.04 percent or more, by weight, of alcohol in his or her blood to drive a commercial vehicle, as defined in Section 3(9) of this Act, and concurrently do any act forbidden by law or neglect any duty imposed by law in driving the vehicle, which act or neglect proximately causes bodily injury to any person other than the driver.

In any prosecution under this subdivision, it is a rebuttable presumption that the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of driving the vehicle if the person had 0.04 percent or more, by weight, of alcohol in his or her blood at the time of performance of a chemical test within three (3) hours after driving.

SEC. 6. Driving Under the Influence of Alcohol While on Probation for Prior Driving Under the Influence (DUI). – (1) It is unlawful for a person who is on probation for a violation of Sections 4 and/or 5 of this Act to operate a motor vehicle at any time with a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test or other chemical test.

(2) A person may be found in violation of subdivision (1) if the person was, at the time of driving, on probation for a violation of Sections 4 and/or 5 of this Act and the trier of fact finds that the person who had consumed an alcoholic beverage and was driving a vehicle with a blood-alcohol concentration of 0.01 percent or greater, as measured by a preliminary alcohol screening test or other chemical test.

(3) (A) A person who is on probation for a violation of Sections 4 and/or 5 who drives a motor vehicle is deemed to have given his or her consent to a preliminary alcohol screening test or other chemical test for the purpose of determining the presence of alcohol in the person, if lawfully detained for an alleged violation of subdivision (1).

(B) The testing shall be incidental to a lawful detention and administered at the direction of a peace officer having reasonable cause to believe the person is driving a motor vehicle in violation of subdivision (1).

(C) The person shall be told that his or her failure to submit to, or the failure to complete, a preliminary alcohol screening test or other chemical test as requested will result in the suspension or revocation of the person's privilege to operate a motor vehicle for a period of one (1) year to three (3) years.

SEC. 7. Alcohol: Persons Under 18 Years of Age. – (1) It is unlawful for a person under the age of 18 years who has 0.05 percent or more, by weight, of alcohol in his or her blood to drive a vehicle.

(2) A person may be found to be in violation of subdivision (1) if the person was, at the time of driving, under the age of 18 years and under the influence of, or affected by, an alcoholic beverage regardless of whether a chemical test was made to determine that person's blood-concentration and if the trier of facts finds that the person had consumed an alcoholic beverage

and was driving a vehicle while having a concentration of 0.05 percent or more, by weight, of alcoholic in his or her blood.

(3) Notwithstanding any provision of law to the contrary, upon a finding that a person has violated this section, the clerk of court shall prepare within ten (10) days after the finding and immediately forward to the LTO an abstract of the record of the court in which the finding is made. That abstract shall be a public record and available for public inspection in the same manner as other public documents in accordance with Section 5 (c) of Republic Act No. 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees.

SEC. 8. Chemical Test Procedure. - (1) Notwithstanding any other provision of law to the contrary, only physician and surgeon, registered nurse, clinical laboratory scientist or clinical laboratory bioanalyst, or medical technician, all duly licensed by the Professional Regulatory Commission (PRC), or certified paramedic, acting at the request of a peace officer may withdraw blood for the purpose of determining alcoholic content therein. This limitation does not apply to the taking of breath specimens. An emergency call for paramedic services takes precedence over a peace officer's request for a paramedic to withdraw blood for determining its alcoholic content. A certified paramedic shall not withdraw blood for this purpose unless authorized by his or her employer to do so.

(2) A person tested may, at his or her own expense, have a physician and surgeon, registered nurse, clinical laboratory scientist or clinical laboratory bioanalyst, or medical technician, all duly licensed by the PRC, of his or her choosing administer a test in addition to any test administered at the direction of a peace officer for the purpose of determining the amount of alcohol in the person's blood at the time alleged as shown by chemical analysis of his or her blood, breath or urine. The failure or inability to obtain an additional test by a person does not preclude the admissibility in evidence of the test taken at the direction of a peace officer.

(3) Upon the request of the person tested, full information concerning the test taken at the direction of the peace officer shall be made available to the person or the person's attorney.

(4) Notwithstanding any other provision of law to the contrary, no physician and surgeon, registered nurse, clinical laboratory scientist or clinical laboratory bioanalyst, or medical technician, all duly licensed by the PRC, owning or leasing the premises on which tests are performed, shall incur any civil or criminal liability as a result of the administering of a blood test in a hospital, clinical laboratory, medical clinic environment, jail, or law enforcement facility, according to accepted venipuncture practices, without violence by the person administering the test, and when requested in writing by a peace officer to administer the test.

(5) If the test given under this Section is a chemical test of urine, the person tested shall be given such privacy in the taking of the urine specimen as will ensure the accuracy of the specimen and, at the same time, maintain the dignity of the individual involved.

(6) As used in this section, "certified paramedic" does not include any employee of a fire department.

(7) Consent, waiver of liability or the offering to, acceptance by, or refusal of consent or waiver of liability by the person on whom a test is administered, is not an issue or relevant to the immunity from liability for medical or law enforcement personnel or other facilities designated under subdivision (4).

SEC. 9. Blood-Alcohol Level: Presumptions Affecting Burden of Proof. -

(1) Upon the trial of any criminal action, or preliminary investigation/proceeding in a criminal action, arising out of acts alleged to have been committed by any person while driving a vehicle while under the influence of an alcoholic beverage in violation of subdivision (1) of

Section 4 or subdivision (1) of Section 5 of this Act, the amount of alcohol in the person's blood at the time of the test as shown by chemical analysis of that person's blood, breath or urine shall give rise to the following presumptions affecting the burden of proof:

(A) If there was at that time less than 0.05 percent, by weight, of alcohol in the person's blood, it shall be presumed that the person was not under the influence of an alcoholic beverage at the time of the alleged offense.

(B) If there was at that time 0.05 percent or more but less than 0.08 percent, by weight, of alcohol in the person's blood, that fact shall not give rise to any presumption that the person was or was not under the influence of an alcoholic beverage, but the fact may be considered with other competent evidence in determining whether the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(C) If there was at that time 0.08 percent or more, by weight, of alcohol in the person's blood, it shall be presumed that the person was under the influence of an alcoholic beverage at the time of the alleged offense.

(D) Percent, by weight, of alcohol in the person's blood shall be based upon grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(2) This section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the person ingested any alcoholic beverage or was under the influence of an alcoholic beverage at the time of the alleged offense.

SEC. 10. Implied Consent for Mandatory Chemical Testing. – (1) (A) (a) A person who drives a motor vehicle is deemed to have given his or her consent to mandatory chemical testing of his or her blood or breath for the purpose of determining the alcoholic content of his or her blood, if lawfully arrested for an offense allegedly committed in violation of Section 4 or 5 or 7 of this Act. If blood or breath test, or both, are unavailable, then paragraph (B) of subdivision (4) applies.

(b) A person who drives a motor vehicle is deemed to have given his or consent to mandatory chemical testing of his or her blood or urine for the purpose of determining the drug content of his or her blood, if lawfully arrested for an offense allegedly committed in violation of Section 4 or 5 or 7 of this Act.

(c) The mandatory testing shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe the person was driving a motor vehicle in violation of Section 4 or 5 or 7 of this Act.

(d) The person shall be told that his or her failure to submit to, or the failure to complete, the required mandatory chemical testing will result in a fine, mandatory imprisonment if the person is convicted of a violation of Section 4 or 5 of this Act, and (i) the suspension of the person's privilege to operate a motor vehicle for a period of one (1) year, (ii) the revocation of the person's privilege to operate a motor vehicle for a period of two (2) years if the refusal occurs within ten (10) years of a separate violation of Section 4, 5, or 7 that resulted in conviction, or (iii) the revocation of the person's privilege to operate a motor vehicle for a period of three (3) years if the refusal occurs within ten (10) years of two or more separate violations of Section 4, 5 or 7 of this Act, or any combination thereof, that resulted in convictions.

(B) (a) If the person is lawfully arrested for driving under the influence of an alcoholic beverage, the person has the choice of whether the test shall be of his blood or breath by a breathalyzer or similar equipment/device and the peace officer shall advise the person that he or she has that choice. If the person arrested either is incapable, or states that he or she is incapable, of completing the chosen test, the person shall submit to the remaining test. If a blood or breath test, or both, are unavailable, then paragraph (B) of subdivision (4) applies.

(b) If the person is lawfully arrested for driving under the influence of any drug or the combined influence of an alcoholic beverage and any drug, the person has the choice of whether the test shall be of his or her blood, breath or urine, and the peace officer shall advise the person that he or she has that choice.

(c) A person who chooses to submit to a breath test may also be requested to submit to a blood or urine test if the peace officer has reasonable cause to believe that the person was driving under the influence of a drug or the combined influence of an alcoholic beverage and a drug and if the peace officer has a clear indication that a blood or urine test will reveal evidence of the person being under the influence. The peace officer shall state in his or her report the facts upon which that belief and that clear indication are based. The person has the choice of submitting to and completing a blood or urine test, and the peace officer shall advise the person that he or she is required to submit to an additional test and that he or she may choose a test of either blood or urine. If the person arrested either is incapable or states that he or she is incapable, of completing either chosen test, the person shall submit to and complete the other remaining test.

(C) If the person is lawfully arrested for an offense allegedly committed in violation of Section 4, 5, or 7 of this Act, and, because of the need of medical treatment, the person is first transported to a medical facility where it is not feasible to administer a particular test of, or to obtain a particular sample of, the person's blood, breath, or urine, the person has the choice of those tests that are available at the facility to which that person has been transported. In that case, the peace officer shall advise the person of those tests that are available at the medical facility and that the person's choice is limited to those tests that are available.

(D) The peace officer shall also advise the person that he or she does not have the right to an attorney present before stating whether he or she will submit to a test or tests, before deciding which test or tests to take, or during administration of the test or tests chosen, and that in the event of refusal to submit to a test or tests, the refusal may be used against him or her in a court of law.

(E) A person who is unconscious or otherwise in a condition rendering him, or her incapable of refusal is deemed not to have withdrawn his or her consent and a test or tests may be administered whether or not the person is told that his or her failure to submit to, or the noncompletion of, the test or tests will result in the suspension or revocation of his or her privilege to operate a motor vehicle. A person who is dead is deemed not to have withdrawn his or her consent and a test or tests may be administered at the direction of a peace officer.

(2) A person who is afflicted with hemophilia is exempt from the blood test required by this section.

(3) A person who is afflicted with a heart condition and is using an anticoagulant under the direction of a licensed physician and surgeon is exempt from the blood test required by this section.

(4) (A) A person lawfully arrested for an offense allegedly committed while the person was driving a motor vehicle in violation of Section 4, 5 or 7 may request the arresting officer to have a chemical test made of the arrested person's blood or breath for the purpose of determining the alcoholic content of that person's blood, and, if so requested, the arresting officer shall have the test performed.

(B) If a blood or breath test is not available under subparagraph (a) of subdivision (1), or under subparagraph (a) of paragraph (B) of subdivision (1), or paragraph (A) of this subdivision, the person shall submit to the remaining test in order to determine the percent, by weight, of alcohol in the person's blood. If both the blood and breath tests are unavailable, the person shall be deemed to have given his or her consent to chemical testing of his or her urine and shall submit to a urine test.

(5) If the person, who has been arrested for a violation of Section 4, 5, or 7 refuses or fails to complete a chemical test or tests, or requests that a blood or urine test be taken, the peace officer, acting on behalf of the LTO, shall serve the notice of the order of suspension or revocation of the person's privilege to operate a motor vehicle personally on the arrested person. The notice shall be on a form provided by the LTO.

(6) If the peace officer serves the notice of the order of suspension or revocation of the person's privilege to operate a motor vehicle, the peace officer shall take possession of all driver's licenses issued by the LTO that are held by the person.

(7) (A) The peace officer shall immediately forward a copy of the completed notice of suspension or revocation form and any driver's license taken into possession under subdivision (6), with the required report to the LTO. If the person submitted to a blood or urine test, the peace officer shall forward the results immediately to the appropriate governmental forensic laboratory at the Philippine National Police or the National Bureau of Investigation or other governmental forensic laboratory. The forensic laboratory shall forward the results of the chemical tests to the LTO within fifteen (15) calendar days of date of the arrest.

(B) (a) Notwithstanding any other provision of law to the contrary, a document containing data prepared and maintained in the governmental forensic laboratory computerized database system that is electronically transmitted or retrieved through public or private computer networks to or by the LTO is the best available evidence of the chemical test results in all administrative proceedings conducted by the LTO. In addition, any other official record that is maintained in the governmental forensic laboratory, relating to a chemical test analysis prepared and maintained in the governmental forensic laboratory computerized database system, and is electronically transmitted and retrieved through a public or private computer network to or by the LTO is admissible as evidence in the LTO's administrative proceedings. In order to be admissible as evidence in administrative proceedings, a document described in this subparagraph shall bear a certification by the employee of the LTO who retrieved the document certifying that the information was received or retrieved directly from the computerized database system of a governmental forensic laboratory and that the document accurately reflects the data received or retrieved.

(b) Notwithstanding any other provision of law to the contrary, the failure of an employee of the LTO to certify under subparagraph (a) is not a public offense but an administrative offense only.

(8) A preliminary alcohol screening test that indicates the presence or concentration of alcohol based on a breath sample in order to establish reasonable cause to believe the person was driving a vehicle in violation of Section 4, 5, or 7 of this Act is a 3-test battery of standardized

field sobriety test and may be used by a peace officer as a further investigative tool. This standardized field sobriety test consists of the horizontal gaze nystagmus test, the walk-and-turn test (heel-to-toe in a straight line) and the one-leg stand. The horizontal gaze nystagmus test involves following an object with the eyes (such as pen) to determine characteristic eye movement reaction. The walk-and-turn test is designed to measure a person's ability to follow directions and remember a series of steps while dividing attention between physical and mental tasks. The one-leg stand is literally a one-leg stand.

(9) If the peace officer decides to use a preliminary alcohol screening test, the peace officer shall advise the person that he or she is requesting that person to take a preliminary alcohol screening test to assist the officer in determining if that person is under the influence of alcohol or drugs, or a combination of alcohol and drugs. The person's obligation to submit to a blood, breath or urine test, as required by this section, for the purpose of determining the alcohol or drug content of that person's blood is not satisfied by the person submitting to a preliminary alcohol screening test. The officer shall advise the person of that fact and of the person's right to refuse to take preliminary alcohol screening test.

SEC. 11. Breath and Chemical Testing Advisement. - (1) In addition to the requirements of Section 10 of this Act, a person who chooses to submit to a breath test shall be advised before or after the test the breathalyzer or the breath-testing equipment does not retain any sample of the breath and that no breath sample will be available after the test which could be analyzed later by that person or any other person.

(2) The person shall also be advised that, because no breath sample is retained, the person will be given an opportunity to provide a blood or urine sample that will be retained at no cost to the person so that there will be something retained that may be subsequently analyzed for the alcoholic content of the person's blood. If the person completes a breath test and wishes to provide a blood or urine sample to be retained, the sample shall be collected and retained in the same manner as if the person had chosen a blood or urine test initially.

(3) The person shall also be advised that the blood or urine sample may be tested by either party in any criminal prosecution. The failure of either party to perform this test shall place neither a duty upon the opposing party to perform the test nor affect the admissibility of any other evidence of the alcoholic content of the blood of the person arrested.

SEC. 12. Legislative Declarations: Mandatory Minimum Penalties for Multiple Offenses. - The Legislative finds and declares that some repeat offenders of the prohibition against driving under the influence of alcohol or drugs, when they are addicted or when they have too much alcohol in their systems, may be escaping the intent of the Legislative to punish the offender with progressively greater severity if the offense is repeated one or more times within a 10-year period. This situation may occur when a conviction for a subsequent offense occurs before a conviction is obtained on an earlier offense.

The Legislative further finds and declares that the timing of court proceedings should not permit a person to avoid aggravated minimum penalties for multiple offenses occurring within a 10-year period. It is the intent of the Legislative to provide that a person be subject to enhanced mandatory minimum penalties for multiple offenses within a period of 10 years, regardless of whether the convictions are obtained in the same sequence as the offenses had been committed.

Nothing in this section requires consideration of judgment of conviction in a separate proceeding that is entered after the judgment in the present proceeding, except as it relates to violation of probation.

Nothing in this section affects the penalty for a violation of Section 4 or 5 of this Act.

SEC. 13. Drinking While Driving. – No person shall drink any alcoholic beverage while driving a motor vehicle upon any highway as defined in Section 3(15) of this Act.

SEC. 14. Drinking in Motor Vehicles. – (1) No driver as defined in Section 3(10) of this Act shall drink any alcoholic beverage while in a motor vehicle upon a highway.

(2) No passenger shall drink any alcoholic beverage while in a motor vehicle upon a highway.

SEC. 15. Possession of Dangerous Drugs or Open Container While Driving. –

(1) No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway, any bottle, can or receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

(2) Except as authorized by law, every person who possesses, while driving a motor vehicle upon a highway, dangerous drugs as defined under Section 3 (j) of Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002, is guilty of an infraction punishable under Section 11 of said R.A. 9165.

SEC. 16. Possession of Open Container in Motor Vehicle. – (1) No driver shall have in his or her possession, while in a motor vehicle upon a highway, any bottle, can or other receptacle, containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed.

(2) No passenger shall have in his or her possession, while in a motor vehicle upon a highway, any bottle, can or other receptacle, containing any alcoholic beverage that has been opened or a seal broken, or the contents of which have been partially removed.

SEC. 17. Possession of Alcohol in Vehicle: Person Not Under 16. – (1) No person who is not under 16 years and possessed a valid student-driver's permit issued in accordance with Section 30 of R.A. 4136 otherwise known as the "Land Transportation and Traffic Code, as amended, shall drive any motor vehicle carrying any alcoholic beverage, unless the person is accompanied by a duly licensed driver and a parent, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of an alcoholic beverage. If the driver was unaccompanied by a parent, responsible adult relative, or any other adult designated by the parent, or legal guardian, he or she shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative, or adult designee relating to disposition of the alcohol beverage.

(2) No passenger in any motor vehicle who is under the age of 18 years shall possess or have under that person's control any alcoholic beverage, unless the passenger is accompanied by a parent, legal guardian, responsible adult relative, any other adult designated by the parent, or legal guardian for the purpose of transportation of an alcoholic beverage. If the passenger was unaccompanied, he or she shall have a complete defense if he or she was following, in a timely manner, the reasonable instructions of his or her parent, legal guardian, responsible adult relative or adult designee relating to disposition of the alcoholic beverage.

(3) If the vehicle used in any violation of subdivision (1) or (2) is registered to an offender who is under the age of 18 years, the vehicle may be impounded at the owner's expense for not less than thirty (30) days nor more than forty-five (45) days for each violation. The term "owner" shall mean the owner as defined in Section 3(f) of the R.A. 4136, as amended.

(4) Any person under 18 years of age convicted of a violation of this section is subject to the following:

(A) For each conviction of a person for an offense in subdivision (1) or (2), committed while the person was under the age of 18 years, but 15 years of age or older, the court shall suspend the person's driving privilege for one (1) year. If the person convicted does not yet have the privilege to drive, the court shall order the head of the Land Transportation Office (LTO) or his/her deputies to delay issuing the privilege to drive for one (1) year subsequent to the time the person becomes legally eligible to drive. For each successive offense, the court shall suspend the person's driving privilege for those possessing a license or delay the eligibility for those not in possession of a license at the time of their conviction for one additional year.

(B) Whenever the court suspends driving privileges pursuant to subdivision (A), the court in which the conviction is had shall require all driver's licenses held by the person to be surrendered to the court. The court shall within ten (10) days following the conviction transmit a certified abstract of the conviction, together with any driver's licenses surrender to the LTO.

(5) Any person convicted for a violation of subdivision (1) or (2) shall be punished upon conviction by a fine of not more than ten thousand pesos (P10,000.00) or by imprisonment in municipal/city/provincial jail for not more than six (6) months, or both that fine and imprisonment at the discretion of the court.

SEC. 18. Storage of Opened Container. – (1) (A) It is unlawful for the owner of any motor vehicle to keep in a motor vehicle, when the vehicle is upon any highway, any bottle, can or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, unless the container is kept in the trunk of the vehicle.

(B) If the vehicle is not equipped with a trunk and is not an off-highway motor vehicle as defined in Section 3 of this Act, the bottle, can or other receptacle described in paragraph (A) shall be kept in some other area of the vehicle that is not normally occupied by the driver or passengers. For the purposes of this paragraph, a utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers.

(C) If the vehicle is not equipped with a trunk and is an off-highway motor vehicle as defined in Section 3(4) of this Act, the bottle, can or other receptacle described in paragraph (A) shall be kept in a locked container. As used in this paragraph, "locked container" means a secure container that is fully enclosed and locked by a padlock, key lock, combination lock or similar locking device.

(2) Subdivision (1) is also applicable to a driver of a motor vehicle if the owner is not present in the vehicle.

(3) This section shall not apply to the living quarters of housecar or camper.

SEC. 19. Storage of Opened Container in Passenger Compartment. – (1) It is unlawful for driver to keep in the passenger compartment of a motor vehicle, when the vehicle is upon any highway, any bottle, can or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed.

(2) It is unlawful for any passenger to keep in the passenger compartment of a motor vehicle, when the vehicle is upon any highway, any bottle, can or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed.

SEC. 20. Penalty: First Conviction under Sec. 4. – (1) If a person is convicted of a first violation of Section 4 of this Act, that person shall be punished by imprisonment in the municipal/city/provincial jail for not less thirty (30) days nor more than six (6) months, and by a fine of not less than P10,000.00, nor more than P50,000.00.

(2) The person's privilege to operate a motor vehicle shall be suspended by the Land Transportation Office (LTO). The court shall require the person to surrender the driver's license to the court and the court shall within ten (10) days after the conviction forward the same with the required report of the conviction to the LTO.

SEC. 21. Conditions of Probation: First Conviction. – (1) (A) If the court grants probation punished under Section 4 of this Act, and other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person pay a fine of at least P50,000.00 but not more than P100,000.00. The court may also impose, as a condition of probation, that the person be confined in a municipal/city/provincial jail for at least 15 days, not more than 30 days.

(2) The court shall also impose as a condition of probation that the driver shall enroll and participate in, and successfully complete a driving-under-the influence program sponsored or approved by the Land Transportation Office (LTO), in the driver's place of residence or employment, as designated by the court. For purposes of this subdivision, enrollment in, participation in, and completion of an approved program shall be subsequent to the date of the current violation. Credit may not be given for any program activities completed prior to the date of the current violation.

(A) The court shall refer a first offender whose blood-alcohol concentration was less than 0.20 percent, by weight, to participate for at least three (3) months or longer, as ordered by the court, in a licensed program approved by the LTO that consists of at least 30 hours of program activities, including those education, group counseling, and individual interview sessions.

(B) The court shall refer a first offender whose blood-alcohol concentration was 0.20 or more, by weight, or who refused to take a chemical test, to participate for at least nine (9) months or longer, as ordered by the court, in a program licensed by the LTO that consists of at least 60 hours of program activities, including those education, group counseling, and individual interview sessions.

(C) The court shall advise the person at the time of sentencing that driving privilege shall not be restored until proof satisfactory to the LTO of successful completion of a driving-under-the-influence program of the length required by the court under this section.

(3) (A) The court shall revoke the person's probation granted under this section, except for good cause shown, for the failure to enroll in, participate in, or complete a program specified in subdivision (2).

(B) The court shall establish reporting requirements in consultation with the LTO. That reporting shall ensure that all persons who, after being ordered to attend and complete a program, may be identified for either (1) failure to enroll in, or failure to

successfully complete the program, or (2) successful completion of the program as ordered.

SEC. 22. Penalty: Second Offense Within Ten (10) Years. – If a person is convicted of a violation of Section 4 of this Act and the offense occurred within ten (10) years of a separate violation of said Section 4, that resulted in a conviction, that person shall be punished by imprisonment in the municipal/city/provincial jail for not less than six (6) months nor more than one (1) year and by a fine of not less than P100,000.00 nor more than P200,000.00. The person's privilege to operate a motor vehicle shall be suspended by the LTO. The court shall require the person to surrender the driver's license to the court and the court shall within ten (10) days after the conviction forward the same with the required report of the conviction to the LTO.

SEC. 23. Conditions of Probation: Second Offense Within Ten (10) Years. –

(1) (A) If the court grants probation to a person punished under Section 21 under this Act, in addition to any terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in municipal/city/provincial jail and three under either of the following:

(a) For at least three (3) months, but not more than six (6) months, and a fine of at least P200,000.00, but not more than P500,000.00.

(b) For at least six (6) months, but not more than one (1) year and a fine of at least P100,000.00 nor more than P300,000.00.

(B) The person's privilege to operate a motor vehicle shall be suspended by the LTO. The court shall require the person to surrender the driver's license to the court and the court shall within ten (10) days after the conviction forward the same with the required report of the conviction to the LTO.

(2) In addition to the conditions specified in subdivision (1), the court shall require the person to do either of the following:

(A) Enroll and participate, for at least 18 months subsequent to the date of the underlying violation and in a manner satisfactory to the court, in a driving-under-the-influence program licensed or sponsored by the LTO, as designated by the court. The person shall complete the entire program subsequent to, and shall not be given any credit for any program activities completed prior to, the date of the current violation. The program shall provide for persons who cannot afford the program fee, upon showing to the satisfaction of the court that these persons cannot really afford to pay the program fee, in order to enable those persons to participate.

(B) Enroll and participate, for at least 30 months subsequent to the date underlying violation and in a manner satisfactory to the court, in a driving-under-the-influence program licensed or sponsored by the LTO. The person shall complete the entire program subsequent to, and shall not be given any credit for any program activities completed prior to, the date of current violation.

(C) The court shall advise the person at the time of sentencing that the driving privilege shall not be restored until proof satisfactory to the LTO and the court of successful completion of a driving-under-the-influence program of the length required under this Act has been received in the LTO's main office.

SEC. 24. Penalty: Third or Subsequent Conviction Within Ten (10) Years. -

(1) If a person is convicted of a violation of Section 5 of this Act and the offense occurred within ten (10) years of two or more separate violations in Sections 4 or 5, or any combination of these violations, that resulted in convictions, that person shall be punished by imprisonment in the National Penitentiary for a term of six (6) years and by a fine of not less than P500,000.00 nor more than P1,000,000.00. The person's privilege to operate a motor vehicle shall be revoked by the LTO. The court shall require the person to surrender the driver's license to the court and the court shall within ten (10) days after the conviction forward the same with the required report of the conviction to the LTO.

(2) If a person is convicted of a violation of Section 5 of this Act, and the act or neglect proximately causes great bodily injury as provided by Article 365 of the Revised Penal Code, to any person other than the driver, and the offense occurred within 10 years of two (2) separate violations of Section 4 or 5 of this Act, or any combination of these violations, that resulted in convictions, that person shall be punished by imprisonment in the National Penitentiary for a term of 12 years and a fine of not less than P1,000,000.00. The person's privilege to operate a motor vehicle shall be revoked by the LTO. The court shall require the person to surrender the driver's license to the court and the court shall within ten (10) days after the conviction forward the same with the required report of the conviction to the LTO.

(3) If a person is convicted under subdivision (2), and the offense for which the person is convicted occurred within 10 years of four or more separate violations of Section 4 or 5 of this Act, or any combination of these violations, that resulted in convictions, that person shall, in addition to the sentence imposed under subdivision (2), be punished by an additional term of imprisonment in the National Penitentiary for five (5) years.

The enhancement allegation provided in this subdivision shall be pleaded and proved as provided by law.

(4) A person convicted of Section 5 of this Act punishable under this section shall be designated as a habitual traffic offender for a period of three (3) years, subsequent to the conviction. The person shall be advised by the court of this designation.

(5) A person confined in the National Penitentiary under this section shall be ordered by the court to participate in an alcohol or drug program, or both, that is available at the prison during the person's confinement. Completion of an alcohol or drug program under this section does not meet the program completion unless the drug or alcohol program is licensed or sponsored by the LTO.

SEC. 25. Conditions of Probation: Third or Subsequent Conviction Within Ten (10) Years. - If the court grants probation to a person punished under Section 21, in addition to any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in the municipal/city/provincial jail for at least two (2) years, that the person pay a fine of at least P500,000.00, but not more than P800,000.00, and that the person make restitution or reparation as ordered by the court. The person's privilege to operate a motor vehicle shall be revoked by the LTO. The court shall require the person to surrender the driver's license to the court and the court shall within ten (10) days after the conviction forward the same with the required report of conviction to the LTO.

SEC. 26. DUI Penalties for Persons under 18 Years of Age: Driving-Under the Influence Program. - (1) Notwithstanding any other provision of law, if a person who is at least 17 years of age is convicted of a first violation of Section 7 of this Act, in addition to any penalties, the court shall order the person to attend a program licensed or sponsored by the LTO.

(2) The attendance in an LTO license⁴ or sponsored driving-under-the-influence program required under subdivision (1) shall be as follows:

(A) If, within ten (10) years of the current violation of Section 7 of this Act, the person has not been convicted of a separate violation of Sections 4, 5, or 7 of this Act, with a plea of guilty, the person shall complete, at a minimum, the education component of that LTO licensed or sponsored driving-under-the-influence program.

(B) If the person does not meet the requirements of paragraph (A), the person shall complete the entire LTO licensed or sponsored driving-under-the influence program.

(3) The person's privilege to operate a motor vehicle shall be suspended by the LTO and the court shall require the person to surrender his or her license to the court and the court shall, within ten (10) days after conviction forward the same with the required report of conviction to the LTO.

(4) The court shall advise the person at the time of sentencing that the driving privilege will not be restored until the person has provided the LTO with proof satisfactory to the LTO that the person has successfully completed the driving under the influence program required by this section.

SEC. 27. Prior Convictions: Sentencing. - (1) In any case charging a violation of Section 4 or 5 of this Act and the offense occurred within ten (10) years of one or more separate violations of Section 48 (Reckless Driving) of Republic Act No. 4136, as amended, or the Land Transportation and Traffic Code, or any combination thereof, that resulted in convictions, the court shall not strike any separate conviction of those offenses for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time of imprisonment and the minimum fine, or for purposes of avoiding revocation, suspension, or restriction of the privilege to operate a motor vehicle, as provided in Republic Act No. 4136, as amended.

(2) In any case charging a violation of Section 4 or 5 of this Act, the court shall obtain a copy of the driving record of the person charged from the LTO and may obtain any records from the Department of Justice or any other source to determine if one or more separate violations of Section 48 (Reckless Driving) of Republic Act No. 4136, as amended, or any combination thereof, that resulted in convictions, have occurred within ten (10) years of the charged offense. The court may obtain and accept as rebuttable evidence, a printout from the LTO of the driving record of the person charged, maintained by electronic and storage media for the purpose of proving separate violations.

(3) If any separate convictions of violations of Section 4 or 5 of this Act are reported to have occurred within ten (10) years of the charged offense, the court shall notify each court where any of the separate convictions occurred for the purpose of enforcing terms and conditions of the probation granted by the court after conviction.

SEC. 28. Entitled to Use Drugs. - The fact that any person charged with driving under the influence of any drug or the combined influence of alcoholic beverages and any drug in violation of Section 4 or 5 of this Act is, or has been entitled to use, under the laws of the Philippines, shall not constitute a valid defense against any violation of the said sections.

SEC. 29. Court Record: Reason for Order or Motion. - When an allegation of a violation of Section 4 of this Act is dismissed by the court, an allegation of a different or lesser offense is substituted for an allegation for a violation of Section 4 of this Act, or an allegation of a separate conviction is dismissed or stricken, the court shall specify on the record its reason or reasons for the order. The court shall also specify on record whether the dismissal, substitution,

or striking was requested by the prosecution and whether the prosecution concurred in or opposed the dismissal, substitution, or striking.

When the prosecution makes a motion for a dismissal or substitution, or for the striking of a separate conviction, the prosecution shall submit a written statement which shall become part of the court record and which gives reasons for the motion. The reasons shall include, but need not be limited to problems of proof, the interests of justice, why another offense is more properly charged, if applicable, and any other pertinent reasons. If the reasons include the "interests of justice," the written statement shall specify all the factors which contributed to this conclusion.

SEC. 30. Program Participation Prior to Proceeding. - (1) In any case in which a person is charged with a violation of Section 4 or 5 of this Act, prior to acquittal or conviction, the court shall neither suspend nor stay the proceedings for the purpose of allowing the accused person to attend or participate, nor shall the court consider dismissal of or entertain a motion to dismiss the proceedings because the accused person attends or participates during that suspension, in any one or more education, training, or treatment programs, including, but not limited to, a driver improvement program, a treatment programs for persons who are habitual users of alcohol or other alcoholism program, a program designed to offer alcohol services to problem drinkers, or alcohol or drug education program, or a treatment program for persons who are habitual users of drugs or other drug-related program.

(2) This section shall not apply to any attendance or participation in any education, training, or treatment programs after conviction and sentencing, including attendance or participation in any of those programs as a condition of probation granted after conviction when permitted.

SEC. 31. Separability Clause. - If, for any reason, any part of provision of this Act is declared invalid or unconstitutional, such declaration shall not affect the other provisions of this Act.

SEC. 32. Repealing Clause. - The provisions of laws, decrees, executive orders, ordinances, rules and regulations inconsistent with this Act are repealed, amended or modified according

SEC. 33. 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,