

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

15th Congress
Second Regular Session

HOUSE BILL NO. 5369



Introduced by: Rep. MA. VICTORIA R. SY-ALVARADO

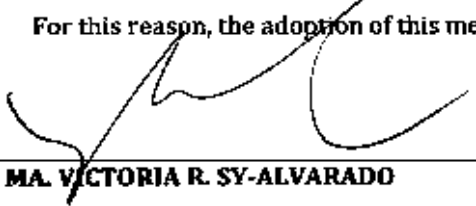
EXPLANATORY NOTE

Right of way is an important aspect of the property rights. Ownership of property grants a person dominion over his property with the rights to enjoy the same. This bill seeks to grant the property owner adequate remedy against violations of their right of way in the egress and ingress to their property.

It may raise questions as to the propriety that the State should step in the enforcement of private rights. However, a careful reading of this bill will show that State intervention is strictly limited to providing remedies for violations and in providing reasonable penalties thereof.

Special consideration is given by this bill in the current situation where in the enforcement of private property rights, the removal of illegally parked vehicles blocking a private driveway may lead to criminal prosecution initiated against them or against the law enforcement responders. Sometimes a complaint for carjacking or for robbery or theft is lodged by the supposed offender of private property right against those whom he offended, the property owner. This situation is not only unjust but rewards the mischief of the former. It is the hope of this representation to straighten out this injustice and grant adequate remedy for the private property owner, and at the same time craft legislation that may be enough to have a mindset and conduct-altering effects, for improving our behavior and society as a whole.

For this reason, the adoption of this measure is most sought for.



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**AN ACT ESTABLISHING
DESIGNATED PRIVATE DRIVEWAYS AS NO PARKING ZONES, PROHIBITING PARKING AND/OR
BLOCKING AND AUTHORIZING REMOVAL OF IMPEDIMENTS TO INGRESS AND EGRESS FROM IT, AND
PENALIZING VIOLATIONS THEREOF.**

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 Driveways Act of 2011.

Sec. 2. *No Parking on Driveways.* – It is hereby established that all designated private driveways as no parking zones and there shall be no impediments to the free ingress and egress from it.

Designated Private Driveways shall mean driveways with clear and noticeable announcement posted indicating the intention of the property owner or the person having rights thereof to designate such as a driveway, regardless of its actual use as a driveway and ownership of a vehicle of such property owner or rights holder, *provided* that there shall be only one designated driveway for such property.

Sec. 3. The property owner or rights holder whose ingress to and egress from his designated driveway has been blocked shall have all the rights and power to cause the removal of such impediment and secure the free ingress and egress to his property. He can call upon a towing service operated by the local government unit having jurisdiction over the driveway concerned or a towing service privately operated and granted authority to operate by the local government unit having jurisdiction over the driveway concerned to effect the removal of such impediment. Costs for such removal shall be borne by the person responsible for blocking, parking or otherwise impeding the free ingress to or egress from the driveway, *provided* that, if it is not readily ascertainable who is the person responsible for blocking, parking or otherwise impeding the free ingress to or egress from the driveway, the property owner or rights holder who caused the removal of such impediment shall bear the cost for such removal, subject to his rights to recover his expenses incurred from the person responsible for blocking, parking or otherwise impeding the free ingress to or egress from the driveway, in addition to the appropriate damages, as determined by the court with competent jurisdiction.

Sec. 4. *Exemption from criminal liability in the exercise of rights under this act.* – All persons who caused the removal of the impediments to the free ingress to and egress from designated

driveways and those performing such services in accordance from such right, as provided in this act, such as, but is not limited to, towing services and other removal services, shall have no criminal liability arising from acts in enforcing such right and performing such services in accordance to such right, *provided that* the procedure provided for by this act is followed and due diligence in the handling of the removed impediment shall be observed commensurate to the condition and character of the impediment removed.

- (a) For illegally parked vehicles blocking free ingress to and egress from designated driveways, the property owner or rights holder may cause its towing, as provided by this act, *provided that* he shall first ask three persons residing in the barangay having jurisdiction over the designated driveway as to the identity of the owner of such illegally parked vehicle. If no one knows of his identity, the property owner or rights holder must then call out for three times who is the owner of such vehicle. Should no one answer, he may then cause its towing. Should the owner of the illegally parked vehicle come forward and identify himself, he must remove such vehicle immediately otherwise, the property owner or rights holder may cause its towing. At all times, towing shall only be performed by a towing service operated by the local government unit having jurisdiction over the driveway concerned or a towing service privately operated and granted authority to operate by the local government unit having jurisdiction over the driveway concerned.

Said vehicle shall be impounded and the same shall constitute a lien for the local government unit or the private towing operator to cover the cost of its removal. The authority granted herein is limited only for its removal from blocking the designated driveway and does not authorize opening said vehicle or breaking into it. An inventory or checklist shall be accomplished indicating the external physical condition of the vehicle which is to be signed by the supervisor of the towing team and countersigned by the property owner or rights owner causing the removal. Any loss or damage to the internal contents of the impounded vehicle shall be borne by the vehicle's owner. Any loss or damage to the external physical condition of the impounded vehicle shall be borne by the vehicle's owner, *provided that* the inventory or checklist has been properly accomplished and completed. However, should the vehicle owner prove before a court of competent jurisdiction that loss or damage to his vehicle and its contents was due to the fault or negligence any person, that person shall be liable for such loss or damage.

No criminal and civil liability shall attach *provided that* the towed vehicle is impounded in a designated facility by the local government unit having jurisdiction over the designated driveway.

- (b) For other impediments blocking free ingress to and egress from designated driveways, the property owner or rights holder may cause its removal and disposal by any lawful means possible, *provided that* he shall first ask three persons residing in the barangay having jurisdiction over the designated driveway as to the identity of the owner of such impediment. If no one knows of his identity, the property owner or rights holder must then call out for three times who is the owner of such impediment. Should no one answer, he may then cause its removal and disposal by any lawful means possible. Should the owner of the impediment come forward and identify himself, he must remove such impediment immediately otherwise, the property owner or rights holder may cause its removal and disposal.

No criminal and civil liability shall attach against the property owner or rights holder for his removal and disposal of such impediment, *provided that* the property owner or rights holder should not appropriate ownership of such impediment.

Sec. 5. *Implementing Rules and Regulations.* – The Secretary of the Interior and Local Government and the Chairperson of the Metropolitan Manila Development Authority are hereby authorized to issue the necessary implementing rules and regulations for this act.

Sec. 6. Designation of impounding areas of Local Government Units shall be done through an appropriate act issued by the appropriate Sanggunian, *provided that* there should at least be one impounding facility per province and per independent and/or highly urbanized city. If the province has no impounding facility, a municipality, by itself or in collaboration with other municipalities and component cities belonging to the same province may maintain one for their collective use. All provinces, or in default thereof, its component cities and municipalities, and independent and/or highly urbanized cities are hereby given six months from the effectivity of this act to designate an impounding area within their jurisdiction, *provided that* a common impounding area is only allowed as between component cities and municipalities belonging to the same province.

For the first six months of effectivity of this act, towed vehicles must be brought to the municipal hall, city hall or provincial capitol grounds, all of which are hereby declared default impounding areas until an impounding area has been designated within the six months grace period. Should after the six months grace period, no impounding area has been designated, the municipal mayor, city mayor or provincial governor concerned and their respective Sanggunian presiding officer and members shall be the ones liable criminally and solidarily liable civilly, as the case may be, on their personal capacities.

Sec. 7. *Penalties:*

- (a) Illegal parking on a designated driveway – in addition to those provided by this act, the appropriate traffic enforcement agency or the traffic authority of the local government unit concerned shall issue the appropriate ticket against a person who parked the vehicle he drives on a designated driveway, regardless of its removal.
- (b) Other impediments blocking free ingress to and egress from designated driveways – in addition to those provided by this act, the person who blocked or impeded free ingress to and egress from designated driveways shall be liable for a fine not less than one hundred pesos but not exceeding five hundred pesos, as may be determined by a court of competent jurisdiction.
- (c) Two or more designated driveways – a property owner or rights holder who have two or more designated driveways within the same property shall immediately remove such number of designations until he has only one designated driveway within three days from receipt of a letter demanding for such removals. Should he fail to do so, he shall be liable for a fine of not less than one thousand pesos but not exceeding five thousand pesos, for every extra driveway, as may be determined by a court of competent jurisdiction.
- (d) Refusal of towing service – When properly requested by the property owner or rights holder and upon satisfaction of the procedure provided by this act, a towing service must always carry out the removal of an illegally parked vehicle, regardless of payment from the one who caused its removal.
- (e) A towing service privately operated and granted authority to operate by the Local Government Unit having jurisdiction over the driveway concerned refusing to remove an illegal parked vehicle shall be liable for a fine of not less than one thousand pesos but not exceeding five thousand pesos, and the authority to

operated granted by the Local Government Unit concerned shall be cancelled or suspended for not more than six months, as may be determined by a court of competent jurisdiction.

Sec. 8. *Separability Clause.* - If for any reason, any provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Sec. 9. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,