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J. Bonoan-David

HOUSE OF REPRESENTATIVES  
House Bill No. **6193**

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Introduced by: MA. THERESA B. BONOAN-DAVID  
4<sup>th</sup> District, City of Manila

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**EXPLANATORY NOTE**

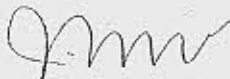
A motor vehicle driven by a person under the influence of alcohol and/or drugs becomes a dangerous machine and even a potentially fatal weapon that may result to unfortunate deaths.

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 alcohol and/or drugs is considered a great concern that is combated through stricter penalties and methodical laws that seek to effectively and efficiently eliminate the problem.

There must be full personal and social responsibility for the incidence of drunk driving in our country. In addition to providing better means of law enforcement and stiffer penalties for driving under the influence of alcohol and/or drugs, this bill seeks to tackle drunk driving through a comprehensive systems approach, which includes driver education, mandatory alcohol and drug testing of drivers involved in fatal motor vehicle accidents, the establishment of a drunk driving prevention fund for the purpose of funding the implementation of this proposed legislation, and the conduct of public information campaigns by alcohol beverage manufacturers about drunk driving and its ill effects with the end in view of preventing the same.

In view of the foregoing, the passage of this bill is earnestly sought.

  
MA. THERESA BONOAN-DAVID  
4<sup>th</sup> District, City of Manila

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**AN ACT TO PREVENT AND PUNISH DRIVING UNDER THE  
INFLUENCE OF ALCOHOL AND/OR DRUGS**

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

**SECTION 1.** Short Title. - This Act shall be known as the "*Drunk Driving  
Prevention and Punishment Act.*"

**SECTION 2.** Policy. - It is the policy of the State to protect its people from  
hazards brought about by driving under the influence of alcohol and/or  
drugs that foolishly endanger life and property.

**SECTION 3.** Definitions. - For purposes of this Act:

- (1) "Motor vehicle" refers to anything that carries people or goods  
powered by a motor or engine.
- (2) "Driving under the influence" refers to the act of operating a motor  
vehicle while intoxicated with alcohol and/or drugs when the  
driver's mental and motor skills are impaired, or when the driver's  
blood alcohol concentration level is 0.08% or more.
- (3) "Field sobriety tests" refers to standardized tests, including the  
horizontal gaze
- (4) "Chemical tests" refers to breath, urine or blood tests to determine  
the blood nystagmus, the walk-and-turn, and the one-leg stand,  
to assess intoxication alcohol content level and/or the positive  
indication of drugs.
- (5) "Driving under the influence resulting to physical injuries" refers to  
the unlawful and unintentional physical injuries of a person  
caused by a driver while driving under the influence.

- (6) "Driving under the influence resulting to homicide" refers to the unlawful and unintentional death of a person caused by a driver while driving under the influence.

**SECTION 4. Driver Education.** - Every applicant for a driver's license shall complete a course of instruction that provides information on driver and safety matters, including the effects of consumption of beverage alcohol products and the use of illegal drugs, prescription drugs, and non-prescription drugs on the ability of a person to operate a motor vehicle; the hazards of driving under the influence; and the penalties for driving under the influence.

The driver's license test shall include written questions concerning the effects of consumption of beverage alcohol products and the use of illegal drugs, prescription drugs, and non-prescription drugs on the ability of a person to operate a motor vehicle and the legal and financial consequences resulting from violation of the law prohibiting driving under the influence.

**SECTION 5. Driving Under the Influence.** - It shall be unlawful for any person to be driving under the influence. When a law enforcement officer has probable cause to believe a driver to be driving under the influence due to manifestations, including erratic driving, poor coordination, or the presence of the smell of alcohol, the officer shall conduct field sobriety tests. If the driver fails the field sobriety tests, the driver shall be required to undergo chemical tests.

**SECTION 6. Chemical Tests.** - Upon determination of probable cause of violation of this Act and as provided under the next preceding section, chemical tests shall immediately be administered at the direction of the apprehending law enforcement officer at the laboratory of any authorized hospital, clinic or test center. Such tests shall consist of blood or urine sample analysis or any equivalent test to be conducted by any authorized medical or laboratory authority to determine the suspect's BAC level or the presence of any prohibited drug in his or her system.

**SECTION 7. Mandatory Alcohol and Drug Testing of Drivers involved in Fatal Motor Vehicle Accidents.** -When the driver of a motor vehicle is involved in an accident resulting in loss of human life, or where there is reason to believe that death may have resulted from an accident, and there exists probable cause to believe that the driver is guilty of driving under the influence, chemical tests shall be administered to the driver, including those fatally injured, to determine the presence and concentration of alcohol and/or drugs.

**SECTION 8. *Administrative License Suspension.*** - Right after arrest, when a driver suspected of violating this Act fails the chemical test as prescribed herein, a notice of suspension shall be served on him.

The notice serves as a temporary permit to drive which shall be valid for a period not exceeding 45 days within which the suspension may be challenged. The permit shall automatically be revoked without need of any further order or declaration to that effect: Provided, however, that this section shall not be applicable to persons who have been previously arrested for allegedly violating the provisions of this act, regardless of the findings in the previous criminal prosecution, and those who have previously been found guilty of violating Art. 365 of the Revised Penal Code.

Criminal Prosecution under this Act shall proceed separately and independently and shall not be replaced by Administrative License Suspension.

**SECTION 9. *Driver's Right to Contest.*** - If the driver controverts the finding of the apprehending or investigating police officer, the burden lies with him or her to prove that he is not under the influence of alcohol, drugs and/or other prohibited substances by immediately securing a blood test which result must show the time the same was taken and that the blood alcohol concentration level did not exceed point zero eight percent (0.08%). For purposes of this Section, "immediately" shall mean within two (2) hours from the apprehension or investigation. Such contest against the finding of the apprehending or investigating police officer must be done within the period provided in the next preceding section for challenging an administrative license suspension.

**SECTION 10. *Duty of Apprehending or Investigating Police Officer.*** - The apprehending or investigating police officer must inform the driver of his or her right to remain silent, that anything he or she says can be used against him or her, and he or she has a right to counsel before questioning. The officer must likewise inform the driver of his or her right to contest the apprehending or investigating officer's finding and the consequence of his or her waiver or failure to do the same within the period provided in the next two preceding sections.

**SECTION 11. *Classification of Offense.*** -Any offense committed in violation of this Act and the resulting violation of the Revised Penal Code shall be treated as acts *malum prohibitum*.

**SECTION 12. *Implied Consent*** - Any person who drives or operates a motor vehicle on a street, road, highway or a public or quasi-public area shall be deemed to have given consent to a test or tests of such person's

blood, breath, urine or other bodily substance for the purpose of determining his/her BAC level or the presence of prohibited drugs under the following circumstances:

- (a) If he exhibits some indication of alcohol/drug impairment while in motion, such as speeding, swerving, weaving in traffic or coming dangerously close to stationary objects or other vehicles;
- (b) If he is stopped for a traffic violation or any other offense alleged to have been committed while in motion;
- (c) If he is involved in an accident;
- (d) If he is about to enter an expressway, toll way, subdivision or public or private facility and the authorities thereat finds any reasonable basis to require screening tests such as alcoholic breath, slurred speech, sluggish or delayed reaction indicative that he may be under the influence of alcohol or prohibited drugs

**SECTION 13. Penalties.** - Any person found guilty of violating the provisions of this Act shall be sentenced to suffer any of the following penalties:

- (a) First offense - a fine of Three Thousand Pesos (P3,000.00) and suspension of the offender's license to drive for six (6) months, or imprisonment for not more than thirty (30) days, at the discretion of the court: Provided, that if during the period that the offender's license to drive was suspended, he commits the same offense again, in addition to the penalty specified in this paragraph, he will be sentenced to not less than thirty (30) days but not more than forty-five (45) days of imprisonment.
- (b) Second offense - a fine of Five Thousand Pesos (P5,000.00), suspension of the offender's license to drive for one (1) year and imprisonment of not more than thirty (30) days: Provided, That if during the period that the offender's license to drive was suspended, he commits the same offense again, in addition to the penalty specified in this paragraph, he will be sentenced to not less than six (6) months but not more than twelve (12) months of imprisonment.
- (c) Third and all subsequent offenses - a fine of Twenty Thousand Pesos (P20,000.00), suspension of the offender's license to drive for three (3) years and sixty (60) days imprisonment: Provided, That the additional penalty of not less than one (1) year but not more than three (3) years of imprisonment shall be imposed upon the offender who shall commit the same offense during the period when his license to drive is suspended.

- (d) In cases wherein a violation of this Act results to a violation of the Revised Penal Code or other laws, the penalty to be imposed is that provided under the Revised Penal Code had the act complained of been intentional, or *arresto mayor*, whichever is higher, and suspension of the offender's license to drive for five years.
- (e) If serious physical injuries resulted by reason of such violation, the penalty imposed shall be *prision mayor*, as defined under the Revised Penal Code, a fine ranging from Twenty Thousand Pesos (Php20,000.00) to Fifty Thousand Pesos (Php50,000.00) and suspension of the offender's license to drive for five years.
- (f) If death resulted by reason of such violation, the penalty imposed shall be *reclusion temporal*: Provided, That the additional fine of not less than Fifty Thousand Pesos (Php50,000.00) for every resulting death shall be imposed if several deaths occur by reason thereof.

The periods for the additional penalty of suspension of license to drive imposed by this section shall begin to run after service of sentence, as provided heretofore. The provisions of Article 39 of the Revised Penal Code imposing subsidiary imprisonment shall be applicable to this Act in case of non-payment of the fines herein provided.

**SECTION 14. Public Hospitals.** - For purposes of this Act, all public hospitals are required to have facilities for chemical tests to determine the presence and concentration of alcohol and/or drugs. Public hospitals shall be given preference in the administration of chemical tests pursuant to this Act.

**SECTION 15. Drunk Driving Prevention Fund.** - A fee of not more than ten percent (10%) of the fees and charges for license and motor vehicle transactions is hereby imposed to constitute the drunk driving prevention fund for the purpose of funding the implementation of this Act, including the training of law enforcement officers to conduct field sobriety tests and the procurement of the needed supplies and equipment for the administration of chemical tests.

**SECTION 16. Alcohol Beverage Manufacturers.** - All alcohol beverage manufacturers are required to conduct public information campaigns to educate the public about driving under the influence and its ill effects with the end in view of preventing the same.

**SECTION 17. Repealing Clause.** - Republic Act No. 4136, as amended, and all laws, decrees, orders, rules and regulations or other issuances or

parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

**SECTION 18.** Separability Clause. - If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in force and effect.

**SECTION 19.** Effectivity. - This Act shall take effect after fifteen (15) days following the completion of its publication either in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved.