

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

FIFTEENTH CONGRESS
Third Regular Session

House Bill No. **6817**



Introduced by Rep. **BERNADETTE HERRERA-DY**

Explanatory Note

We introduce a comprehensive definition of the crime of Unlawful Use of Firearms, which includes carrying a firearm while intoxicated, allowing a minor or unlicensed person to carry a firearm, or the discharge of a firearm outside the act of self-defense, defense of another, or any other absolatory cause. We propose redefining the crime formerly known as Unlawful Discharge of Firearms, in light of its having become a dead-letter law in addressing the evil which it purportedly sought to contain.

Firearms are unique tools, as they have a singular purpose – causing injury to another, which injury is often lethal. Regulation is therefore long recognized as necessary.

The current system of firearms control and regulation, as required by Presidential Decree No. 1866, as amended, is the institution of a separate system of licensing for the possession and for the carriage of firearms, administered by the Philippine National Police. PD 1866 does not address the improper use of licensed firearms, because under current laws, the use of the firearm is within the province of Article 254 of the Revised Penal Code.

We note, however, that these existing regulations are woefully inadequate when it comes to providing appropriate penalties for the wide range of firearms abuse.

Article 254 of the Revised Penal Code penalizing the unlawful discharge of firearms, as worded, is woefully inadequate to address the abuses that are before our eyes on an almost daily basis, both in terms of scope and penalty. For instance, in one case, all that could be charged against a son of a former senator who peppered parked cars outside a known restaurant with rifle bullets from an assault rifle is the crime of Alarms and Scandal. In another case, Stephanie Nicole Ella, an innocent four year old, suffered fatal injuries after a drunk man fired an improvised pipe shotgun, known as a *sumpak*, for the New Year. In yet another case, a man who was handed over possession of his duly licensed firearm, while drunk, shot everyone in sight before turning the gun on himself, killing a total of nine people, including Michaela Caimol, who was seven, and Jan Monica de Vera, who was eight.

Our present scheme of gun regulations has not curbed, prevented, or otherwise stopped an ever-increasing number of violent crimes done with or through the use of

improvised, registered and licensed firearms. Unless we tighten the net, tragedies will continue to fill our collective consciousness.

It is hoped that through this measure, the deaths of these precious children shall not be in vain. Hence, this measure.

In view of the foregoing, we respectfully submit and seek the immediate passage of this measure.


BERNADETTE R. HERRERA-DY

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

FIFTEENTH CONGRESS
Second Regular Session

House Bill No. 6817

Introduced by Rep. BERNADETTE R. HERRERA-DY

AN ACT DEFINING AND PENALIZING THE UNLAWFUL USE OF FIREARMS, AMENDING FOR THE PURPOSE ARTICLE 254 OF ACT NO. 3815, OTHERWISE KNOWN AS "THE REVISED PENAL CODE OF THE PHILIPPINES", AND FOR OTHER PURPOSES.

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

SECTION 1. Article 254 of Act No. 3815, otherwise known as "The Revised Penal Code of the Philippines," is hereby amended to read as follows:

"Article 254. Unlawful Use of Firearms. - Any person who commits any of the following acts shall be punished by *prision mayor* in its minimum period:

- (1) Carry a firearm or device, which may have not been designed as a firearm but can be functionally adapted and used as a firearm, notwithstanding the existence of a license to possess and/or a permit to carry said firearm:
 - (a) While imbibing, drinking or otherwise consuming any liquor, drug, narcotic, or any other psychotropic substance;
 - (b) While intoxicated under any liquor, drug, narcotic, or any other psychotropic substance; or
 - (c) Allow a minor or unlicensed person to carry the same; or
- (2) Discharge a firearm or device, which may have not been designed as a firearm, but can be functionally adapted and used as a firearm:
 - (a) Outside a duly licensed indoor or outdoor shooting range, gun club, or similar indoor or outdoor structure specifically designed for the safe discharge of firearms, except when engaged in subsistence hunting requiring the use of such firearms, or engaged in the performance of

one's duties as a law enforcement officer, *Provided, that*, the discharge is made with extraordinary diligence;

- (b) Without the existence of any of the elements for the justifying circumstances of self-defense or defense of another as provided for in this Code; or
- (c) Without the existence of any other absolatory cause under this Code.

The foregoing acts shall be punished by *prision mayor* in its medium to maximum periods, if committed with any of the following attendant circumstances:

- (1) The firearm is aimed at another person or the property of another at any point prior to or at the moment of discharge of the firearm, if the discharge does not constitute any other crime or offense defined in this Code for which a higher penalty is prescribed; or
- (2) The firearm is discharged on a public holiday or on the occasion of a wedding, birthday, anniversary, or at any similar gathering or celebration, or when made for the sole purpose of revelry-making, or on the occasion of the death of another, except when the discharge is made in the performance of an official state or military honor.

SEC. 2. Severability Clause. – In the event that any provision of this Act is declared unconstitutional, invalid, or illegal, the constitutionality, validity, or legality of the remainder of the provisions of this Act shall not be affected thereby.

SEC. 3. Repealing Clause. - All laws, presidential decrees, letters of instructions, executive orders, administrative orders, rules, regulations, and other issuances or parts thereof which are contrary to or inconsistent with the provisions of this Act are hereby revoked, repealed or modified accordingly.

SEC. 4. Effectivity. – This Act shall take effect fifteen (15) days following the completion of its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,