

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

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3834



Introduced by ATTY. MAGTANGGOL T. GUNIGUNDO I

EXPLANATORY NOTE

The purpose of this bill is to impose the penalty of death on drug traffickers of methamphetamine hydrochloride (otherwise known as "*shabu*" or "*poor man's cocaine*") when its total weight is one thousand (1,000) grams or one (1) kilogram and above.

The menace of the illegal drug trade remains unabated despite the concerted efforts of the Philippine Drug Enforcement Agency (PDEA) and other law enforcement agencies to curb the same. Data from PDEA show that methamphetamine hydrochloride (*shabu*) is the number one prohibited drugs trafficked in the Philippines. Before the abolition of the death penalty in 2006, the Philippines served as a transit hub for illegal drugs. It has now evolved into a manufacturing haven of this societal menace. The Philippine National Police (PNP) recently announced that Mexican and Colombian drug cartels from Tijuana, Gulf, Juarez and Los Zetas have been drowning the market out with their "commodities". Lately, the Sinaloa drug cartel, believed to be the most powerful drug syndicate in Mexico and reputed to be the largest supplier of narcotics in the United States of America, has landed in the Philippines in the last quarter of 2013.

The threshold weight of 1 kilogram makes it difficult to plant evidence since it has a street value of P5-6 Million.

"*Shabu*" destroys the drug user, shatters the family he or she belongs to and wrecks the lives of victims of crimes against persons and property committed by the *shabu* user in order to satisfy this addiction. A drug trafficker of large volume has made a choice to pursue material gain at the expense of society. His propensity to ruin society through this nefarious activity will not likely be curtailed by lifetime incarceration since his network remains operational. This gives the State the justification to extinguish the life of drug traffickers.

Considering that the Constitution grants Congress the flexibility to impose the death penalty under certain circumstances and based on the current wisdom of the time, it is best to impose once again the penalty of death for *shabu* traffickers of large volume covered by RA 9165.

Immediate approval of this bill is earnestly sought.


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Introduced by **ATTY. MAGTANGGOL T. GUNIGUNDO I**

AN ACT
PRESCRIBING THE PENALTY OF DEATH TO ANY PERSON FOUND
GUILTY OF TRAFFICKING METHAMPHETAMINE
HYDROCHLORIDE (ALSO KNOWN AS "SHABU") WITH AN
AGGREGATE WEIGHT OF ONE (1000) GRAMS OR ONE (1)
KILOGRAM AND ABOVE, AMENDING FOR THE PURPOSE REPUBLIC
ACT 9165, OTHERWISE KNOWN AS "DANGEROUS DRUGS ACT OF
2002" AND REPUBLIC ACT 9346, OTHERWISE KNOWN AS "AN ACT
PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE
PHILIPPINES"

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

Section 1. Declaration of Policy. - It is hereby declared the policy of the State to foster and ensure not only obedience to its authority, but also to adopt such measures as would effectively promote the maintenance of peace and order, the protection of life, liberty and property, and the promotion of the general welfare which are essential for the enjoyment by all the people of the blessings of democracy in a just and humane society; It is the policy of the State to safeguard the integrity of its territory and the well-being of its citizenry particularly the youth, from the harmful effects of dangerous drugs on their physical and mental well-being, and to defend the same against acts or omissions detrimental to their development and preservation. In view of the foregoing, the State needs to enhance further the efficacy of the law against dangerous drugs, it being one of today's more serious social ills.

Toward this end, the government shall pursue an intensive and unrelenting campaign against the trafficking and use of dangerous drugs especially methamphetamine hydrochloride in large scale by adopting the highest prescribed penalty, including death.

Section 2. A new sub-section after Section 11 of Republic Act 9165 (*Comprehensive Dangerous Drugs Act of 2002*) shall be inserted to read as follows:

"Section 11-A. Possession of methamphetamine hydrochloride or "shabu" with a quantity of one (1) kilogram or more. - The penalty of death and a fine ranging from one million pesos (P1,000,000.00) to twenty million pesos (P20,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess methamphetamine hydrochloride or "shabu" with a quantity of one (1) kilogram or more regardless of the degree of purity and the presence of impurities, adulterants and dilutents thereof."

Section 3. Section 1 of Republic Act No. 9346 (*AN ACT PROHIBITING THE IMPOSITION OF DEATH PENALTY IN THE PHILIPPINES*) is hereby amended to read as follows:

“SECTION 1. The imposition of the penalty of death is hereby prohibited, EXCEPT IN CASES COVERED UNDER SECTION 11-A OF REPUBLIC ACT NO. NINE THOUSAND ONE HUNDRED SIXTY-FIVE (RA NO. 9165), OTHERWISE KNOWN AS THE COMPREHENSIVE DANGEROUS DRUGS ACT F 2002 WHERE THE PENALTY OF DEATH SHALL BE BY LETHAL INJECTION.”

Section 4. *Suspension of the execution of the death sentence.* - The death sentence shall not be inflicted upon a woman while she is pregnant or within one (1) year after delivery, nor upon any person over seventy years of age. In this last case, the death sentence shall be commuted to the penalty of *reclusion perpetua* with the accessory penalties provided.

In all cases where the death sentence has become final, the records of the case shall be forwarded immediately by the Supreme Court to the Office of the President for possible exercise of the pardoning power.

Section 5. *In what cases the death penalty shall not be imposed; Automatic Review of the Death Penalty Cases.* - The death penalty shall be imposed in all cases in which it must be imposed under existing laws, except when the guilty person is below eighteen (18) years of age at the time of the commission of the crime or is more than seventy years of age or when upon appeal or automatic review of the case by the Supreme Court, the required majority vote is not obtained for the imposition of the death penalty, in which cases the penalty shall be *reclusion perpetua*.

In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Supreme Court for automatic review and judgment by the Court *en banc*, within twenty (20) days but not earlier than fifteen (15) days after promulgation of the judgment or notice of denial of any motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days from the filing thereof by the stenographic reporter.

Section 6. *When the death penalty is to be executed.* -The death sentence shall be carried out not later than one (1) month after the judgment has become final.

Section 7. *Implementing Rules and Regulations.* The Philippine Drug Enforcement Agency, Dangerous Drugs Board, the Department of Justice and the Philippine National Police shall promulgate within sixty (60) days the implementing rules and regulations (*IRR*) that shall be necessary to implement the provisions of this Act.

Section 8. *Separability Clause.* - The provisions of this Act are hereby deemed separable. If any provision thereof is declared invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions which shall remain in effect.

Section 9. *Repealing Clause.* - All laws, decrees, executive orders, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed.

Section 10. *Effectivity.* - This Act shall take effect fifteen (15) days following its complete publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,