

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 7579



Introduced by: Rep. Keith Micah "Atty. Mike" D.L. Tan

AN ACT
PENALIZING THE PUBLICATION AND PROLIFERATION OF FALSE CONTENT ON THE PHILIPPINE INTERNET

EXPLANATORY NOTE

There is no denying that fake news and the use of fake identities are proliferating, especially in the social media, which is gravely dangerous in the face of pandemic and other emerging national security and health threats in the country.

The World Health Organization notes that "In the first 3 months of 2020, nearly 6 000 people around the globe were hospitalized because of coronavirus misinformation" and "at least 800 people may have died due to misinformation related to COVID-19".

It was said that death can be the tragic outcome of the infodemic, which is an overabundance of information - some of which are inaccurate that spreads alongside a disease outbreak. Unfortunately, health is not the only casualty of fake news inasmuch as it also affects the socio-political spectrum like the recently concluded national and local elections.

As it is, fake news engenders social conflict, even the grades and schooling of the students, and covertly influences the behavior of the public.

Dr. Imelu Mordeno of the Mindanao State University-Iligan Institute of Technology (MSU-IIT) said that people exposed to fake information are likely to be psychologically-distressed once caught in a loophole in truth-finding called "information traps", which refer to an individual's activity in seeking details to have a sense of meaning in their messy experiences.

Fake news according to one article, 'Managing risks and reputation in the era of fake news' is "not just a static phenomenon. Fake news appears to have evolved from being pure propaganda, to a term used to criticize news that doesn't support a particular agenda."

Accordingly, "fake news now can mean two separate things: on the one hand it's the very significant and considered exercise of creating something that's deliberately misleading for political or personal gain, and on the other hand it can be a disparaging term used to dismiss 'accurate' reporting.

While it is true that freedom of expression and the press are protected rights, it is not absolute under all circumstances. The use of these rights to cause disinformation and division is an abuse of democracy.

In this regard, this bill seeks to protect the public from the deleterious effects of false and deceiving content online. It aims to attain this objective by providing expedient remedies that would address this growing concern.

This legislation also enumerates particular acts that are considered punishable to further serve as a deterrent. Lastly, it seeks to promote the responsible use of the internet.

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



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

SECTION 1. *Title.* - This Act shall be known as the "Anti-False Content on the Internet Act".

SEC. 2. *Declaration of Policy.* - The State recognizes the vital role of communication and information in nation-building. It shall be declared the policy of the State to protect the public from any misleading or false information that is being published and has become prevalent on the Internet.

To this end, the State shall be proactive in preventing further exploitation of online media platforms for such purpose. It shall be committed to counteracting its concomitant prejudicial effects to public interest while remaining cognizant of the people's fundamental rights to freedom of speech and freedom of the press.

SEC. 3. *Definition of Terms.* - Whenever used in this Act, the following terms shall have the respective meanings as set forth hereafter.

(a) *Content* shall refer to a text, image, audio recording, video, and animation published on the internet;

(b) *Fictitious online account or website* shall refer to those that has an anonymous author or uses an assumed name in pursuing activities for the purpose of avoiding impunity;

(c) *Internet intermediary* shall refer to a provider of service which displays an index of search results that leads the internet users to a specific online location, enables them to access contents originating from third parties, and allows them to upload and download content. It includes but is not limited to social networking sites, search engines, and video sharing sites;

(d) *Publication* shall refer to the act of uploading content on an online intermediary with an intent to circulate particular information to the public; and

(e) *Public interest* shall refer to anything that affects national security, public health, public safety, public order, public confidence in the Government, and international relations of the Philippines;

(f) *Social Media* shall refer to the collective of online communication channels, including websites and applications, that enable users to create and share content, collaborate, and interact with each other including video sharing sites which allow users to post comments on individual entries;

(g) *Social Media Account* shall refer to a user's personalized access to a social networking site or application, typically using a username and password combination, which allows a user to interact with other users on the same social networking site.

SEC. 4. *Registration of Social Media Accounts.* – All internet intermediaries are hereby mandated to formulate and strictly implement a regulatory mechanism for the membership registration of social media accounts that will include the submission of pertinent documents as proof of identity of media account users.

Every media account user shall be required to present a valid government-issued identification card or other similar form of documents that will verify the identity of the media account user or a valid passport in the case of aliens.

In case the media account user is a minor, the parents' or guardians' documents and parental consent shall be submitted.

Unregistered social media accounts shall be deactivated after fifteen (15) days of the implementation of this Act.

SEC. 5. *Confidentiality Clause.* - Any information obtained in the social media account registration process shall be treated as absolutely confidential, in accordance with the provisions of the Data Privacy Act of 2012, and cannot be disclosed to unauthorized persons, except upon the written consent of the media account user: *Provided, That* the waiver of absolute confidentiality shall not be made as a condition for the approval of registration.

SEC. 6. *Disclosure of Information.* - Notwithstanding the provisions on confidentiality, internet intermediaries shall be required to provide information obtained in the social media account registration process only upon the order of a competent court and upon finding of probable cause that a social media account was or is being used in the commission of a crime or that it was utilized as a means to commit a malicious, fraudulent or unlawful act: *Provided, That* such written order shall only be granted upon application in writing of any law enforcement agency and/or officer, and only upon examination under oath or affirmation of the applicant and the witnesses he may produce and upon the court being satisfied that: (1) there is reasonable ground to believe that the social media account has been used in the commission of a crime or for a malicious, fraudulent or unlawful purpose; (2) that there is reasonable ground to believe that the registered social media account user owner is probably the perpetrator of the same; and (3) there is no other speedy and adequate means readily available to obtain such facts and information.

SEC. 7. *Punishable Acts.* - The following acts shall constitute the offense punishable under this Act:

- (a) Creating and/or publishing on one's personal online account or website a content knowing or having a reasonable belief that it contains information that is false or that would tend to mislead the public;
- (b) Use of a fictitious online account or website in creating and/or publishing a content knowing or having a reasonable belief that it contains information that is false or that would tend to mislead the public;
- (c) Offering or providing one's service to create and/or publish a content online knowing or having a reasonable belief that it would be used to deceive the public, regardless whether it is done for profit or not;
- (d) Financing an activity which has for its purpose the creation and/or publication of a content online containing information that is false or that would tend to mislead the public; and
- (e) Non-compliance with any of the counteractive measures provided under Section 5 of this Act, whether deliberate or through negligence.

SEC. 8. *Counteractive Measures.* - The Office of Cybercrime of the Department of Justice (DOJ) shall have the authority to issue the following orders to restrain the commission of the offenses punished under this Act:

(a) Rectification Order - an order directing the administrator of the online account or website that is either personal or fictitious, to issue a notice indicating the necessary corrections to the published content.

Online intermediaries whose platform was used to publish the content can also be issued such Order. It would require the particular online intermediary to issue a notice of correction informing all its users that the subject content contains misleading or false information.

(b) Takedown Order - an order directing the owner or administrator of the online account or website that is either personal or fictitious, to take down the published content.

(c) Block Access Order - an order directing the online intermediary to disable access by users to the published content. It is a remedy available in cases where there is a failure to comply with the Orders mentioned in paragraphs (a) and (b) of this Section due to the fault or negligence of the administrator or online intermediary, and in cases where rectification or taking down of the published content is proven to be technically impossible.

These Orders shall only be issued when there is finding that the complaint filed to the DOJ Office of Cybercrime by an aggrieved party is valid and has sufficient basis. In matters affecting the public interest, the same office shall issue *motu proprio* the appropriate Order. The remedies provided herein are cumulative and the issuance of one shall not preclude or waive the right to use any or all other remedies.

SEC. 9. *Appeal to Cancel the Order* - The administrator of an online account or website and the internet intermediary who has been issued with any of the Orders under Section 5 hereof may file a verified petition for review with the Office of the Secretary of the Department of Justice within fifteen (15) days from receipt of the assailed Order.

SEC. 10. *Liability under the Revised Penal Code and Cybercrime Law.* - Prosecution under this Act shall be without prejudice to any liability or violation of any provision of the Revised Penal Code and Republic Act No. 10175 or the Cybercrime Prevention Act of 2012.

SEC. 11. *Penalties.* - Any person found guilty of the punishable act under Sec. 7 (a) shall be punished with imprisonment of *prision mayor* or a fine of not more than Three Hundred Thousand Pesos (Php300,000.00), or both;

Any person found guilty of the punishable act under Sec. 7 (b) shall be punished with imprisonment of *prision mayor* or a fine of not more than Five Hundred Thousand Pesos (Php500,000.00), or both;

Any person found guilty of the punishable act under Sec. 7 (c) shall be punished with imprisonment of *prision mayor* or a fine of not more than Two Hundred Thousand Pesos (Php200,000.00), or both;

Any person found guilty of the punishable act under Section 7 (d) shall suffer the penalty of *reclusion temporal* or a fine not exceeding One Million Pesos (Php 1,000,000.00), or both;

Any person found guilty of the punishable act under Section 7 (e) shall suffer the penalty of *reclusion temporal* or a fine not exceeding Two Million Pesos (Php2,000,000.00), or both.

In cases where the published content undermines the public interest, the maximum period for the penalty of imprisonment shall be imposed.

SEC. 12. *Other Offenses.* - Any person who willfully attempts to commit or abets or aids in the commission of any of the offenses enumerated in this Act shall be held liable.

SEC. 13. *Jurisdiction.* - The Regional Trial Courts shall have jurisdiction over any violation of the provisions of this Act. Regardless of the place of commission, a Filipino national who commits any of the offenses defined under this Act shall be within the jurisdiction of the Philippine courts.

SEC. 14. *Law Enforcement Authorities.* - The Cybercrime Division of the Philippine National Police (PNP) and of the National Bureau of Investigation (NBI) shall be responsible for the effective enforcement of the provisions of this Act.

SEC. 15. *Annual Report.* - All internet intermediaries are required to submit to the DICT and to both Houses of Congress an annual report on the implementation of the provisions of this Act.

SEC. 16. *Implementing Rules and Regulations.* - Within ninety (90) days from the effectivity of this Act, the Department of Information and Communications Technology, Information and Communications Technology Office of the Department of Science and Technology, DOJ Cybercrime Office, PNP Cybercrime Division and the NBI Cybercrime Division shall, in consultation with relevant government agencies, private sector, and civil society organizations, issue the implementing rules and regulations for the effective implementation of this Act.

SEC. 17. *Separability Clause.* - In case any provision of this Act is declared invalid or unconstitutional, such declaration shall have no effect in the validity or constitutionality of the remaining provisions hereof.

SEC. 18. *Repealing Clause.* —All laws, decrees, rules and regulations inconsistent with the provisions of this Act are hereby repealed or am ended accordingly.

SEC. 19. *Effectivity.* - This Act shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general circulation.

Approved,