

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila
EIGHTEENTH CONGRESS
First Regular Session
HOUSE BILL NO. 605



Introduced by HONORABLE RESURRECCION MARRERO-ACOP, MD

EXPLANATORY NOTE

Incessant and viral news that security personnel at the Ninoy Aquino International Airport have been 'planting' bullets (*laglag-bala*) in the luggage of travellers in order to extort many from them have significantly damaged the country's reputation with the international community. Reported victims include not only unsuspecting foreign tourists but also Filipino overseas contract workers whose employment abroad have been jeopardized by the incidents. The victims allege they were made to choose by arresting officers if they want to be apprehended or just hand over bribe money.

On the other hand, several apprehensions were also made on passengers who admitted having possessed the unlicensed ammunition but merely intended the same as amulets or as souvenirs or for other cultural, non-security or crime-related purposes.

Section 28 of Republic Act 10591, also known as the "Comprehensive Firearms and Ammunition Regulation Act" prohibits the unlawful acquisition or possession of ammunition and penalizes the offense with a minimum prison term of six (6) to twelve (12) years. The law, being a *malum prohibitum*, declares unlawful the mere possession of an ammunition without the prerequisite license or permit regardless of the volume of ammunition found and of the possessor's intent on the use of the same.

The scam had resulted to the loss of confidence from the general public and apprehension on the implementation of the existing law on firearms and ammunition in what appears to be a 'legal loophole' exploited by corrupt and inept airport security officials and personnel.

While the government must remain on guard and prevent the unauthorized carrying of bullets as it bears on the issue of security and safety of the (airline) passengers and the general public amidst the threat of terrorism, it must also ensure that the implementation of security measures and pertinent laws are not abused by unscrupulous government employees and officials to the detriment of innocent

civilians.

The law must also provide for a mechanism that would allow possessors of unlicensed ammunition the opportunity to present and buttressed their predicament of albeit unwisely possessing the contraband for 'cultural-' or non-security-related purposes and be relieved from criminal prosecution under certain conditions ..

This bill seeks to amend Section 28 of Republic Act 10591 by providing for the mechanism and conditions for the determination of the propriety of filing criminal complaint against alleged possessor of unlicensed ammunition, for small arms in particular.

Under the proposed measure, two situations are contemplated : (1) when the alleged possessor of the unlicensed ammunition denies his possession of the contraband; (2) when the alleged possessor admits possession of the unlicensed ammunition but claims a non-security or crime-related purpose or intention for the contraband. In both instances, the apprehending officer is mandated to conduct an investigation of the incident by considering the personal circumstances of the alleged possessor as well as other relevant circumstances surrounding the incident to assess whether or not:

- 1) The circumstances appreciated reasonably negate any probability that the alleged possessor is in fact in possession of the unlicensed ammunition; or
- 2) The circumstances reasonably negate the suspicion that the unlicensed ammunition admittedly possessed is intended to be used for unlawful or illegal purposes.

On the basis of such assessment, the apprehending officer determines the propriety of filing a criminal complaint against the alleged possessor for violation of RA 10591.

Personal circumstances of the alleged possessor of the unlicensed ammunition may include his education, reputation, age, physical condition, or any other pertinent circumstance that may bear upon the denial of possession, or intent of the possessor with respect to the use of unlicensed ammunition admittedly possessed. Surrounding circumstances of the incident may include the volume of the unlicensed ammunition allegedly or admittedly possessed and the manner or means of alleged possession of the same.

Through this mechanism and conditions, would-be victims of the scam or those who admit possession of unlicensed ammunition sans any illegal purpose are spared from the trouble of immediate arrest and from torment of undergoing inquest proceedings and facing criminal charges without sufficient opportunity to defend themselves at the point of apprehension. It will also relieve concerned security personnel from their duty of immediately effecting the arrest of persons whose criminal liability under existing law reasonably appears to be in doubt.


The bill also mandates the apprehending officer to conduct the

investigation in a manner that would cause the least inconvenience to the person and rights of the alleged possessor of unlicensed ammunition.

It should be noted that the proposed amendment applies in particular only to alleged possession of unlicensed ammunition for small arms and does not include ammunition intended for Class A & B of light weapons. The reason being that under Section 10 of RA 10591, only small arms may be registered by licensed citizens or licensed juridical entities for ownership and possession, and light weapons shall be lawfully acquired or possessed exclusively by the AFP, the PNP and other law enforcement agencies authorized by the President in the performance of their duties. Only in cases where ammunition for light weapons were allegedly possessed but denied on grounds that the same have been 'planted' that the mechanism may apply.

Finally, while RA 10591 is a special law (*malum prohibitum*), there is no constitutional infirmity nor any legal impediment for Congress to enact an amendment to the same requiring the appreciation of intent in the determination of whether criminal liability shall attach in the commission of any act proscribed by the law. Such amendment is within the plenary power of Congress to enact or modify existing laws.

For the foregoing reasons, the immediate consideration and approval of this bill is earnestly urged.


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Representative
2nd District, Antipolo City

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Introduced by **HONORABLE RESURRECCION MARRERO-ACOP, MD**

AN ACT
PROVIDING FOR A MECHANISM TO DETERMINE THE
PROPRIETY OF FILING A CRIMINAL COMPLAINT AGAINST ALLEGED
POSSESSORS OF UNLICENSED AMMUNITION UNDER CERTAIN
CONDITIONS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO
10591, OTHERWISE KNOWN AS "AN ACT PROVIDING FOR A
COMPREHENSIVE LAW ON FIREARMS AND AMMUNITION AND
PROVIDING PENALTIES FOR VIOLATIONS THEREOF"

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

SECTION 1. Section 28, paragraph (g) of Republic Act 10591, otherwise known as "An Act Providing For A Comprehensive Law On Firearms And Ammunition And Providing Penalties For Violations Thereof," is hereby amended to read as follows:

Section 28. Unlawful Acquisition, or Possession of Firearms and Ammunition. -The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:

xxx

(g) The penalty of *prision mayor* in its minimum period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a small arm [~~of Class A light weapon.~~]; **PROVIDED, THAT WHEN THE PERSONAL**

CIRCUMSTANCES OF THE PERSON ALLEGED TO POSSESS THE UNLICENSED AMMUNITION, SUCH AS BUT NOT LIMITED TO, HIS EDUCATION, REPUTATION, AGE, PHYSICAL CONDITION, OR ANY OTHER PERTINENT CIRCUMSTANCE THAT WOULD REASONABLY NEGATE ANY PROBABILITY THAT THE AMMUNITION IS IN FACT POSSESSED BY HIM, OR ANY SUSPICION THAT THE AMMUNITION IS INTENDED TO BE USED BY THE POSSESSOR FOR ANY UNLAWFUL OR ILLEGAL PURPOSE IN CASE POSSESSION IS ADMITTED, AND THAT THERE IS NO OTHER CIRCUMSTANCE, SUCH AS BUT NOT LIMITED TO, THE UNJUSTIFIED VOLUME OF AMMUNITION ALLEGEDLY POSSESSED AND/OR THE MANNER OR MEANS OF POSSESSION, THAT WOULD OTHERWISE INDICATE THE PRESENCE OF UNLAWFUL INTENT TO USE THE SAME FOR ILLEGAL PURPOSES, THE APPREHENDING OFFICER SHALL FIRST CONDUCT A BRIEF INVESTIGATION OF THE INCIDENT TO DETERMINE WHETHER OR NOT A CRIMINAL COMPLAINT SHOULD BE PROPERLY FILED AGAINST THE ALLEGED POSSESSOR; PROVIDED FURTHER, THAT SUCH INVESTIGATION SHALL CAUSE THE ALLEGED POSSESSOR THE LEAST INCONVENIENCE TO HIS PERSON AND PERSONAL RIGHTS; AND, PROVIDED FINALLY, THAT THE AMMUNITION SHALL STILL BE SUBJECT TO CONFISCATION. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a small arm, the former violation shall be absorbed by the latter;

THE PROVISION OF THIS PARAGRAPH SHALL ALSO APPLY TO AMMUNITION FOR LIGHT WEAPONS ALLEGEDLY POSSESSED IF THE

**POSSESSION IS DENIED BY THE ALLEGED POSSESSOR AND THE
DENIAL IS SUSTAINED BY THE APPREHENDING OFFICER AS
PROVIDED FOR HEREOF.**

SECTION 2. *Implementing Rules and Regulations.* - Within one hundred twenty (120) days from the effectivity of this Act, the Chief of the PNP, after public hearings and consultation with concerned agencies of the government and sectors of society shall formulate the necessary rules and regulations for the effective implementation of this Act to be published in at least two (2) newspapers of general circulation.

SECTION 3. *Repealing Clause.* - All laws, decrees, orders, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SECTION 4. *Effectivity Clause* - This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,