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REPUBLIC OF THE PHILIPPINES)
First Regular Session)



Senate
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SENATE

S. B. No. 435

RECEIVED BY: *ju*

Introduced by Senator FRANCIS G. ESCUDERO

EXPLANATORY NOTE

Section 24, Article XVIII of the 1987 Constitution provides that as a State Policy, "Private armies and other armed groups not recognized by duly constituted authority shall be dismantled. All paramilitary forces including Civilian Home Defense Forces not consistent with the citizen armed force established in this Constitution, shall be dissolved or, where appropriate, converted into the regular force."

It is the intent of this bill to address the oversight of government to implement the dismantling of private armed groups and armies – entities often involved in violations of laws, engage in acts of terrorism and other abuse. As evidenced in the recent Maguindanao Massacre, failure to keep private armies in check results in lawlessness and enables them to operate beyond the framework of the Constitution.

Hence, in the best interest of the Republic, the immediate approval of this bill is urgently sought.

FRANCIS G. ESCUDERO



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SENATE

S. B. No. 435

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Introduced by Senator FRANCIS G. ESCUDERO

AN ACT
IMPLEMENTING SECTION 24, ARTICLE XVIII OF THE CONSTITUTION ON THE
DISMANTLING OF PRIVATE ARMIES AND OTHER PRIVATE ARMED GROUPS
NOT RECOGNIZED BY DULY CONSTITUTED AUTHORITY AND
APPROPRIATING FUNDS THEREFOR

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

1 SECTION 1. *Title.* This act shall be known as "*The Anti-Private Army and Private*
2 *Armed Groups Act.*"

3 SEC. 2. *Declaration of Policy; Prohibited Acts.* It is the policy of the State pursuant to
4 Section 24, Article XVIII of the Constitution that private armies and other private armed groups
5 not recognized by duly constituted authority shall be dismantled.

6 Towards this end, the following acts are prohibited:

7 (a) leadership and membership in the organization, establishment, maintenance and/or of
8 private armies or other armed groups or refusal to disband after notice from duly constituted
9 authority;

10 (b) abuse of the utilization of military and police personnel as security detail;

11 (c) abuse of various permits pertaining to firearms as well as the unregistered
12 importation thereof;

13 (d) utilization of paramilitary forces and/or private security agencies as private armies or
14 private armed groups; or

15 (e) protection, financing, supplying or otherwise giving aid and comfort to private
16 armies and other private armed groups.

17 SEC. 3. *Definition of Terms.*

18 a. *Dismantling* – refers to the disbandment, disarming, demobilization or dissolution of
19 private armies and other private armed groups, as well as the arrest and prosecution of those
20 involved, or their voluntary surrender of firearms and abandonment of their organization and
21 activities.

22 b. *Financial and Logistical Resources* – include all forms of transportation,
23 communication, safe houses, bank accounts, business, money-producing activities, sources of

1 weaponry, front organizations, etc. which private armies and other armed groups use to support
2 their existence or activities.

3 c. **Government Connection** – covers the areas pertaining to government units, civil
4 service, the PNP and the AFP where officials and any personnel thereof are found to be leaders,
5 members, protectors, financiers or suppliers of private armies or other private armed groups, or
6 are otherwise benefiting economically or psychologically from the existence or activities thereof.

7 d. **Leadership** – pertains to natural or juridical persons who organized or recruit
8 members for a private army or private armed groups, maintain and/or use private armies and
9 other private armed groups, control the actions or activities thereof, provide the direction or
10 “brains” thereof, direct the commission of activities prohibited by this Act, or otherwise derive
11 political, economic or psychological advantage out of the existence or activities thereof.

12 e. **Membership** – refers to those who directly participate in the activities of private
13 armies and other private armed groups without falling within the definition of leadership, are
14 accomplices or accessories as defined by the Revised Penal Code to the criminal activities thereof,
15 the commission of activities prohibited by this Act, or otherwise give aid and comfort to the
16 leaders and members thereof.

17 f. **Private Armed Group** – is a group of at least three (3) but not more than nine (9)
18 individuals, with weaponry, not recognized by duly constituted authority, or is utilized for the
19 advancement, promotion and/or protection of vested political and/or economic interest, of any
20 individual, family, clan or private group. The private armed group may be utilized, but not
21 limited to, as bodyguards, intimidation force, or mercenaries or for the commission of activities
22 prohibited by this Act.

23 g. **Private Army** - is a group of at least ten (10) individuals, with a leadership structure
24 and weaponry, which is utilized in the same way as a private armed group.

25 This also refers to authorized government para-military forces which no longer possess
26 strategic or tactical value in the maintenance of peace and order.

27 The definition includes the so-called “lost commands”, as well as paramilitary forces and
28 private security forces utilized for the advancement, promotion and/or protection of vested
29 political and/or economic interests.

30 This definition does not include rebel armies or units such as those of the National
31 Democratic Front (NDF), Moro National Liberation Front (MNLF), and *Rebolusyunaryong*
32 *Alyansang Makabansa* (RAM).

33 h. **Recognized by Duly Constituted Authority** – means authorized by law, in accordance
34 with law, or operating according to law. This term refers mainly to citizen soldiers or reservists
35 under RA 7077. This definition shall also include duly-registered private security agencies and
36 gun clubs, provided that these are not utilized for the advancement, promotion and/or protection
37 of vested political and/or economic interests of any individual, family, clan or private group.

38 i. **Security Detail** – is a schedule and duty detail of the Armed Forces of the Philippines
39 (AFP) or Philippine National Police (PNP) personnel assigned to provide security to persons
40 and/or property and includes a listing of the type of firearms, with respective serial numbers, that
41 the personnel are authorized to carry in the performance of their mission or duty.

42 j. **Weaponry** – covers all types of weapons which include firearms, explosives,
43 ammunition and other deadly weapons used by private armies or other private armed groups.

44 SEC. 4. **Penalties for Leaders and Members.** - The leaders and members of a private
45 army or private armed group who commit any of the prohibited acts in Section 2, Subparagraphs
46 (a), (d), and (e) of this Act shall suffer the penalty imposed under this Section.

1 Any leader of a private army or a private armed group shall suffer the penalty of
2 imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years,
3 or a fine of not less than Two hundred thousand pesos (200,000) but not more than One million
4 pesos (P1,000,000); or both such fine and imprisonment, at the discretion of the court: Provided,
5 That if the leader is a public officer, he shall, in addition to the penalty herein imposed, suffer
6 perpetual absolute disqualification from holding public office and be subject to administrative
7 sanctions.

8 If the leadership uses the veil of a juridical person, the responsible officers thereof shall
9 also be punished as leaders. In addition, the registration, license or permit of the corporation,
10 partnership, business enterprise, association, or organization shall be cancelled or revoked.

11 If the leader is an alien, he shall, after serving his penalty, be deported.

12 Protector, financiers or suppliers shall be treated and punished as leaders.

13 Any member of a private army or a private armed group shall suffer the penalty of
14 imprisonment of not less than six (6) months and one (1) day but not more than six (6) years, or a
15 fine of not less than Five thousand pesos (P5,000) but not more than Fifty thousand pesos
16 (P50,000); or both such fine and imprisonment, as the discretion of the court: *Provided*, That if
17 the member is a public officer or government employee, he shall, in addition to the penalty
18 herein imposed, suffer temporary absolute disqualification from holding public office and be
19 subject to administrative sanctions.

20 **SEC.5. Confiscation of Weaponry.** - All weaponry of private armies and other private
21 armed groups shall be confiscated, whether licensed or not, and shall be disposed of under
22 existing policies, particularly for firearms, explosive and ammunition.

23 **SEC. 6. Submission of Security Detail.** - A Security Detail shall be submitted to the
24 Director General of the Philippine National Police (PNP) by all civilians, heads of civilian
25 offices, corporations, organizations, associations and the like, as basis for the legal authority to
26 detail security personnel. The Security Detail shall be kept current and updated from time to
27 time as the need arises.

28 **SEC. 7. Abuse of Security Detail.** - This prohibited act under Section 2, Subparagraph
29 (b) shall include but not be limited to the following:

30 a. excess number of military and/or police personnel as security detail for Very
31 Important Persons (VIP) under existing policies;

32 b. utilization of an allowable security detail for the advancement, promotion and/or
33 protection of vested political and/or economic interests, including criminal or oppressive acts;

34 c. utilization of unauthorized personnel as security detail; or

35 d. formation of so-called civil security units.

36 Those responsible shall be punished with imprisonment of not less than six (6) months
37 and one (1) day nor more than six (6) years, or by a fine of not less than Five thousand pesos
38 (P5,000) nor more than Two hundred thousand pesos (P200,000), or both such fine and
39 imprisonment, at the discretion of the court: *Provided*, That if the offender is a public officer, he
40 shall, in addition to the penalty herein imposed, be subject to the administrative sanctions.

41 **SEC. 8. Abuse of Firearms Licenses or Permits.** This prohibited act under Section 2,
42 Subparagraph (c) shall include but not be limited to the following:

1 a. violations of existing policies on the ban on the carrying of firearms outside of the
2 residence, issuance of Memorandum Receipts (MR), Mission Orders (MO), duty detail orders,
3 licenses to own and permits to carry firearms;

4 b. unauthorized issuance of MR or MO to carry firearms;

5 c. unauthorized acquisition of firearms by government units; or

6 d. unauthorized importation of firearms which are not registered in accordance with
7 law.

8 Those responsible shall be punished according to Section 4 hereof, without prejudice to
9 liability for illegal possession of firearms and violations of other applicable laws.

10 SEC. 9. *Paramilitary Forces As Private Armies or Private Armed Groups.* –
11 Paramilitary forces, such as the CAFGUs and CVOs, which are utilized as private armies or
12 private armed groups, or which no longer possess strategic or tactical value in the maintenance
13 and administration of peace and order, shall be dismantled, demobilized or dissolved
14 immediately. Erring personnel shall be dismissed from the service immediately, without
15 prejudice to prosecution for criminal acts or commission of acts prohibited by this Act.

16 SEC. 10. *Security Agencies as Private Armies.* – Private security agencies which are
17 utilized as private armies or private armed groups shall be dismantled and disarmed, and their
18 registrations cancelled or revoked. Private security forces shall be regulated against their
19 utilization for the advancement, promotion and/or protection of vested political and/or economic
20 interest, beyond legitimate security needs or the activities prohibited by this Act. No public
21 officials shall own or operate any private security agency. A violation of the latter prohibition
22 shall subject the public officer to administrative sanctions and the security agency to cancellation
23 of its registration.

24 SEC. 11. *Priorities in Dismantling of Private Armies.* – The Department of the Interior
25 and Local Government (DILG), Department of National Defense (DND) and Department of
26 Justice (DOJ) shall prioritize the following in the dismantling of private armies:

27 a. large and long-existing private armies;

28 b. private armies with government connections;

29 c. paramilitary forces and private security forces which are utilized as private
30 armies;

31 d. private armies with formidable weaponry, financial and/or logistical resources;
32 and

33 e. leaders, protectors, financiers and suppliers of private armies.

34 SEC. 12. *Sanctions on Unit Commanders and Heads.* – Unit commanders or heads of
35 law enforcement units who are negligent in dismantling private armies and other private armed
36 groups in their respective areas of responsibility shall be subject to administrative sanctions.

37 SEC. 13. *Incentives.* The full range of incentives shall be applied in the dismantling of
38 private armies and private armed groups, to include but not limited to the following:

39 a. reward and incentives to government witnesses and informants;

40 b. immunity from criminal prosecution to government witnesses;

41 c. State Witness rule;

42 d. Witness Protection program;

- 1 e. non-prosecution for voluntary surrender of weaponry and voluntary disbandment
2 within a specified period;
- 3 f. incentives for the voluntary surrender of firearms as in the "*Balik-baril*" program;
4 or
- 5 g. promotions and incentives for meritorious action of law enforcement units.

6 SEC. 14. **Monitoring System.** There shall be set into place a system to monitor the
7 following:

- 8 a. surrendered or confiscated weaponry, financial and/or logistical resources;
- 9 b. deactivated or demobilized members of paramilitary forces;
- 10 c. security details for VIPs; and
- 11 d. licenses and permits pertaining to firearms and explosives including the
12 importation thereof.

13 SEC. 15. **Special Prosecutors.** - The Department of Justice (DOJ), in coordination with
14 the Offices of the State, Provincial and City Prosecutors, shall designate at least two (2)
15 prosecutors in each province and city to handle prosecution of cases for violations of this Act.

16 SEC. 16. **Jurisdiction.** - The Regional Trial Courts shall have original and exclusive
17 jurisdiction over all cases involving offenses punishable under this Act.

18 SEC. 17. **Oversight Committee.** - Within thirty (30) days from the approval of this Act,
19 there shall be formed an Oversight Committee which shall monitor the implementation of this
20 Act. The Oversight Committee shall be composed of the Secretary of the Interior and Local
21 Government as Chairman and the Secretary of the National Defense, the Secretary of Justice, the
22 National Security Adviser, the Director General of the Philippine National Police, the Chief of
23 Staff of the Armed Forces of the Philippine, two (2) members of the Senate to be designated by
24 the Senate President, and two (2) members of the House of Representatives to be designated by
25 the Speaker.

26 SEC. 18. **Implementing Rules and Regulations.** - Within thirty (30) days from the
27 effectivity of this Act, the Departments of the Interior and Local Government, Justice and
28 National Defense in coordination with other agencies of government concerned shall promulgate
29 and issue the necessary Rules and Regulation for the effective implementation of this Act
30 without prejudice, however, to the immediate implementation of the provisions of this Act which
31 do not require any implementing rules and regulations.

32 SEC. 19. **Report to Congress.** - The Oversight Committee shall submit quarterly reports
33 to Congress on the status of the implementation of this Act.

34 SEC. 20. - **Appropriations.** - The amount necessary for the dismantling of private
35 armies and other private armed groups shall be charged to the appropriations of the Department
36 of the Interior and Local Government under the current General Appropriations Act. Thereafter,
37 such amount as may be necessary for the continued dismantling of private armies and other
38 private armed groups shall be included in the annual General Appropriations Act.

39 SEC. 21. **Separability Clause.** If for any reason, any section or provision of this Act, or
40 any portion thereof, or the application of such section, provision or portion thereof to any person,
41 group or circumstance is declared invalid or unconstitutional, the remainder of this Act or the
42 application of such provision to other persons, groups or circumstances shall not be affected by
43 such declaration.

1 SEC. 22. **Repealing Clause.** All laws, decrees, executive orders, issuances and rules and
2 regulations which are inconsistent with the provisions of this Act are hereby considered repealed,
3 amended or modified accordingly.

4 SEC. 23. **Effectivity.** This Act shall take effect thirty (30) days after its publication in
5 the *Official Gazette* or in at least two (2) national newspapers of general circulation.

6 *Approved,*

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