EIGHTEENTH CONGRESS OF THE REPUBLIC OF THE PHILIPPINES
First Regular Session

Senate
Office of the Secretary

'19 JUL -2 P2:09

SENATE

S.B. NO. 194

RECEIVED BY:

INTRODUCED BY SENATOR: EMMANUEL D. PACQUIAO

AN ACT
TO ESTABLISH THE DEPARTMENT OF HOMELAND SECURITY, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The terrorist acts and transnational crimes, especially the cross-border trafficking of prohibited drugs, and their interactions, have inherent or manifest viciousness, atrocity, and perversity, and are repugnant and outrageous to the common standards and norms of decency and morality in a just, civilized and ordered society.

Such acts and crimes result not only in the loss of human lives and the destruction of families and the wanton destruction of property, including key resources and critical infrastructure that are essential to the economy and development of the country and to the functioning of its government. Such acts and crimes also threaten and adversely affects the nation's future generations of Filipinos and the country's efforts toward sustainable economic development and prosperity. Such acts and crimes further undermined the Government's efforts to maintain peace and order in the country, and to project a stable foundation for foreign and local investments.

The alarming upsurge of such acts and crimes, and especially the increasing incidents of cross-border trafficking of prohibited drugs that are now being identified to come even from established drug cartels abroad, together with reports of the interaction, cooperation and coordination of activities of their perpetrators, have now created a seriousness of situation that must be addressed by the State with equally deliberate and decisive action and interdiction and rapid response.

The State also recognizes the need for increased and particular focus on the menace of cross-border trafficking of prohibited drugs because it is reported that there are now millions of drug abusers in the country, and the problem affects not only the productivity of the working sector, but the future of the nation as it leads to other problems.

International terrorists and the perpetrators of transnational crimes and especially of the cross-border trafficking of prohibited drugs, reportedly look for countries where border authorities are not well-supported or strengthened by their governments to stop them.

For this reason, this bill seeks to create a Department of Homeland Security to protect the country and support and strengthen the nation's borders from terrorist acts and transnational crimes, and especially the cross-border trafficking of prohibited drugs.

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

EMMANUEL D. PACQUIAO

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

SECTION 1. TITLE OF THE ACT. – This Act shall be known as "*The Homeland Security Act*."

SEC. 2. DEFINITION OF TERMS. – For the purpose of this Act, the following terms shall be defined as follows:

(a) Homeland – shall mean the Republic of the Philippines.

(b) Congressional Oversight Committee - shall mean a joint committee of the Senate and the House of Representatives, or any Committee that the Senate and the House of Representatives shall jointly constitute, having legislative or oversight jurisdiction under the Rules of the Senate and of the House of Representatives, respectively, over any matter of concern that is subject of this Act.

(c) Cross-border trafficking of prohibited drugs – shall mean the unauthorized transport of prohibited drugs across the national border of the Republic of the Philippines

(d) Department – shall mean the Department of Homeland Security.

(e) Emergency response providers – shall include all national and local emergency public safety, law enforcement, emergency response, emergency medical (including public and private hospital emergency facilities), and related personnel, agencies, and authorities.

(f) Key resources – shall mean publicly or privately controlled resources essential to the operations of the economy and the government.

(g) Critical infrastructure – any infrastructure that is critical to the functioning of the National Government or Local Government Units of the Philippines;

(h) Local government – shall have the meaning given to it under the Local Government Code of the Philippines.

(i) Personnel – shall mean officers and employees.

(j) Secretary – shall mean the Secretary of Homeland Security.

(k) State – shall mean the Republic of the Philippines.

(l) Terrorism – shall mean any activity that: [1] involves an act that is dangerous to human life or potentially destructive of critical infrastructure or key resources, and is a violation of the criminal laws of the Republic of the Philippines; or [2] appears to be intended to intimidate or coerce a civilian population, to influence the policy of the national or any local government by intimidation or coercion, or to affect the conduct of the national or any local government by mass destruction, assassination, or kidnapping.

(m) Transnational crime – Any crime with essential elements committed across the national border of the Republic of the Philippines.

SEC. 3. EXECUTIVE DEPARTMENT; MISSION.

(a) Establishment.--There is established a Department of Homeland Security.

(b) Mission.

(1) In general.--The primary mission of the Department is to:

(i) prevent terrorist attacks within, and the occurrence of transnational crimes across the borders of, the Republic of the Philippines, especially the cross-border trafficking of prohibited drugs;

(ii) reduce the vulnerability of the Republic of the Philippines, and of the key resources and critical infrastructure in the country, to terrorism and transnational crimes, especially the cross-border trafficking of prohibited drugs;

(iii) assist in minimizing the damage, and in the recovery, from terrorist attacks and transnational crimes that do occur within the Republic of the Philippines;

(iv) carry out all functions of entities transferred to the Department; and

(v) monitor connections between and among terrorism and other transnational crimes and especially cross-border trafficking of prohibited drugs, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict cross-border trafficking of prohibited drugs.

(2) Responsibility for investigating and prosecuting terrorism.-- Except as specifically provided by law with respect to entities transferred to the Department under this Act, primary responsibility for investigating and prosecuting acts of terrorism shall be vested not in the Department, but in national and local law enforcement agencies with jurisdiction over the acts in question.

SEC. 4. SECRETARY; FUNCTIONS. – (a) There shall be a Secretary of Homeland Security, of cabinet rank, to be appointed by the President. The Secretary shall be the head of the Department and shall have direction, authority, and control over it. All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) Functions. – The Secretary: (1) except as otherwise provided by this Act, may delegate any of the Secretary's functions to any officer, employee, or organizational unit of the Department; (2) shall have the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out the Secretary's responsibilities under this Act or otherwise provided by law; and (3) shall take reasonable steps to ensure that information systems and databases of the Department are compatible with each other and with appropriate databases of other Departments.

(c) Coordination With Local Government Units. – With respect to homeland security, the Secretary shall coordinate through the Department of Interior and Local Government with local governments and local authorities, and may coordinate directly with the private sector and with other entities, including by: (1) coordinating with local governments and local authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities; (2) coordinating and, as appropriate, consolidating, the National Government's communications and systems of communications relating to homeland security with local governments and local authorities, the private sector, other entities, and the public; and (3) distributing or, as appropriate, coordinating the distribution of, warnings and information to local governments and local authorities and to the public.

(d) Meetings of National Security Council. – The Secretary may, subject to the direction of the President, attend and participate in meetings of the National Security Council.

(e) Issuance of Regulations. – The Secretary shall issue the regulations to implement this Act within ninety (90) days from its effectivity.

(f) Special Assistants to the Secretary. – The Secretary shall appoint such number of Special Assistants to the Secretary who shall be responsible for: (1) creating and fostering strategic communications to enhance the primary mission of the Department to protect the homeland; (2) advising the Secretary on the impact of the Department's policies, regulations, processes, and actions in interfacing with other government agencies, the private sector and other entities; (3) working with government agencies and development centers, government-funded organizations, academia, and the private sector to develop innovative approaches to address homeland security challenges; and (4) assisting in the development and promotion of private sector best practices to secure critical infrastructure.

SEC. 5. OTHER OFFICERS. - (a) Under Secretaries, assistant secretaries and other officers.--There shall be such number of under secretaries, assistant secretaries and other officers as may be initially or subsequently recommended by the Secretary, and appointed by the President, including for personnel administration, finance and management, information analysis, infrastructure protection, border security, and legal concerns. They shall have such staffs, functions and responsibilities as may be determined by the Secretary in accordance with this Act.

(b) The Commandant of the Coast Guard shall assist the Secretary in the performance of the Department's functions, and shall coordinate with the latter through a liaison group to be seconded to the Department especially to cooperate in rapid response and interdiction requirements that may involve personnel of the Coast Guard. The liaison group may have such additional personnel, duties and functions as the Secretary and the Commandant may jointly determine in accordance with pertinent laws.

(c) The Commissioner of the Bureau of Customs shall assist the Secretary in the performance of the Department's functions, and shall coordinate with the latter through a liaison group to be seconded to the Department especially to cooperate in customs interdiction and rapid response requirements that may involve personnel of the Bureau of Customs. The liaison group may have such additional personnel, duties and functions as the Secretary and the Commissioner may jointly determine in accordance with pertinent laws.

(d) The Administrator of the Office of Transport Security shall assist the Secretary in the performance of the Department's functions, and shall coordinate with the latter through a liaison group to be seconded to the Department especially to cooperate in rapid response and interdiction requirements that may involve personnel of the Office of Transport Security. The liaison group may have such additional personnel, duties and functions as the Secretary and the Administrator may jointly determine in accordance with pertinent laws.

(e) Performance of Specific Functions.--Subject to the provisions of this Act, every officer of the Department shall perform the functions specified by law for the official's office or as may be prescribed by the Secretary.

SEC. 6. OFFICE FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.

(a) There shall be in the Department an Office for Information Analysis and Infrastructure Protection headed by an Undersecretary who shall be appointed by the President and shall assist the Secretary in discharging the responsibilities assigned by the Secretary, including the following functions and responsibilities:

(1) To access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the national government and from local government units, and private sector entities, and to integrate such information in order to: (i) identify and assess the nature and scope of terrorist or transnational crime threats and especially the cross-border trafficking of prohibited drugs to the homeland, (ii) detect and identify such threats against the Republic of the Philippines, and (iii) understand such threats in the light of actual and potential vulnerabilities of the homeland.

(2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the Republic of the Philippines.

(3) To integrate relevant information, analyses, and vulnerability assessments in order to identify requirements for rapid response or interdiction, and to determine priorities for protective and support measures.

(4) To ensure, pursuant to the immediately succeeding section, the timely and efficient access by the Department to all information necessary to discharge the responsibilities under this section.

(5) To disseminate, as appropriate, information analyzed by the Department, to other agencies of the national government with responsibilities relating to homeland security, and to local governments and private sector entities with such responsibilities in order to assist in the deterrence, prevention, pre-emption of, or interdiction and/or rapid response to, terrorist attacks and transnational crimes, and especially the cross-border trafficking of prohibited drugs.

(6) To ensure that: (i) any material received pursuant to this Act is protected from unauthorized disclosure and handled and used only for the performance of official duties; and (ii) any intelligence information under this Act is shared, retained, and disseminated consistent with the laws of the Republic of the Philippines.

(7) To coordinate with elements of the intelligence community and with national and local law enforcement agencies, and the private sector, as appropriate.

(8) To perform such other duties relating to such responsibilities as the Secretary may provide.

SEC. 7. OFFICE ORGANIZATION, STAFFING. – The Secretary shall organize and provide the Office with such staff as may be necessary to discharge the functions and responsibilities of the Office. Additionally, and in order to assist the Office in discharging its functions and responsibilities, personnel of other agencies of the national government may be requested for detail to the Department.

SEC. 8. ACCESS TO INFORMATION.

(a) Except as otherwise directed by the President, the Secretary shall have such access as the Secretary considers necessary to all information, including reports, assessments, analyses, and unevaluated intelligence relating to threats of terrorism and transnational crimes, and especially the cross-border trafficking of prohibited drugs, against the Republic of the Philippines, and to all information concerning infrastructure or other vulnerabilities of the Republic of the Philippines to terrorism and/or transnational crime, whether or not such information has been analyzed, may be collected, possessed, or prepared by any agency of the national government. The Secretary shall also have access to other information that may be collected, possessed, or prepared by an agency of the national Government as the President may further provide. The Secretary may also obtain such material upon request, and may enter into cooperative arrangements with other executive agencies to provide such material or provide Department officials with access to it on a regular or routine basis.

(b) Regardless of whether the Secretary has made any request or entered into any cooperative arrangement pursuant to paragraph (a) above, all agencies of the national government and local governments shall promptly provide to the Secretary: (i) all reports, assessments, and analytical information relating to threats of terrorism and transnational crime, and especially to the cross-border trafficking of prohibited drugs, against the Republic of the Philippines, (ii) all information concerning the vulnerability of the infrastructure of the Republic of the Philippines, or other vulnerabilities of the Republic of the Philippines, to terrorism and/or transnational crime, and especially to the cross-border trafficking of prohibited drugs, whether or not such information has been analyzed; and (iv) such other information or material as the President may direct.

SEC. 9. OFFICE OF BORDER SECURITY. – There shall be within the Department an Office of Border Security headed by an Undersecretary for Border Security, who shall be appointed by the President. The Office shall be responsible for the following:

(a) Preventing the entry of terrorists and perpetrators of transnational crimes and especially of the cross-border trafficking of prohibited drugs, and the instruments of terrorism

and transnational crimes and of the cross-border trafficking of prohibited drugs into the Republic of the Philippines.

(b) Securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the Republic of the Philippines, including managing and coordinating those functions transferred to the Department at ports of entry.

SEC. 10. OFFICE ORGANIZATION, STAFFING. – The Secretary shall organize and provide the Office with such staff as may be necessary to discharge the functions and responsibilities of the Office. Additionally, and in order to assist the Office in discharging its functions and responsibilities, personnel of other agencies of the national government may be requested for detail to the Department. The Office shall include a Section for Domestic Preparedness Against Terrorism and Transnational Crimes and especially against the cross-border trafficking of prohibited drugs that shall help to ensure the effectiveness of emergency response providers.

SEC. 11. PRESERVING PHILIPPINE COAST GUARD SERVICE, BUREAU OF CUSTOMS, AND OFFICE OF TRANSPORT SECURITY MISSION PERFORMANCE. – The coordination and cooperation activities of the Philippine Coast Guard Service, the Bureau of Customs, and the Office of Transport Security with the Department, shall not prejudice their respective original missions. Notwithstanding any other provision of this Act, the authorities, functions, and capabilities of the Philippine Coast Guard Service, the Bureau of Customs, and the Office of Transport Security to perform their respective missions shall be maintained intact and without significant reduction.

SEC. 12. REORGANIZATION PLAN. – Not later 120 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan regarding the following: (a) the transfer of personnel, assets, and obligations to the Department pursuant to this Act, and (b) any consolidation, reorganization, or streamlining of agencies pursuant to this Act.

SEC. 13. AUTHORIZATION OF INITIAL AND ADDITIONAL APPROPRIATIONS. – The amount of Five Hundred Million Pesos (P500,000,000.00) shall be appropriated for the initial implementation of this Act, which shall be taken from the General Appropriations Act. Thereafter, such amount needed to implement this Act shall be included in the Annual Appropriations of the Department. The Department is hereby authorized to re-align its appropriations in the current year of the date of effectivity of this Act to conform to the requirements of this Act.

SEC. 14. NON-CONFORMING LAWS. – All other laws, presidential decrees and issuances, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 15. SEPARATION CLAUSE. – If, for any reason or reasons, any part of the provision of this Act shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 16. EFFECTIVITY. – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in any two (2) newspapers of general circulation.

Adopted,