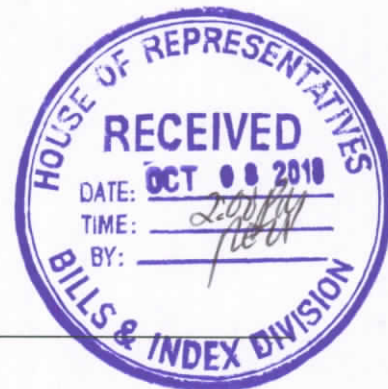


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Third Regular Session



COMMITTEE REPORT NO. 886

Submitted OCT 08 2010 by the Committee on Dangerous Drugs on

Re : House Bill No. 8378

Recommending its approval, in substitution of House Bills Numbered 289, 587, 1868, 3406, 3616, 3627, 3733 and 4151

Sponsors : Representatives Robert Ace S. Barbers, Romeo M. Acop, and Enrico A. Pineda

Madam Speaker:

The Committee on Dangerous Drugs to which were referred House Bill No. 289, introduced by Rep. Michael Odyon L. Romero, entitled:

AN ACT AMENDING SECTION 3 OF REPUBLIC ACT NO. 4200, OTHERWISE KNOWN AS AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES

House Bill No. 587, introduced by Rep. Leopoldo "Pol" N. Bataoil, entitled:

AN ACT AMENDING REPUBLIC ACT NO. 4200, OTHERWISE KNOWN AS AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES

House Bill No. 1868, introduced by Rep. Ferdinand L. Hernandez, entitled:

AN ACT AUTHORIZING WIRE TAPPING IN CASES INVOLVING VIOLATIONS OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002', AMENDING FOR THE PURPOSE SECTION 3 OF REPUBLIC ACT NO. 4200 ENTITLED "AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES

House Bill No. 3406, introduced by Rep. Robert Ace S. Barbers, entitled:

AN ACT EXEMPTING DRUG TRAFFICKING AND OTHER DRUG-RELATED OFFENSES FROM THE PROHIBITION IN REPUBLIC ACT NO. 4200 OR THE ANTI-WIRE TAPPING LAW

House Bill No. 3616, introduced by Rep. Romeo M. Acop, entitled:

AN ACT AMENDING SECTIONS 1 AND 3 OF REPUBLIC ACT NO. 4200, OTHERWISE KNOWN AS AN 'ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES

House Bill No. 3627, introduced by Reprs. Enrico A. Pineda and Michael Odyon L. Romero, Ph.D., entitled:

AN ACT AMENDING REPUBLIC ACT NO. 4200, OTHERWISE KNOWN AS AN 'ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION

House Bill No. 3733, introduced by Rep. Cristal L. Bagatsing, entitled:

AN ACT AUTHORIZING WIRE TAPPING IN CASES INVOLVING VIOLATIONS OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,' AMENDING FOR THE PURPOSE SECTION 3 OF REPUBLIC ACT NO. 4200 ENTITLED "AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES

and House Bill No. 4151, introduced by Rep. Gary C. Alejano, entitled:

AN ACT AUTHORIZING WIRE TAPPING IN CASES INVOLVING VIOLATIONS OF REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002,' AMENDING FOR THE PURPOSE SECTION 3 OF REPUBLIC ACT NO. 4200 ENTITLED "AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION, AND FOR OTHER PURPOSES

has considered the same and recommends that the attached House Bill No. 8378,
entitled:

AN ACT AMENDING REPUBLIC ACT NO. 4200, ENTITLED 'AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION'

be approved in substitution of House Bills Numbered 289, 587, 1868, 3406, 3616, 3627, 3733 and 4151 with Reprs. Robert Ace S. Barbers, Michael Odyon L. Romero, Leopoldo "Pol" N. Bataoil, Ferdinand L. Hernandez, Romeo M. Acop, Enrico A. Pineda, Cristal L. Bagatsing, Gary C. Alejano, Horacio P. Suansing, Jr., Arnolfo "Arnie" A. Teves, Jr., Rozzano Rufino B. Biazon, Joseph Stephen S. Paduano, Cesar V. Sarmiento, Edgar Mary S. Sarmiento, Pablo C. Ortega,

Antonio L. Tinio, France L. Castro, Rodel M. Batocabe, Sharon S. Garin, Scott Davies S. Lanete, M.D., Gus S. Tambunting, Ben P. Evardone, Raul V. Del Mar, Winston Castelo, Gwendolyn F. Garcia, Amado T. Espino, Jr., and Henry S. Oaminal, as authors thereof.

Respectfully submitted,

REP. ROBERT ACE S. BARBERS
Chairman
Committee on Dangerous Drugs

**THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY**

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Third (3rd) Regular Session

House Bill No. 8378

(In substitution to House Bills Numbered 289, 587, 1868, 3406, 3616, 3627, 3733 and 4151)

Introduced by Representatives Robert Ace S. Barbers, Michael Odylon L. Romero, Leopoldo "Pol" N. Bataoil, Ferdinand L. Hernandez, Romeo M. Acop, Enrico A. Pineda, Cristal L. Bagatsing, Gary C. Alejano, Horacio P. Suansing, Jr., Arnolfo "Arnie" A. Teves, Jr., Rozzano Rufino B. Biazon, Joseph Stephen S. Paduano, Cesar V. Sarmiento, Edgar Mary S. Sarmiento, Pablo C. Ortega, France L. Castro, Rodel M. Batocabe, Sharon S. Garin, Scott Davies S. Lanete, M.D., Gus S. Tambunting, Ben P. Evardone, Raul V. Del Mar, Winston Castelo, Gwendolyn F. Garcia, Amado T. Espino Jr., and Henry S. Oaminal

**AN ACT AMENDING REPUBLIC ACT NO. 4200,
ENTITLED, 'AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER
RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION'**

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

1 SECTION 1. Section 1 of Republic Act No. 4200 is hereby amended to read as follows:

2 "Section 1. It shall be unlawful for any person, not being authorized by
3 [all] **ANY** [the] part[ies]Y to any **ORAL, WIRE, RADIO, DIGITAL OR**
4 **ELECTRONIC** private communication [or spoken word], to tap [any
5 wire or cable, or by using any other device or arrangement, to secretly
6 overhear,] intercept [,] or record such communication [or spoken word
7 by using a device commonly known as a dictaphone or dictagraph or
8 dictaphone or walkie-talkie or tape recorder, or however otherwise
9 described:] **WITH THE USE OF ANY ELECTRONIC, MECHANICAL,**
10 **DIGITAL OR ANALOG PHONE SYSTEM, OR SIMILAR DEVICES.**

11 It shall also be unlawful for any person, be he a participant or not in the
12 act or acts penalized in the next preceding sentence, to knowingly
13 possess any tape record, wire record, disc record, or any other such
14 record, or copies thereof, of any **ORAL, WIRE, RADIO, DIGITAL OR**
15 **ELECTRONIC PRIVATE** communication [or spoken word] secured
16 either before or after the effective date of this Act in the manner
17 prohibited by this law; or to replay the same for any other person or
18 persons; or to communicate the contents thereof, either verbally or in
19 writing, or to furnish transcriptions thereof, whether complete or partial,
20 to any other person: Provided, That the use of such record or any copies
21 thereof as evidence in any civil, criminal investigation or trial of offenses
22 mentioned in section 3 hereof, shall not be covered by this prohibition.

23 Xxx

xxx"

24 SECTION 2. Section 2 of Republic Act No. 4200 is hereby amended to read as
25 follows:

26 "Section 2. Any person who willfully or knowingly does or who shall aid,
27 permit, or cause to be done any of the acts declared to be unlawful in
28 the preceding section or who violates the provisions of the following
29 section or of any order issued thereunder, or aids, permits, or causes
30 such violation shall, upon conviction thereof, be punished by
31 imprisonment for not less than six months [or more than six years] **TO**
32 **A MAXIMUM OF SIX (6) YEARS IMPRISONMENT WITHOUT THE**
33 **BENEFIT OF PROBATION**, and with the accessory penalty of
34 perpetual absolute disqualification from public office if the offender be
35 a public official at the time of the commission of the offense, and, if the
36 offender is an alien he shall be subject to deportation proceedings
37 **AFTER SERVICE OF SENTENCE.**"
38

39 SECTION 3. Section 3 of Republic Act No. 4200 is hereby amended to read as
40 follows:

41
42 "Section 3. Nothing contained in this Act, however, shall render it
43 unlawful or punishable for any peace officer[,] **OR LAW ENFORCER**
44 who is authorized by a written order of the Court, to execute any of the
45 acts declared to be unlawful in the two preceding sections in cases
46 involving the crimes of treason, espionage, provoking war and disloyalty
47 in case of war, piracy, mutiny in the high seas, rebellion, conspiracy and
48 proposal to commit rebellion, inciting to rebellion, **COUP D'ETAT,**
49 **CONSPIRACY AND PROPOSAL TO COMMIT COUP D'ETAT,**
50 sedition, conspiracy to commit sedition, inciting to sedition, kidnapping
51 as defined by the Revised Penal Code, **ROBBERY IN BAND AS**
52 **DEFINED AND PENALIZED BY ARTICLES 294, 295, 296, 299 AND**
53 **302 OF THE REVISED PENAL CODE AND PRESIDENTIAL DECREE**
54 **NO. 532, OTHERWISE KNOWN AS THE "ANTI-PIRACY AND ANTI-**
55 **HIGHWAY ROBBERY LAW OF 1974," VIOLATION OF RA 9165,**
56 **OTHERWISE KNOWN AS THE "COMPREHENSIVE DANGEROUS**
57 **DRUGS ACT OF 2002", AS AMENDED, VIOLATION OF RA 3019,**
58 **OR THE "ANTI-GRAFT AND CORRUPT PRACTICES ACT",**
59 **SYNDICATED ILLEGAL RECRUITMENT AS DEFINED AND**
60 **PUNISHED UNDER REPUBLIC ACT NO. 8042, OR THE "MIGRANT**
61 **WORKERS AND OVERSEAS FILIPINOS ACT OF 1995", AS**
62 **AMENDED, VIOLATIONS OF REPUBLIC ACT NO. 9160,**
63 **OTHERWISE KNOWN AS THE "ANTI-MONEY LAUNDERING ACT**
64 **OF 2001", AS AMENDED, and violations of Commonwealth Act No.**
65 **616, punishing espionage and other offenses against national security:**
66 **Provided, That such written order shall only be issued or granted upon**
67 **written application and the examination under oath or affirmation of the**
68 **applicant and the witnesses he may produce and a showing: (1) that**
69 **there are reasonable grounds to believe that any of the crimes**
70 **enumerated hereinabove has been committed or is being committed or**
71 **is about to be committed; [Provided, however,, That in cases involving**
72 **the offenses of rebellion, conspiracy and proposal to commit rebellion,**
73 **inciting to rebellion, sedition, conspiracy to commit sedition, and inciting**
74 **to sedition, such authority shall be granted only upon prior proof that a**
75 **rebellion or acts of sedition, as the case may be, have actually been or**
76 **are being committed:](2) that there are reasonable grounds to believe**
77 **that evidence will be obtained essential to the conviction of any person**
78 **for, or to the solution of, or to the prevention of, any of such crimes; and**
79 **(3) that there are no other means readily available for obtaining such**
80 **evidence.**
81

82 The order granted or issued shall specify: (1) the identity of the person
83 or persons whose communications, conversations, discussions, or
84 spoken words are to be overheard, intercepted, or recorded and, in the
85 case of telegraphic or telephonic communications, the telegraph line or
86 the telephone number involved and its location; (2) the identity of the
87 peace officer authorized to overhear, intercept, or record the
88 communications, conversations, discussions, or spoken words; (3) the
89 offense or offenses committed or sought to be prevented; and (4) the
90 period of the authorization. The authorization [shall be effective for the
91 period specified in the order which shall not exceed sixty (60) days from
92 the date of issuance of the order, unless extended or renewed by the
93 court upon being satisfied that such extension or renewal is in the public
94 interest.] **MAY BE EXTENDED OR RENEWED FOR ANOTHER
95 NINETY (90) DAYS FROM THE EXPIRATION OF THE ORIGINAL
96 PERIOD, SUBJECT TO RENEWAL: PROVIDED, THAT THE COURT
97 IS SATISFIED THAT SUCH EXTENSION OR RENEWAL IS IN THE
98 PUBLIC INTEREST; PROVIDED, FURTHER, THAT THE
99 APPLICATION FOR EXTENSION OR RENEWAL IS FILED BY THE
100 ORIGINAL APPLICANT, OR IN CASE OF PHYSICAL OR MENTAL
101 DISABILITY OR DEATH, A MEMBER OF THE TEAM NAMED IN THE
102 ORIGINAL ORDER OF THE AUTHORIZATION.**

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104 All recordings made under court authorization shall, within [forty-eight
105 hours] **TEN DAYS** after the expiration of the period fixed in the order,
106 be deposited with the court in a sealed envelope or sealed package,
107 and shall be accompanied by an affidavit of the peace officer granted
108 such authority stating the number of recordings made, the dates and
109 times covered by each recording, the number of tapes, discs, or records
110 included in the deposit, and certifying that no duplicates or copies of the
111 whole or any part thereof have been made, or if made, that all such
112 duplicates or copies are included in the envelope or package deposited
113 with the court. **IT SHALL BE UNLAWFUL FOR ANY PERSON,
114 POLICE OR LAW ENFORCEMENT OFFICIAL TO OMIT OR
115 EXCLUDE FROM THE AFFIDAVIT ANY ITEM OR PORTION
116 ABOVEMENTIONED.** The envelope or package so deposited shall not
117 be opened, or the recordings replayed, or used in evidence, or their
118 contents revealed, except upon order of the court, which shall not be
119 granted except upon motion, with due notice and opportunity to be
120 heard to the person or persons whose conversation or communications
121 have been recorded.

122
123 **ANY RECORDING AUTHORIZED BY WRITTEN ORDER OF THE
124 COURT SHALL NOT BE ADMISSIBLE IN EVIDENCE AGAINST ANY
125 PERSON WHO IS A PARTY TO THE COMMUNICATION,
126 CONVERSATION, DISCUSSION, OR SPOKEN WORD WHICH ARE
127 OVERHEARD, INTERCEPTED, OR RECORDED, IF THE PERSON'S
128 IDENTITY IS NOT SPECIFIED IN SUCH WRITTEN ORDER AS
129 REQUIRED IN THE SECOND PARAGRAPH OF THIS SECTION. THE
130 NAME AND PERSONAL CIRCUMSTANCES OF SUCH PERSON, OR
131 ANY OTHER INFORMATION WHICH TEND TO ESTABLISH THE
132 PERSON'S IDENTITY SHALL NOT BE DISCLOSED TO THE
133 PUBLIC.**

134
135 **ANY PERSON, POLICE OR LAW ENFORCEMENT OFFICER WHO
136 VIOLATES ANY OF THE ACTS PRESCRIBED IN THE PRECEEDING
137 PARAGRAPHS SHALL SUFFER THE PENALTY OF NOT LESS
138 THAN SIX (6) MONTHS TO SIX (6) YEARS OF IMPRISONMENT.**

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The court referred to in this section shall be understood to mean the [Court of First Instance] **REGIONAL TRIAL COURT** within whose territorial jurisdiction the acts for which authority is applied for are to be executed.

SECTION 4. A new section to be known as Section 3-A shall be inserted to read as follows:

“ SECTION 3-A. IT SHALL LIKEWISE BE UNLAWFUL FOR PUBLIC TELECOMMUNICATION ENTITIES AND OTHER SIMILAR ENTERPRISES ENGAGED IN THE BUSINESS OF VOICE AND DATA TRANSMISSION THROUGH WIRE, RADIO, DIGITAL OR ELECTRONIC MEANS, TO RETAIN FOR MORE THAN ONE (1) YEAR RECORDS OF VOICE AND DATA, WHICH ARE NOT THE SUBJECT OF ANY PENDING CASE, INCLUDING INFORMATION ON THE IDENTITY OF THE PARTIES, ORIGIN, DESTINATION, DATE, TIME AND DURATION OF THE COMMUNICATION UNLESS OTHERWISE ORDERED BY A COURT OF COMPETENT JURISDICTION FOR PURPOSES ALLOWED UNDER SECTION 3 OF THIS ACT.

ANY PERSON WHO WILFULLY OR KNOWINGLY VIOLATES THE PROHIBITION HEREIN PRESCRIBED OR WHO AIDS, PERMITS, OR CAUSES SUCH VIOLATION SHALL, UPON CONVICTION THEREOF, BE PUNISHED BY IMPRISONMENT OF NOT LESS THAN SIX (6) YEARS BUT NOT MORE THAN TWELVE (12) YEARS AND A FINE OF ONE MILLION PESOS (PHP 1,000,000.00), AND WITH THE ACCESSORY PENALTY OF PERPETUAL ABSOLUTE DISQUALIFICATION FROM PUBLIC OFFICE IF THE OFFENDER BE A PUBLIC OFFICIAL AT THE TIME OF THE COMMISSION OF THE OFFENSE: PROVIDED, THAT IF THE PERSON WHO COMMITS THE VIOLATION IS AN ALIEN, THE PERSON SHALL BE SUBJECT TO DEPORTATION PROCEEDINGS AFTER SERVICE OF SENTENCE.

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SECTION 5. Separability Clause. – Should any provision of this Act or any part thereof be declared invalid, the other provisions, insofar as they are separable from the invalid one, shall remain in full force and effect.

SECTION 6. Repealing Clause. – All laws, orders, issuances, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 7. Effectivity. – This Act shall take effect fifteen (15) days after its publication in Official Gazette or in a newspaper of general circulation.

Approved,

FACT SHEET

House Bill No. _____

8378

AN ACT AMENDING REPUBLIC ACT NO. 4200, ENTITLED, 'AN ACT TO PROHIBIT AND PENALIZE WIRE TAPPING AND OTHER RELATED VIOLATIONS OF THE PRIVACY OF COMMUNICATION,' AND FOR OTHER PURPOSES

Introduced by: *REPS. ROBERT ACE S. BARBERS, MICHAEL ODYLON L. ROMERO, LEOPOLDO "POL" N. BATAOIL, FERDINAND L. HERNANDEZ, ROMEO M. ACOP, ENRICO A. PINEDA, CRISTAL L. BAGATSING, GARY C. ALEJANO, HORACIO P. SUANSING, JR., ARNOLFO "ARNIE" A. TEVES, JR., ROZZANO RUFINO B. BIAZON, JOSEPH STEPHEN S. PADUANO, CESAR V. SARMIENTO, EDGAR MARY S. SARMIENTO, PABLO C. ORTEGA, FRANCE L. CASTRO, RODEL M. BATOCABE, SHARON S. GARIN, SCOTT DAVIES S. LANETE, M.D., GUS S. TAMBUNTING, BEN P. EVARDONE, RAUL V. DEL MAR, WINSTON CASTELO, GWENDOLYN F. GARCIA, AMADO T. ESPINO, JR., AND HENRY S. OAMINAL*

Committee Referral: **COMMITTEE ON DANGEROUS DRUGS**
Committee Chairperson: **REP. ROBERT ACE S. BARBERS**

OBJECTIVE:

- To enhance crime detection and investigation of organized and syndicated crimes.

KEY PROVISIONS:

- Increases the penalty for violation of RA 4200.
- Includes the following crimes or offenses in addition to those enumerated under Section 3 of RA 4200, namely: (1) Violation Republic Act No. 9165, or the "Dangerous Drugs Act of 2002", as amended; (2) Coup d'etat, Conspiracy and Proposal To Commit Coup d'etat, Robbery in Band as defined and penalized by Articles 294, 295, 296, 299 and 302 of the Revised Penal Code; (3) Presidential Decree No. 532, otherwise known as the "Anti-Piracy and Anti-Highway Robbery Law of 1974; (4) Violation of Republic Act No. 3019, or the "Anti-Graft and Corrupt Practices Act,;" (5) Syndicated Illegal Recruitment as defined and punished under Republic Act No. 8042, or the "Migrant Workers and Overseas Filipinos Act of 1995," as amended; and, (6) Violation of Republic Act No. 9160, otherwise known as the "Anti-Money Laundering Act of 2001," as amended.
- Prohibits public telecommunication entities and other similar enterprises engaged in the business of voice and data transmission to retain data for more than one (1) year, except those records of voice and data which are the subject of a pending case.

RELATED LAWS:

- The 1987 Constitution, Revised Penal Code, RA 9165, as amended, RA 8042, as amended, RA 9160, as amended, RA 3019, and P.D. No. 532.