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SENATE
S. No. 2595

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JAN 29 2014

Introduced by Senator Miriam Defensor Santiago

AN ACT
TO PROTECT AND PROMOTE THE RIGHT TO FREE SPEECH OF PHOTOGRAPHERS

EXPLANATORY NOTE

The Constitution, Article 3, Section 4 provides:

No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.

Our Constitution has a systemic bias towards free speech. The absolutist tenor of Article III, Section 4, testifies to that fact. The individual discomforts to particular people or enterprises engendered by the exercise of the right, for which at times remedies may be due, do not diminish the indispensable nature of free expression to the democratic way of life.


Free speech and free press may be identified with the liberty to discuss publicly and truthfully any matter of public interest without censorship and punishment. There should be no previous restraint on the communication of views or subsequent liability whether in libel suits, prosecution for sedition or action for damages, or contempt proceedings unless there is a clear and present danger of substantive evil that Congress has a right to prevent.¹

The scope of freedom of expression is so broad that it extends protection to nearly all forms of communication. It protects speech, print, and assembly regarding secular as well as political causes, and is not confined to any particular field of human interest. The protection covers myriad matters of public interest or concern embracing all issues, about which information is needed or appropriate, so as to enable members of society to cope with the exigencies of their period. The constitutional protection assures the broadest possible exercise of free speech and free press for religious, political, economic, scientific, news, or informational

¹ Newsounds Broadcasting Network, Inc. v. Dy, 583 SCRA 333 (2009).

ends, inasmuch as the Constitution's basic guarantee of freedom to advocate ideas is not confined to the expression of ideas that are conventional or shared by a majority.²

In recent years since the rising popularity of amateur photography, government agencies have enacted regulations to prohibit or restrict photography in public parks, public spaces, and government buildings. However, still and motion photographs are speech. Government should ensure that the right to free speech of those who take still and motion photographs in public spaces and government property is protected and promoted. Any government regulation limiting this right should be kept to the barest minimum, and only for the purpose of maintaining order and efficiency in the daily conduct of the affairs of the government agency concerned.


MIRIAM DEFENSOR SANTIAGO
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² Chavez v. Gonzales, 545 SCRA 441 (2008).

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S. No. 2595

Introduced by Senator Miriam Defensor Santiago

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

1 AN ACT
2 TO PROTECT AND PROMOTE THE RIGHT TO FREE SPEECH OF PHOTOGRAPHERS

3 SECTION 1. *Declaration of Policy.* – Consistent with the constitutional mandate that no
4 law shall be passed abridging the freedom of speech and of expression, it is hereby declared the
5 policy of the State to protect and promote the right to free speech of photographers.

6 SECTION 2. *Definition.* – For purposes of this Act, the term “photography” means any
7 form or method of capturing and recording or transmitting still or moving images.

8 SECTION 3. *Right to Free Speech of Photographers.* – (a) It is contrary to public policy
9 to prohibit or restrict photography in public spaces, whether for private, news media, or
10 commercial use.

11 (b) Should a government agency seek to restrict photography of its installations or
12 personnel, it shall obtain a court order that outlines the national security or other reasons for the
13 restriction. Such court order shall allow restrictions of photography when such photography may
14 lead to the endangerment of public safety or national security. Nothing in this Act shall restrict
15 government agencies from taking lawful steps to ascertain whether or not photography may
16 consist of reconnaissance for the purpose of endangerment of public safety or national security or
17 for other unlawful activity.

1 SECTION 4. *Fees, Permits, or Insurance.* – A government agency may require
2 reasonable fees, permits, and/or insurance as a condition to take still or moving images on
3 government lands, national parks and forests, and public spaces when such are for commercial
4 use; *Provided*, that the taking of still or moving images for private use or for the use of news
5 media agencies shall not be subjected to fees and/or insurance.

6 SECTION 5. *Prohibition on the Seizure and Forfeiture of Photographic Equipment.* – It
7 is prohibited for law enforcement officers and other government officials to seize any
8 photographic equipment or their contents or memory cards or film, or order a photographer to
9 erase the contents of a camera or memory card or film. A law enforcement officer or government
10 official found guilty of violating this provision shall be punished with a fine of not less than Two
11 Thousand Pesos (P2,000.00), and shall indemnify the victim in the amount of thrice the fair
12 market value of any photographic equipment, memory card, or film destroyed.

13 SECTION 6. *Implementing Rules and Regulations.* – Within sixty (60) days from
14 effectivity of this Act, government agencies shall promulgate the necessary rules and regulations
15 to implement this Act.

16 SECTION 7. *Separability Clause.* – If any provision, or part hereof, is held invalid or
17 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
18 valid and subsisting.

19 SECTION 8. *Repealing Clause.* – Any law, presidential decree or issuance, executive
20 order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent
21 with the provisions of this Act is hereby repealed, modified, or amended accordingly.

1 SECTION 9. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication
2 in at least two (2) newspapers of general circulation.

Approved,

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