

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



THIRTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 2914

Introduced by Honorable JACINTO V. PARAS

EXPLANATORY NOTE

Disasters have plagued the transportation industry, be it land, sea or air causing heavy damage to property, human injuries and claiming hundreds, if not thousands of innocent lives. The most recent of these accidents were among the worst tragedies recorded in the history of the country.

In all these accidents, the government's role has been primarily reactionary, conducting investigations after the occurrence of such accidents. These catastrophes would have been averted and damages to property and lives avoided had the government instituted proactive measures designed to ensure the safety of passengers.

This bill seeks to create a National Transportation Safety Board which shall be an independent, non – regulatory agency which shall undertake thorough and impartial investigations of transportation accidents geared primarily to do the analysis, evaluation and prevention of air, highway and marine and transportation accidents including railway and pipeline systems for the effective promotion of safety and the prevention of loss of life and property. Briefly, the mission of this Board is to engage in the investigation and determine probable cause/s of transportation accidents and evaluating the effectiveness of the concerned government agencies in preventing transportation accidents.

The importance and necessity of a safe transportation system in our country cannot be over emphasized, and it is believed that a National Transport Safety Board is an effective vehicle for the realization of such a need. Passage of this Bill, therefore, is strongly recommended.


JACINTO V. PARAS

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**AN ACT CREATING A NATIONAL TRANSPORTATION SAFETY BOARD,
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES**

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

SECTION 1. **Title.** - This act shall be entitled as the " Transportation
Safety Act of 2001."

Sec. 2. **Declaration of Policy** - It is hereby declared the policy of the
Senate to develop and provide highly effective safety improvement measures
that will ensure the safety in the conveyance of people and goods involving any
mode of transport, including pipelines and conveyors, and to ease the difficulties,
anxieties and discontent of the motoring public. In consonance with this, there
shall be an independent body to promulgate safety rules and regulations,
conduct accident investigations and assess operating practices and measures
and to recommend improvements wherever necessary.

SEC. 3 **Creation of the National Transportation Safety Board and its
Relationship with other Government Agencies.** An autonomous National
Transportation safety Board, hereinafter referred to as the Board, is hereby
created to implement the foregoing policy of the State. For administration
purposes, the Board shall be attached to the Department of Justice, which is
hereby empowered to initiate prosecution or take affirmative action on the basis
of the findings and recommendations of the Board.

SEC. 4. **Organization** (1) The Board shall consist of three (3) full –
time members one of whom shall be the Chairman., who shall be appointed by
the President of the Philippines, subject to confirmation by the Commission on
Appointments. A member must have at least ten (10) years of practical
experience as an employee or officer of a transport utility firm or regulatory
agency in either air, land, or water mode of transportation and preferably with
knowledge of accident reconstruction, safety engineering, or transportation and
traffic safety. At any given time, at least one of the three (3) members shall be a
lawyer.

(2) The term of office of the members of the Board shall be six (6) years, except that the first appointees shall have terms of two, four, and six years, respectively. The chairman shall have a term of six years and the other two shall have a term of four years and two years depending on the order of appointment. An individual may be reappointed for another term of six years but in no case exceeding twelve (12) years of service with the Board. Upon the expiration of his term of office, a member shall continue to serve until the successor is appointed and shall have qualified. Any member of the Board may be removed by the President of the Philippines for a cause including inefficiency, neglect of duty, or malfeasance in office.

(3) The Chairman shall be the Chief Executive Officer of the Board and shall exercise the executive and administrative functions of the Board with respect to the appointment and supervision of personnel employed by the Board, the distribution of business among such personnel and among any administrative units of the Board, and the use and expenditure of funds. The Chairman shall be assisted by a Managing Director and both shall be governed by the general policies established by the Board en banc, including any decisions, findings, determination, rules, regulations, and formal resolutions.

(4) The Board shall establish and maintain distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accident involving each of the following modes of transportation:

- (a) Air transportation,
- (b) land Transportation,
- (c) Rail and Tracked transportation,
- (d) Sea and other water transportation,
- (e) Pipeline Transportation; and
- (f) Tunnel Transportation.

The Board shall, in addition, establish and maintain such capacity as may be needed to investigate and report on the safe transportation of hazardous materials.

(5). The Board shall have a Managing Director who shall be appointed by the President of the Philippines upon the recommendation of the Board. He shall be responsible for the day to day administration of the Board.

SEC. 5. **Compensation**. – The Chairman of the Board shall receive an annual salary equivalent to an Undersecretary of a Department, while the members of the Board shall receive an annual salary equivalent to an Assistant Secretary. The compensation of the Managing Director shall be that applicable to a line bureau director. They shall, be entitled to commutable representation and transportation allowances per month in an amount not exceeding the monthly salary of the lowest paid regular employee of the Safety Board.

SEC. 6 . **Duties and Functions of the Board**. – The Board shall (1) investigate or cause to investigate, in such detail as it shall prescribe, and determine the facts, conditions and circumstances and the cause or probable cause or causes of the following:

(a) aircraft accident in accordance with regulations to be prescribed jointly by the Board, the Secretary of Transportation and Communications, and the Air Transportation Office: ***Provided***, That the Facts, conditions, and circumstances, and the cause of probable cause determined therefrom shall be made available to the public by the Board;

(b) Highway accident, including any railroad grade crossing accident, that the Board deems catastrophic based on the number of fatalities and degree of damage, in cooperation with the agencies involved;

(c) railroad accident in which there is a fatality, substantial property damage, or which involves a passenger train;

(d) pipeline accident in which there is a fatality, or substantial property damage;

(e) Major marine casualty, except one involving only military vessels, occurring on the navigable waters or territorial seas of the Philippines, in accordance with regulations to be prescribed jointly by the Board and the Coast Guard; **Provided**, That the facts, conditions and circumstances, and the cause determined therefrom shall be made available to the public by the board;

(f) Other accident, which occurs in connection with the transportation of people, or property which, in the judgment of the Board, is catastrophic, involves problems of a recurring character.

(2) Report on writing on the facts, conditions, and circumstances of each accident investigate pursuant to paragraph (1) of this subsection and cause such reports to be made available to the public within the shortest possible time after the occurrence of the accident;

(3) Submit periodic reports to the Congress, the President, and the governmental and non – governmental agencies concerned with transportation safety, including owners of public transportation carriers who may be concerned with the findings of the Board and to interested persons recommending and advocating meaningful responses to reduce the likelihood or reoccurrence of transportation accidents similar thereto, with proposals of corrective steps to avoid transportation accidents.

(4) Initiate and conduct special studies and special investigations on materials pertaining to safety in transportation and human injury avoidance;

(5) Assess and re – assess techniques and methods of accident investigation and promulgated recommended procedures for expeditious investigations of accidents for the information and guidance of concerned government agencies;

(6) Evaluate and assess the effectiveness of concerned government agencies in promoting transportation safety consciousness and in preventing accidents;

(7) Evaluate the adequacy of safeguards and procedures concerning the transportation of hazardous materials and the performance of carriers and government agencies charged with assuring the safe transportation of such materials and recommend appropriate measures regarding the hazardous materials;

(8) Gather, analyze, maintain, and publish from time to time data and statistics on transportation accident;

(9) Prosecute on behalf of the people, or file charges or cause the filing thereof, or move for the suspension, modifications, revocation of license or operating certificate, before the appropriate court and / or administrative body, against person or persons who may be guilty or responsible for accidents investigated by the Board; **Provided,** that such course of action shall, require prior approval of the Secretary of Justice.

(10) Perform such other functions as may be necessary to implement effectively the objective and provisions of this Act.

SEC. 7 . **Powers of the Board.** (1) The Board or any designated member thereof may conduct such hearings, administer oaths and require by subpoena ad testificandum the testimony of persons.

In case of refusal to obey a subpoena, an order, or an inspection notice of the Board of any duly designated employee thereof by any person, such person may be required to comply forthwith by a court of competent jurisdiction upon the request of the Board. Failure to obey such an order is punishable by such court as contempt of court.

(2) Any employee duly authorized by the Board, upon presenting appropriate credentials, may enter any property wherein a transportation accident has occurred or wreckage from such accident is located in order to undertake investigation thereof. The employee may inspect, at reasonable times, record, files processes, controls and facilities relevant to the investigation of accident. Each inspection shall be commenced and completed with reasonable promptness.

(3) The Board may require and shall be furnished a copy of the autopsy reports by the officials concerned on any person who dies as a result of having been involved in a transportation accident. The Board may order, if necessary, the autopsy or require other test on such persons as may be needed to the investigation of the accident.

(4) The Board may enter into such contracts, leases, agreements, and other transactions as may be necessary in the conduct of its functions and duties.

(5) The Board may call upon the assistance and use available services, equipment and facilities of the Department of Transportation and Communications, the Department of National Defense, the Department of Public Works and Highways and other agencies and instrumentalities of the government.

(6) The Board may create advisory committees composed of qualified private citizens and government officials with which the Board may consult in the implementation of its functions and duties, and to pay honoraria to these persons for meetings actually attended. Whenever necessary, the Board may likewise appoint recognized experts as consultants on the accidents under investigation who shall be paid the compensation fixed by the Board: **Provided,** That not more than two (2) consultants shall be appointed for each incident being investigated.

(7) The Board may, for the conduct of studies and researches related to its duties and functions, accept donations of money or property and enter into contracts with public and private entities: **Provided,** That proceeds from such donations shall be used exclusively for the purpose for which it was intended, in accordance with the objectives of this Act.

Sec. 8 . **Recall, Replacement and Notification of Defective Conveyance** – The Board may recommend that the Department of Transportation and Communications, through the proper government regulatory or registering agency,, order the recall by the manufacturer or its Philippine agent or representative, of all locally sold units of a particular model of vehicle or transport vessel, if a defect attributable to the design or manufacture of any part or instrumentation of the model, had been reported within five (5) years of the date of introduction of the model into the local market and subsequently proven or substantiated to affect many units of that model. The purpose of such recall shall be for the correction of said defect in a affected units either by replacement or the redesign of the defective device in order to render the particular transport vessel model safe for the public and commercial use. If this defect cannot be technically corrected, the Department of Transportation and Communications can instead order a full refund for all surrendered vehicles. In case the manufacturers concerned failed to comply, the Department of Justice can initiate prosecutory proceedings. The Board shall notify not only the distributor or purchaser but also the public of such defect. The cost for such remedial measures shall be for the account of the manufacturer or its agents, without prejudice to any claims for damages that the victims of accidents of their heirs may file at the proper courts.

SEC. 9. **Ground Defective Conveyance** – The Board shall, after consultations with the proper government regulatory or registering agency, order the grounding of any defective conveyance pending the investigation of the cause or nature of its defect. If the defect will not effect the safety of transport operations, the Board may authorize the continues operation of the conveyance under certain limitations to be prescribed by it.

SEC. 10. **Penalties.** – When the order or recommendation of the Board is not complied with or implemented by any persons, operator, or company, manufacturer or distributor, within the prescribed period, by the Board in such order or report, the Board shall recommend to the licensing authority the immediate cancellation of the permit, license, or authority to operate which may have been granted to said persons or entity.

In case the offender is a manufacturer or distributor, an administrative fine in such amount as may be deemed appropriate by the Board, which shall not be less that Five Thousand (P 5, 000.00) pesos nor more than the estimated peso value of the actual or potential damages arising therefrom, to be determined actuarially or by some empirical means, shall be imposed in addition to the cancellation of his or it permit, license, or authority.

SEC. 11. **Relationship with other Institutions.** –

(1) Nothing herein shall deter existing government accident investigation bodies from performing their intrinsic functions, including investigation of accidents or making inquiries thereon, when those functions exist prior to this Act.

(2) The police or law enforcement agency shall continue to investigate and record accidents on the roads involving motor vehicle and / or pedestrians. The Board shall prescribed a uniform and standard reporting system for such accidents which shall be mandatory to the principal investigating body or person.

(3) The Board may require other government agencies tasked with investigating air and marine accidents to produce the records, files, specimens, pieces of evidence, and the like for such accident which, in the judgement of the Board, requires its inquiry and attention.

(4) The Board may require the submission of the records, reports, findings and recommendations of past investigations from any government investigating body and the latter shall comply forthwith.

(5) The Secretary of Justice shall direct the appropriate body or prosecuting arm of the State to institute proceedings, suit or court action, against any person or entity who may be guilty of negligence or instrumental to the occurrence of an accident, when in his judgment, the report or findings of the Board warrant such action.

(6) In the exercise of its powers, the Board shall take into consideration the provisions of any treaty or agreement entered into by the Philippines with other countries relative to investigations of transportation accidents.

SEC. 12. **Appropriation** – The sum of Fifteen million pesos is hereby authorized to be appropriated, out of any funds of the National Treasury not otherwise appropriated for the initial organization and operation of the Board. Thereafter, such amount as may be necessary to finance its operation and maintenance shall be included in the annual General Appropriations Act.

Savings from its annual operating budgets shall be constituted into a Transportation Safety Fund, to be administered by the National Treasurer, until the Fund shall have reached the level of Ten Million Pesos (P10,000,000.00) or Twenty – Five (25 %) percent of its previous year's budget, whichever is higher. The Fund can only be used for reimbursing the extraordinary expenses of government and private agencies and / or persons mobilized by the Board in investigating major accidents. Releases from the Fund shall be made promptly upon by the Board.

SEC. 13. **Separability Clause**. – If any provision of this Act is declared invalid or unconstitutional, the remainder or any provision hereof not affected thereby shall remain in force and effect.

SEC. 14. **Repealing Clause** – All laws, decrees, orders, proclamations, rules and regulations, or parts thereof, which are inconsistent with any of the provisions of this Act are hereby repealed, or modified accordingly.

SEC. 15. **Effectivity** – This Act shall take effect upon its approval.

Approved.