

**REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
QUEZON CITY, METRO MANILA**



**THIRTEENTH CONGRESS
First Regular Session**

HOUSE BILL NO. 3831

INTRODUCED BY HONORABLE OSCAR L. GOZOS

EXPLANATORY NOTE

This measure is intended to directly confront the growing problem of "Kabit System" in the operation of common carriers in the country. The pernicious practice of scrupulous businessmen of engaging in transport business without the required Certificate necessary for its operation as required in Commonwealth Act 146, otherwise known as the Public Service Act, can no longer be countenanced as it has brought about untold miseries on many sectors of our society.

The "Kabit System" in the transport industry has grown into a multi-billion business proposition in the country. Illegal operators of common carriers compete with legitimate operators of common carriers to the damage of the latter, which ironically have complied with the requirements for the effective operation of a public transport service and paid the appurtenant fees prescribed by the Government. These unhampered illegal activities greatly affect the financial position and put at a disadvantage the legitimate business operations of grantees of Certificates of Public Convenience. These activities likewise impair massive governmental effort put in place by the State to promote efficiency and professionalism in the delivery of transport services.

Studies and research works have shown that the illegal operation of common carriers has rapidly proliferated in the last two decades. The scrupulous individuals and entities have become more callous and bolder as to engage in large scale illegal operation of common carriers. Existing penal sanctions are very light and inconsequential, thus, do not provide enough teeth to serve as deterrent for rampant violations of the prohibitory provisions in the existing laws.

We have to put order on our streets and ensure quality public service to our people. The people deserve the best service they could get from common carriers that are under obligation to observe extra diligence in the performance of their public transport service. Those operating in the "Kabit System" obviously

can not be relied upon to observe such diligence required under our laws for the protection of those obtaining their services. This must be addressed swiftly if we were to promote a desirable business environment to legitimate operators of common carriers and to assure our people of excellent delivery of public service. This is the only way we could put order on our streets and thereby hopefully enhance the prospects of our economic recovery and progress.

I trust my distinguished colleagues will likewise see through the importance of ensuring the early passage of this piece of legislation.


OSCAR L. GOZOS
4th District, Batangas

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AN ACT INCREASING THE PENALTIES FOR THE USE AND OPERATION OF ANY VEHICLE AS COMMON CARRIER WITHOUT A CERTIFICATE OF PUBLIC CONVENIENCE ISSUED IN THE NAME OF ITS USER OR OPERATOR, DECLARING AS PUNISHABLE SOME ACTS SIMILAR OR RELATED TO SUCH OPERATION, AMENDING FOR THE PURPOSE SECTIONS OF THE PUBLIC SERVICE ACT AND THE LAND TRANSPORTATION AND TRAFFIC CODE, AND FOR OTHER PURPOSES

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

Section 1. Short Title. - This Act shall be known and cited as "The Operation of Common Carriers Law of 2005"

Section 2. Declaration of Policies.

(a) It is hereby declared a policy of the State that the Certificate of Public Convenience is a privilege that shall be awarded solely and exclusively for use by persons, who under existing statutes, rules and regulations, are highly competent and capable of providing public transport service.

(b) It is further declared that as part of its economic recovery and public service program, the State shall bring back and promote order on our streets by instituting measures that will effectively curb the illegal operation and use of vehicles as common carriers without appropriate authority therefor. In so instituting, the State shall impose commensurate penal sanctions for violations thereof.

Section 3. Definition of Terms. - As used in this Act, the following terms shall mean:

(a) Common Carrier – A person, corporation, or any entity, which carries, solicits or accepts, or causes, tolerates or allows another to transport, solicits, or accepts passengers, goods, or both, by the use of motor vehicles, for compensation, and is required under Commonwealth Act 146 to procure a Certificate of Public Convenience from the Land Transportation and Franchising Regulatory Board, prior to its operation.

(b) Motor Vehicle – Any vehicle propelled by any power other than muscular power, including but not limited to buses, passenger jeeps, vans, and taxicabs.

(c) Board – Land Transportation and Franchising Regulatory Board

(d) Operation of Common Carrier – The act of carrying, soliciting, accepting, or transporting passengers, goods, or both, by the use of motor vehicles, for compensation. It further covers the act of causing, tolerating, or allowing another to solicit, carry, or accept passengers, goods, or both, by the use of motor vehicles for compensation.

(e) Certificate - The Certificate of Public Convenience issued by the Board, upon application for the issuance thereof and payment of appropriate fees, authorizing a common carrier to transport passengers, goods, or both, by the use of motor vehicles, at specific routes and/or destinations.

(f) Office – Land Transportation Office

(g) Act – Commonwealth Act 146, otherwise known as "The Public Service Act.."

Section 4. Prohibited Acts.

(a) For Non-Grantees of Certificate. – It shall be unlawful for any individual, co-partnership, association, corporation or joint-stock company, their lessees, trustees, or receivers appointed by any court whatsoever, or any municipality, city, province, or department or instrumentality of the Government of the Philippines, except for grantees of exemptions under existing laws, to operate as a common carrier, without having first secured from the Board a Certificate issued in the name of such operator as provided in the Act.

(b) For Grantees of Certificate. – It shall be unlawful for any individual, co-partnership, association, corporation or joint-stock company, their lessees, trustees, or receivers appointed by any court whatsoever, or any municipality, city, province, or department or instrumentality of the Government of the Philippines, which has been granted a Certificate by the Board:

(i) to operate as common carrier, motor vehicles, which are not covered under such Certificate issued to the grantee or are otherwise owned by another person or entity;

(ii) to allow, cause, or tolerate another person to operate as a common carrier motor vehicles, that are either owned, borrowed, or leased by the latter and covered under such Certificate issued in favor of the former or the grantee;

(iii) to operate, cause, or tolerate another person to operate motor vehicles outside of the routes or destinations delimited and specified in the Certificate issued to the grantee;

(c) Any person, other than the operator of a common carrier, who shall knowingly and willfully participate or cause another to participate in the operation of a common carrier, in violation of the provisions herein provided, shall likewise be liable under this Section.

(d) For purposes of this Section, the use of a motor vehicle to carry freight not belonging to its operator or to transport passenger or passengers not related by consanguinity or affinity within the fourth civil degree of relation to said operator, shall constitute a prima facie evidence that it is used and operated for a consideration.

Section 5. Penalties.

(a) All persons found liable for committing any prohibited act defined in the preceding section shall be jointly and severally liable to pay a fine equivalent to twice their average daily income for past operation as common carrier, multiplied by the number of days such illegal operation went on. Provided, however, that in no case shall the fine be less than One Hundred Thousand Pesos or more than One Million Pesos. In addition, they shall likewise be sentenced to suffer imprisonment ranging from three (3) years to six (6) years, at the discretion of the Court.

(b) The prohibited acts defined in the preceding section, when committed in large scale, shall be considered an offense involving economic sabotage. The illegal operation of a common carrier is deemed committed in large scale if at least five (5) motor vehicles are used or operated as common carriers. The persons found liable for large-scale operation of common carrier shall be jointly and severally liable to pay a fine ranging from One Million Pesos to Five Million Pesos, at the discretion of the Court. In addition, they shall be sentenced to suffer imprisonment ranging from more than six (6) years to no more than nine (9) years.

(c) In case a corporation, co-partnership, or another juridical entity is involved, an administrative case shall be instituted before the Board. If found

culpable, it shall be liable to pay a fine equivalent to twice its average daily income for past operation as common carrier, multiplied by the number of days such illegal operation went on. Provided, however, that in no case shall the fine be less than One Hundred Thousand Pesos or more than One Million Pesos, at the discretion of the Board.

In case of large-scale activity as herein defined, it shall be liable to pay a fine ranging from One Million Pesos to Five Million Pesos, at the discretion of the Board.

Any finding of administrative culpability is without prejudice to any criminal liability that may likewise be established under this law against the erring officer or officers of the concerned corporation, co-partnership, or other juridical entity that committed the prohibited acts defined herein. In case of a finding of criminal liability, the officer or officers liable shall suffer the penalty of imprisonment and pay the fine provided in paragraph (b) of this section, where operation was committed in large scale. Otherwise, the corresponding period of imprisonment and the amount of fine specified in paragraph (a) of this section shall apply. Such officer or officers shall be jointly and severally liable with the corporation, co-partnership, or other juridical entity to which he or they are connected for the payment of the applicable fines set forth therefor.

(d) In the matter of imposing the actual penalty of imprisonment and fine, the same is addressed to the sound discretion of the Court or the Board, as the case may be, provided, however, that if falsification of a public or commercial document is committed by reason or on the occasion of the commission of any of the prohibited acts punishable herein, the maximum term of imprisonment and the maximum of the fine prescribed shall be imposed on the offender(s).

(e) Any alien found guilty under this Act shall, in addition to the penalties herein prescribed, be immediately deported without further proceedings.

(f) In every case, a finding of criminal or administrative culpability under this Act shall cause and carry the automatic revocation of the Certificate(s) issued under the Public Service Act and its implementing rules.

(g) The motor vehicles used in violation of this Act shall be impounded. It may only be released pending the proceedings in the criminal action upon submission to and approval by the Court of a bond equal to twice the market value of the motor vehicles sought to be released. Upon conviction of the offenders, the motor vehicle used in the commission of the crime, or in lieu thereof, the bond, shall be forfeited in favor of the Government.

(h) Any person found guilty of any of the prohibited acts herein defined shall be disqualified from procuring another Certificate from the Board. Furthermore, the person or entity with which the former associates, in any

manner hereby prescribed, shall likewise be disqualified from procuring a Certificate or from being continuously authorized to operate as common carrier under a Certificate previously granted.

(i) Prosecution and punishment under this Act shall be without prejudice to any liability, including tax obligation due to the government, for violation of any other existing law and national revenue statute.

Section 6. Separability Clause. If for any reason any section, or provision of this Act, or any portion thereof, or the application of such section, provision or portion thereof to any person, group or circumstance is declared invalid or unconstitutional, the remainder of this Act shall not be affected by such declaration and shall remain in force and effect.

Section 7. Amending Clause. The Public Service Act and all other laws, executive orders, ordinances, administrative orders, rules and regulations, or parts thereof that are inconsistent with the provisions of this Act are hereby modified accordingly: Provided, however, That nothing in this Act shall be construed as limiting or amending the provision of the Public Service Act, As Amended, insofar as the control by the Board of motor vehicles operating as common carriers is concerned.

Section 8. Effectivity. This Act shall take effect immediately upon approval.

APPROVED: _____