

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

16th CONGRESS
First Regular Session

HOUSE BILL NO. 1682



Introduced by **REP. EVELINA G. ESCUDERO**

EXPLANATORY NOTE

The Department of Health Road Safety Program statistics, as early as 2003, concluded that road accidents are ranked as the fourth leading cause of deaths among Filipinos and first in terms of injury morbidity.

With this bill, the legislation must devise a precautionary policy in order to deal with the problem. This bill proposes the increase of penalty for criminal negligence which is caused by common carriers against persons although without limiting its application to buses or land common carriers only.

As a matter of basic statutory policy, common carriers are required "*to carry their passengers safely as far as human care and foresight can provide, using utmost diligence of very cautious persons, with due regard for all the circumstances*"¹ (underscoring supplied). However, this compulsory provision of law merely covers civil liability of common carriers to their passengers and would exclude third persons and criminal obligation.

Article 365 of the Revised Penal Code, where the criminal liability of common carriers is found, Criminal Negligence, which states as penalty of imprisonment *arresto mayor* to *prision correccional* in its medium period, or from one (1) month to four (4) years and two (2) months, depending on the magnitude of the resultant crime or felony.

Considering the way common carriers, particularly buses, have lightly treated their obligation under present laws, these penalties may no longer be appropriate. The utmost diligence required must be extended to third parties and their criminal liability expanded or made stringent and strict.

The bill seeks to penalize criminal negligence committed by common carriers by imprisonment ranging from *arresto mayor* in its maximum period to *prision mayor*, or from four (4) months one (1) day to six (6) months to twelve (12)

¹ Article 1755, Civil Code of the Philippines.

years, in case of injury, depending on the extent or magnitude of the injury as provided for under Title Eight, Chapter 2, on Physical Injuries, of this Act. And *reclusion temporal*, or twelve (12) years to twenty (20) years, in case of death.

It is strongly hope that an increase penalty for criminal negligence committed by common carriers, especially buses, serves not only a reminder to extant statutory duties to common carriers but as a means to put an end to recklessness and irresponsibility which at times already appear intentional and malicious.


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AN ACT
INCREASING THE PENALTY FOR CRIMINAL NEGLIGENCE
COMMITTED BY COMMON CARRIERS, FURTHER AMENDING ARTICLE
365 OF ACT NO. 3815, AS AMENDED, OR THE REVISED PENAL CODE

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

1 SECTION 1. Article 365 of Act No. 3815, as amended, is hereby further
2 amended to read as follows:

3 “Art. 365. *Imprudence and negligence.* — Any person who, by
4 reckless imprudence, shall commit any act which, had it been
5 intentional, would constitute a grave felony, shall suffer the
6 penalty of *arresto mayor* in its maximum period to *prision*
7 *correccional* in its medium period; if it would have constituted a
8 less grave felony, the penalty of *arresto mayor* in its minimum and
9 medium periods shall be imposed; if it would have constituted a
10 light felony, the penalty of *arresto menor* in its maximum period
11 shall be imposed.

12 Any person who, by simple imprudence or negligence, shall
13 commit an act which would otherwise constitute a grave felony,
14 shall suffer the penalty of *arresto mayor* in its medium and
15 maximum periods; if it would have constituted a less serious
16 felony, the penalty of *arresto mayor* in its minimum period shall
17 be imposed.

18 When the execution of the act covered by this article shall have
19 only resulted in damage to the property of another, the offender
20 shall be punished by a fine ranging from an amount equal to the
21 value of said damages to three times such value, but which shall
22 in no case be less than twenty-five pesos.

1 A fine not exceeding two hundred pesos and censure shall be
2 imposed upon any person who, by simple imprudence or
3 negligence, shall cause some wrong which, if done maliciously,
4 would have constituted a light felony.

5 In the imposition of these penalties, the court shall exercise their
6 sound discretion, without regard to the rules prescribed in
7 Article sixty-four.

8 The provisions contained in this article shall not be applicable:

9 1. When the penalty provided for the offense is equal to or lower
10 than those provided in the first two paragraphs of this article, in
11 which case the court shall impose the penalty next lower in
12 degree than that which should be imposed in the period which
13 they may deem proper to apply.

14 2. When, by imprudence or negligence and with violation of the
15 Automobile Law, the death of a person shall be caused, in which
16 case the defendant shall be punished by *prision correccional* in its
17 medium and maximum periods.

18 3. WHEN BY IMPRUDENCE OR NEGLIGENCE OF A
19 COMMON CARRIER EITHER THROUGH ITS SHIP CAPTAIN,
20 AIRPLANE CHIEF, DRIVER, EMPLOYEE, AGENT, OPERATOR
21 OR OWNER, THE DEATH OR INJURY OF A PERSON SHALL
22 BE CAUSED, IN WHICH CASE THE DEFENDANT SHALL
23 SUFFER THE PENALTY OF *RECLUSION TEMPORAL*, IN CASE
24 OF DEATH, AND *ARRESTO MAYOR* IN ITS MAXIMUM
25 PERIOD TO *PRISION MAYOR*, IN CASE OF INJURY,
26 DEPENDING ON THE EXTENT OR GRAVITY OF THE INJURY
27 AS PROVIDED FOR UNDER TITLE EIGHT, CHAPTER 2, ON
28 PHYSICAL INJURIES, OF THIS ACT.

29 Reckless imprudence consists in voluntary, but without malice,
30 doing or failing to do an act from which material damage results
31 by reason of inexcusable lack of precaution on the part of the
32 person performing or failing to perform such act, taking into
33 consideration his employment or occupation, degree of
34 intelligence, physical condition and other circumstances
35 regarding persons, time and place.

36 Simple imprudence consists in the lack of precaution displayed
37 in these cases in which the damage impending to be caused is
38 not immediate nor the danger clearly manifest.

1 The penalty next higher in degree to those provided for in this
2 article shall be imposed upon the offender who fails to lend on
3 the spot to the injured parties such help as may be in this hand to
4 give. (*As amended by R.A. 1790, approved June 21, 1957.*)"

5 SEC. 2. *Separability Clause.* If any provision or part hereof is held
6 invalid or unconstitutional, the remainder of the law or the provision not
7 otherwise affected shall remain valid and subsisting.

8 SEC. 3. *Repealing Clause.* All laws, presidential decrees, executive
9 orders, proclamations and/or administrative regulations which are inconsistent
10 with the provisions of this Act are hereby amended, modified, superseded or
11 repealed accordingly.

12
13 SEC. 4. *Effectivity Clause.* This Act shall take effect fifteen (15) days
14 from its publication in at least three (3) newspapers of national circulation.

15
16 *Approved,*