

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Sixteenth Congress
Second Regular Session

HOUSE BILL NO. **5069**



Introduced by REP. ROMAN T. ROMULO

EXPLANATORY NOTE

Honesty is the best policy and Time is Gold are two popular sayings that to this representation best encapsulate the manner by which air carrier should deal with its passengers.

However, there are reports and allegations that airline companies are not forthright to the flying public with respect to the terms and conditions of their fares resulting in confusion. This is made worse by the persistent delay and cancellation of flights

While the DOTC and DTI already promulgated Joint Administrative Order No. 1-Air Bill Passenger Bill of Rights, it is necessary that a legislation on this matter be enacted by the representatives of the people in order to further enhance the rights of passengers and provide it more legal weight.

As such, this bill seeks to establish, under the conditions specified herein, the different rights of airline passengers including when (a) they are denied boarding against their will; (b) their flight is cancelled; (c) their flight is delayed; (d) their baggage are lost, delayed or damaged and (e) when there is death or bodily injury. The right to full, fair, and clear disclosure of the service offered are also provided in this proposal.

In addition to the usual remedies granted to passengers, the proposed measure also provides the passenger another right in the nature of additional compensation at a rate equivalent to at least the value of the sector cancelled, delayed or denied boarding to be paid in the form of cash or voucher, at the option of the passenger.

For these reasons, the passage of this bill is earnestly sought.

A handwritten signature in black ink, appearing to read "Roman T. Romulo".

HON. ROMAN T. ROMULO
Lone District of Pasig

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AN ACT PROVIDING FOR A BILL OF RIGHTS FOR AIR PASSENGERS

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

Section 1. This Act shall be known as the " *Airline Passenger Bill of Rights Act of 2014.*"

Sec. 2. - Scope. - The Act establishes, under the conditions specified herein, the different rights of airline passengers including when (a) they are denied boarding against their will; (b) their flight is cancelled; (c) their flight is delayed; (d) their baggage are lost, delayed or damaged and (e) when there is death or bodily injury. It shall apply to all flights or portions of a flight into, from, and within the territory of the Philippines operated by Philippine air carriers, and flights or portions of a flight from the territory of the Philippines operated by foreign air carriers.

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

a. Air Carrier refers to a Philippine-based carrier operating scheduled or non-scheduled domestic and/or international flights to or from or serving a point within the Philippines, or a foreign carrier operating scheduled or non-scheduled international flights from the Philippines. Air carriers are also generally referred to as airlines.

b. Cancellation is the act of calling off a flight. This shall include the following instances: (1) Cancellation by the air carrier before the estimated time of departure (ETD) with or without its fault; (2) Cancellation by the air carrier after an unduly long delay; (3) Cancellation by the passenger holding a regular fare/ticket, or In case such Terminal Delay extends to at least five (5) hours after the ETD for causes attributable to the carrier,

c. Convention refers to the applicable international agreement, convention, or treaty on carriage of goods or persons by air signed and/or ratified by the Philippines.

d. Delay is the result of the deferment of a flight to a later time. "Terminal Delay" is a delay that occurs while passengers are still inside the terminal waiting for boarding, while "Tarmac Delay" is a delay that occurs while passengers are already on board the aircraft.

e. Denied Check-in takes place when a passenger, who has presented himself/herself for check-in at the appointed area and at the appointed time, is denied or not processed for boarding a particular flight.

f. "Denied Boarding" takes place when a passenger, who holds a confirmed reserved seat, and who has presented himself/herself for carriage at the proper time and place and fully complied with the carrier's check-in and reconfirmation procedures, and who is acceptable for carriage under the carrier's tariff, was not allowed to board the aircraft.

g. Overbooking" is the practice by air carriers of selling confirmed reserved space beyond the actual seat capacity of the aircraft.

h. "Passenger" shall refer herein to a person actually traveling by air. A person who is named in the flight ticket shall be considered a passenger for the purpose of these rules.

Sec. 4. Right to Non-Discrimination in Access to Airport - All passengers shall have equal access to transport and are in particular protected against discrimination based on nationality, residence or disability.

Sec. 5. Right to Full, Fair, and Clear Disclosure of the Service Offered. - Consistent with the mandated policy of the State to protect the interests of the consumers, which includes protection from misleading and fraudulent sales promotion practices, all sales promotion campaigns and activities of air carriers shall be carried out with honesty, transparency and fairness. As such, every passenger shall, before purchasing any ticket for a contract of carriage, be entitled to the full, fair, and clear disclosure of all the terms and conditions of the contract of carriage about to be purchased. Passengers shall have the right to be correctly informed of the ticket price, their rights and the circumstances of their journey in a timely and relevant manner before the journey as well as during and after the travel in case of disruption.

Sec. 6. Right to be Processed for Check-In. -A passenger holding a confirmed ticket, whether promotional or regular, with complete documentary requirements, and who has complied with the check-in procedures, shall be processed accordingly at the check-in counter within the check-in deadline. The airline shall, therefore, and subject to infrastructure limitations, clearly designate the boundaries of its assigned check-in area/s or counter/s. Passengers shall be given enough time before the published ETD within which to go through the check-in and final security processes. The operating air carrier shall ensure that at check-in a clearly legible notice containing the rights of passengers are displayed.

The operating air carrier shall ensure that at check-in a clearly legible notice containing the following text is displayed in a manner clearly visible to passengers: "If you are denied boarding or if your flight is canceled or delayed for at least two hours, ask at the check-in counter or boarding gate for the text stating your rights, particularly with regard to compensation and assistance".

An operating air carrier denying boarding or canceling a flight shall provide each passenger affected with a written notice setting out the rules for compensation and assistance. It shall also provide each passenger affected by a delay of at least two hours with an equivalent notice.

Sec. 7 .Right to Board Aircraft for the Purpose of Flight. - Except when there is a legal or other valid cause, a passenger checked in for a particular flight has the right to board the aircraft for the purpose of flight.

(a) In case an air carrier overbooks its flights, any expense, consequence, or inconvenience caused to affected passengers must be borne by the air carrier, as follows:

(1) The air carrier shall determine the number of passengers in excess of the actual seat capacity of the aircraft.

(2) The air carrier shall announce that the flight is overbooked, and that it is looking for volunteers willing to give up their seats in exchange for air carrier compensation.

(3) The air carrier shall provide the interested passengers or volunteers a list of amenities and offers, which they can choose from, which list of amenities shall always include the option to be given priority booking in the next flight with available space or to be endorsed to another air carrier upon payment of any fare difference, and provided that space and other circumstances permit such accommodation, at the option of the passenger, and/or a cash incentive.

(4) In case the number of volunteers is not enough to resolve the overbooking, the air carrier shall increase the compensation package by certain degrees or by adding more amenities/services until the required number of volunteers is met.

(b) If boarding is denied to passengers against their will without any valid reason, the operating air carrier shall be liable to provide the passenger the rights stated in Section 8 of this Act. This is without prejudice to any other liability it may have incurred as a result of said action.

Sec. 8. Rights of Passengers in Case of Cancellation of Flight. The provisions of this Section shall be the minimum entitlement of a passenger in case of cancellation, and shall not prohibit the air carrier from granting more favorable conditions or recourses, as it may deem proper and appropriate.

(a). Flights cancelled due to a cause attributable to air carrier shall give to a passenger the right to:

(1) Be notified beforehand or as soon as possible of the situation via public announcement, written/published notice and flight status update service either thru text or email.

(2) Be provided a minimum level of care immediately, on the spot at terminals/stations;

(3) Be offered free of charge: (a) sufficient meals and refreshments in a reasonable relation to the waiting time; (b) hotel accommodation near the airport in cases where a stay of one or more nights becomes necessary, or where a stay additional to that intended by the passenger becomes necessary; (c) transport between the airport and place of accommodation. In addition, passengers shall be offered free of charge telephone calls, text or fax messages, or e-mails and first aid, if necessary. In applying this provision, the operating air carrier shall pay particular attention to the needs of persons with reduced mobility and any persons accompanying them, as well as to the needs of unaccompanied children;

(4) Be reimbursed within five days, either by cash, by electronic bank transfer, bank orders or bank cheques or, with the signed agreement of the passenger, in travel vouchers and/or other services, of the full cost of the ticket at the price at which it was bought, for the part or parts of the journey not made, and for the part or parts already made if the flight is no longer serving any purpose in relation to the passenger's original travel plan, together with, when relevant, a return flight to the first point of departure, at the earliest opportunity;

(5) Be endorsed to another air carrier without paying any fare difference, at the option of the passenger, and provided that space and other circumstances permit such re-accommodation; or

(6) Rebook the ticket, without any additional charge. In rebooking said ticket, the airline shall give priority to the affected passenger;

(7). In addition thereto, be entitled to an additional compensation at a rate which is equivalent to at least the value of the sector cancelled to be paid in the form of cash or voucher, at the option of the passenger. An air carrier liable for the compensations provided in this Section shall make the same available to the affected passenger at the air carrier's counters at the airport on the date when the occasion entitling the passenger to compensation occurred, or at the main office or any branch of the air carrier at the discretion of the passenger. The air carrier shall tender a check for the amount specified, or cash, or the document necessary to claim the compensation or benefits mentioned above.

(b) An operating air carrier shall not be obliged to pay compensation if it cancels the flight because of force majeure, safety and/or security reasons not attributable to the air carrier, as duly certified by the Civil Aviation Authority of the Philippines. In such a case, the passenger shall have the right to be reimbursed for the full value of the fare or be rebooked. Provided, That in case a carrier cancels a flight at least twenty-four (24) hours before the ETD, it shall also not be liable to pay the compensation and to provide the foregoing amenities, except that it shall be obliged to notify the passenger, and, in accordance with the preceding provisions, to rebook, reimburse the passenger, at the option of the latter.

Sec. 9. Rights of Passengers in Case of Terminal Delay.- The provisions of this Section shall be the minimum entitlement of a passenger in case of delay and shall not prohibit the air carrier from granting more favorable conditions or recourses, as it may deem appropriate.

(a) In case of Terminal Delay of at least two (2) hours after the ETD, whether or not such is attributable to the carrier, a passenger shall have the right to:

(1) Be notified via public announcement of the reason for the delay and the estimated time of departure as soon as this information is available;

(2) Be provided a minimum level of care immediately, on the spot at terminals/stations while waiting for the beginning or the continuation of the delayed journey;

(3) Be offered free of charge: (a) sufficient meals and refreshments in a reasonable relation to the waiting time; (b) free phone calls, text or e-mails, and first aid, if necessary. In applying this Article, the operating air carrier shall pay particular attention to the needs of persons with reduced mobility and any persons accompanying them, as well as to the needs of unaccompanied children.

(4) Be refunded or rebooked his/her ticket in accordance with the preceding Section when applicable or be endorsed to another carrier;

(5) In case such Terminal Delay extends to at least five (5) hours after the ETD for causes attributable to the carrier, the flight shall be deemed cancelled for the purpose of making available to the passenger the rights and amenities required to be provided in case of actual cancellation, as provided for in Section 8.

(6). Where a passenger misses a connecting flight because his first flight was late, the passenger shall in addition to the rights mentioned above shall be entitled to a compensation equivalent to the value of the missed flight.

Sec. 10. Tarmac Delay - A passenger shall likewise have the right to be provided with sufficient food and beverage, in cases of Tarmac Delay of at least two (2) hours after the ETD, reckoned from the closing of the aircraft doors, or when the aircraft is at the gate with the doors still open but passengers are not allowed to deplane. In case the delay exceeds five (5) hours, the passenger may request disembarkation.

Sec. 11. Right to Compensation for Delayed, Lost, and Damaged Baggage.- Subject to considerations of safety, security, or any other legal and valid cause, a passenger shall have the right to have his/her baggage carried on the same flight that such passenger takes. Provided, That in case a checked-in baggage has been off-loaded for operational, safety, or security reasons, the air carrier shall inform the passenger at the soonest practicable time and in such manner that the passenger will readily know of the off-loading. If the passenger's baggage has been off-loaded, the air carrier should make the appropriate report and give the passenger a copy thereof, even if it had already announced that the baggage would be on the next flight.

The air carrier shall carry the off-loaded baggage in the next flight with available space, and deliver the same to the passenger either personally or at his/her residence. For every twenty-four (24) hours of delay in such delivery, the air carrier shall tender an amount of Three Thousand Pesos (Php3,000.00) to the passenger, as compensation for the inconvenience the latter experienced. Should such baggage, whether carried on the same or a later flight, be lost or suffer any damage attributable to the air carrier, the passenger shall be compensated in the following manner:

- (a) For international flights, the relevant convention shall apply.
- (b) For domestic flights, upon proof, a maximum amount equivalent to half of the amount in the relevant convention (for international flights) in its Peso equivalent.

Sec. 12. Right to Compensation In Case of Death or Bodily Injury of a Passenger. - For international flights, in case of death or bodily injury sustained by a passenger, the relevant Convention and inter-carrier agreement shall apply. However, for an international carriage performed under the 1966 Montreal Inter-Carrier Agreement, which includes a point in the United States of America as a point of origin, a point of destination or agreed stopping place, the limit of liability for each passenger for death, wounding or other bodily injury shall be the sum of Seventy-Five Thousand United States Dollars (US\$75,000.00), inclusive of legal fees and costs. Provided, in the case of a claim brought in a state where a provision is made for a separate award for legal fees and costs, the limit shall be the sum of Fifty-Eight Thousand United States Dollars (US\$58,000.00), exclusive of legal fees and costs.

For domestic flights, the compensation shall be based on the stipulated amount in the relevant convention which governs international flights, the same to be given in Peso denominations.

Sec. 13. Right to Immediate Payment of Compensation. - An air carrier liable for any and all compensations provided by these rules shall make the same available to the affected passenger at the air carrier's counters at the airport on the date when the occasion entitling the passenger to compensation occurred, or at the main office or any branch of the air carrier at the discretion of the passenger. The air carrier shall tender a check for the amount specified, or cash, or the document necessary to claim the compensation or benefits mentioned above. Provided, that such document shall be convertible to cash within fifteen

(15) days from the date when the occasion entitling the passenger to such compensation occurred.

Sec. 14. Failure on the part of the air carrier to comply with any of the obligations stated in this Act shall after due hearing be a ground for the suspension or revocation of the franchise or license to operate of the air carrier.

Sec. 15. Implementing Rules and Regulations.- The Department of Transportation and Communications shall within ninety (90) days from the effectivity of this Act issue the necessary implementing rules and regulations of this Act.

Sec. 16. Separability Clause - If, for any reason, any part or provision of this Act is declared unconstitutional, the parts or provisions not affected thereby shall remain in full force and effect.

Sec. 17. Repealing Clause.- All laws, presidential decrees, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 18. Effectivity. - This Act shall take effect after fifteen (15) days following its complete publication in the Official Gazette or in any newspaper of general application.

Approved.