

SIXTEENTH CONGRESS)
OF THE REPUBLIC OF THE PHILIPPINES)
First Regular Session)

HOUSE OF REPRESENTATIVES

House Bill No. **5341**



Introduced by REP. BEN P. EVARDONE
Lone District, Eastern Samar

EXPLANATORY NOTE

This bill intends to ensure the safety and security of persons and property in pay-parking facilities in answer to calls to impose responsibility, and consequent liability, upon pay-parking establishments.

Parking lots, among others, have become venues for commission of crimes,¹ especially those against persons (e.g. attempt at rape, homicide²³) and against property⁴ (e.g. car theft⁵).

According to PNP-Highway Patrol Group data, a significant number of vehicles, mostly motorcycles, are stolen while parked (SWP), some to be used later in the commission of graver offenses.⁶

For 2013 alone, it was reported that the PNP Highway Patrol Group recorded a nationwide total of at least 5,438 stolen vehicles (i.e., motorcycles or motor vehicles). Of these, 4,734, or 87.1%, are motorcycles and the remaining 704, or 12.9%, are motor vehicles. Out of the 4,734 motorcycles stolen, **3,734 or 78.9% were taken while parked unattended**, while out of the 704 motor vehicles stolen, 492 or 69% were stolen while parked unattended.⁷

In some countries, measures have already been set in place to avert or minimize criminal activities in parking facilities, which include those required in Section 3 of this proposal.

¹ <http://www.gmanetwork.com/news/story/244206/ulatfilipino/balitangpinoy/bangkay-sa-loob-ng-trolley-bag-natagpuan-sa-naia-parking-lot>

² <http://newsinfo.inquirer.net/133065/20-year-old-gang-raped-on-way-home-from-chinese-new-year-festivity>

³ <http://www.gmanetwork.com/news/story/245601/news/metromanila/tondo-gang-rape-victim-says-suspects-were-high-on-solvent>

⁴ <http://www.philstar.com/headlines/2014/09/02/1364487/nbi-foils-car-bomb-attempt-naia-3>

⁵ <http://motioncars.inquirer.net/25594/man-thwarts-car-theft-in-quezon-city-mall-parking-lot#sthash.knAcBdQZ.dpuf>

⁶ <http://www.inquirer.net/philippine-election-2013/articles/459441>

⁷ <http://www.abs-cbnnews.com/nation/06/05/14/more-5000-vehicles-stolen-2013>

This bill proposes that pay-parking facilities' owners and/or operators be made responsible and civilly liable in case of death, physical injury or harm of persons within the pay-parking facilities, as well as in theft, loss or physical damage to vehicles and articles or objects therein.

Pay-parking facilities must comply with the following basic requirements (Section 3):

1. Accreditation and permission from municipal or city LGU having territorial jurisdiction over the parking facility concerned;
2. Clearly defined boundaries, ingress and egress, sufficient illumination in such parking facilities; and
3. Installed CCTV system, with data recording and storage features.

Under the bill, civil liability varies between a pay-parking establishment that complies with Section 3 and one that does not. Thus:

For non-compliant parking establishment, the owner or operator may be held liable:

1. Administratively, by fine ranging from P20,000-P100,000 collectible by DOTC, without prejudice to fines of the same range collected by the LGU with territorial jurisdiction over such parking facility;
2. Civil liability attaches upon the owner, operator, administrator in case of death, physical injury or harm upon any person while in the parking facility.
3. Civil liability also attaches upon the owner, operator, administrator in case of loss, damage of the vehicle or theft of any article or object therein, even when force majeure or an act of God is the cause of such loss or damage.
4. Civil liability for other forms of damages under the Civil Code may be brought upon the parking facility owner, operator or administrator.

In case of compliance with Section 3 of this proposed bill, the owner, operator, administrator shall be civilly liable only:

1. In case of death, injury or harm upon any person in the parking facility who is not a trespasser. As to other persons, only upon proof of negligence shall the owner, operator or administrator be liable.
2. In case of loss of the vehicle, the owner, operator, or administrator shall be liable for the full market value of the vehicle. He may not be sued for other forms of damages under the Civil Code;
3. In case of damage of the vehicle, the owner, operator, or administrator shall be liable only to the extent of the damage.
4. In case of theft, loss or damage of any article or object within the vehicle, liability shall attach only when the owner, operator and/or administrator, his agent or

employee have been notified of the presence of the article or object in the vehicle and the market value of the same declared.

5. Liability is exempted in case of force majeure, or an act of God as a rule.

On this score, the immediate passage of this bill is earnestly sought.


BEN F. EVARDONE

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Lone District, Eastern Samar

AN ACT
TO ENSURE THE SAFETY AND SECURITY OF PERSONS AND PROPERTY IN
PAY-PARKING FACILITIES, AND FOR OTHER PURPOSES

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

Section 1. *Statement of Purposes.* — This Act mandates the State to ensure the safety and security of persons and property in parking lot facilities and imposes upon owners, operators and/or administrators of pay-parking facilities direct responsibility therefor.

Section 2. *Coverage.* — The provisions of this Act shall cover all parking facility services for a fee, including valet parking and government parking facilities operated and maintained in a private capacity for a fee.

Section 3. *Duty of Parking Lot Service Providers.* — No person, natural or juridical, shall operate and maintain a parking facility for a fee unless the following requirements are complied with:

- a. Such person must be duly accredited and permitted to provide parking facility services for a fee by the municipal or city government unit having territorial jurisdiction over the parking facility in accordance with this Act, its implementing rules and regulations and other relevant laws, rules, regulations, and ordinances of the municipal or city government concerned;
- b. He must have a parking space or facility with a clearly defined boundary, ingress and egress, and sufficient illumination, duly approved by the municipal or city government having territorial jurisdiction over such facility, in accordance with

the rules and regulations of this Act, relevant laws, rules and regulations, and ordinances of the approving municipal or city government concerned;

- c. He must have a Closed Circuit Television (CCTV) System which complies with the requirements provided by the Department of Transportation and Communication (DOTC) and Commission on Information and Communications Technology (CICT), pursuant to the implementing rules and regulations of this Act and relevant legislation. It shall be understood that a closed circuit television system includes equipment for monitoring of activities within the parking facility, data recording and storage.

The Implementing Rules and Regulations of this Act shall provide for the fines to be imposed upon parking facilities operating for a fee in violation of this Section.

Without prejudice to fines and penalties of the same range that the municipal or city local government having jurisdiction over the parking facility may impose pursuant to a local ordinance, such fines shall be at least P20,000 but not more than P100,000 per day of violation provided: the Department of Transportation and Communication (DOTC) shall be tasked to monitor compliance and collect such fines after due notice and hearing, pursuant to the implementing rules and regulations of this Act.

Section 4. *Liability In Case of Death, Physical Injury or Harm Within Parking Facility.* — An owner, operator and/or administrator of parking facility for a fee shall be civilly liable for any death or physical injury or harm inflicted upon any person within the parking facility.

An owner, operator and/or administrator of a parking facility which complies with Section 3 hereof shall be civilly liable only when the victim is not a trespasser, unless negligence is attributable upon such owner, operator and/or administrator, or his agent or employees.

Such liability may be excused upon proof that the death, physical injury or harm was due to natural cause/s or due to force majeure or an act of Act of which the owner, operator,

administrator, his agent or employee could not prevent without harm to himself or his agent or employee.

The owner, operator and/or administrator shall have the right to determine who may be considered a trespasser in accordance with the guidelines set forth in the rules and regulations of this Act.

Section 5. *Obligation of Parking Facility Owner, Operator, Administrator.* — Every owner, operator and/or administrator of a parking facility for a fee shall exercise reasonable diligence in the safety and protection of persons and property under his control. What is reasonable shall be determined in the rules and regulations of this Act, taking into account the nature of the parking service contract, location and similar circumstances peculiar to a specific parking facility.

Section 6. *Liability of Parking Facility Owner, Operator, Administrator Where Section 3 is Violated.* — Where theft, loss, physical damage of the vehicle or any article or object therein occurs and the parking facility operates in violation of Section 3 hereof, the owner, operator and/or administrator of the parking facility is civilly liable for the full market value of the vehicle, or object or article stolen or lost, or the extent of the physical damage, without prejudice to claims for damages arising from breach of contract under the Civil Code.

The owner, operator, administrator of the parking facility operating in violation of Section 3 hereof shall be liable on account of theft of any article or object taken from the vehicle within the parking facility upon proof of sufficient evidence of existence of such article or object in the vehicle at the time of theft, even in the absence prior notification of the presence of such article or object stolen and market value of the article or object stolen.

Force majeure or an act of God shall not exempt from liability the owner, operator and/or administrator of a parking facility operating in violation of Section 3 hereof.

Section 7. *Liability Where Section 3 Complied.* — Where the parking facility complies with Section 3 hereof at the time the theft, loss, or physical damage occurs, the owner, operator or administrator thereof shall be liable under this Act only for the full market value of the vehicle, object or article stolen or lost, or the extent of the physical damage.

The owner, operator, administrator of the parking facility shall only be liable on account of theft of any article or object taken from the vehicle within the parking facility when the owner, operator, administrator, his agent or employee has been duly notified of the presence and market value of the article or object stolen.

The owner, operator, administrator of the parking facility who complies with the provisions of Section 3 hereof shall not be liable for the loss or physical damage of the vehicle or any article or object therein due to a force majeure or an act of God which cannot be averted or prevented:

1. Without the owner, operator or administrator expending an amount equal to or greater than the market value of the vehicle or any article therein that was lost or physically damaged; or
2. Without the owner, operator, administrator, or his agent or employee unnecessarily endangering his life and limb.

Section 8. *Prohibition Against Waiver of Liability.* — Waiver of liability under Section 4 hereof shall be void, unless the following concur:

- a. The waiver of liability must be stated in clear and unambiguous terms;
- b. The waiver of liability must be pursuant to an agreement for a consideration;
- c. The waiver must not be contrary to existing national or local government policy or ordinance; and
- d. The waiver must refer only to limitation of liability in case of accommodation parking, free parking and similar instances.

Section 9. *Applicability of the Civil Code.* — All matters not herein provided shall be governed by the applicable provisions of the Civil Code and the Rules of Court.

Section 10. *Implementing Rules and Regulations; Contents.* — a.) Within sixty (60) days from the effectivity of this Act, the Interior and Local Government (DILG), in consultation with the Department of Department of Transportation and Communication (DOTC), the Philippine National Police (PNP), the Commission on Information and Communications Technology (CICT), and appropriate national government agencies, shall promulgate the rules and regulations of this Act. The consultation shall include concerned local government units (LGUs) represented by the National Presidents of their respective League of Municipalities and League of Cities, and private stakeholders. Such rules and

regulations shall take effect upon publication in at least two (2) national newspaper of general circulation.

b.) The implementing rules and regulations shall provide, among others, the formula for computing the reasonable and affordable amount of fee to be imposed for parking services, taking into account the nature of the contract, location or site of the parking area, cost of operation and maintenance of the parking service, and related circumstances.

Section 11. *Separability Clause.* — Whenever any item or provision in this Act is declared unconstitutional, in whole or in part, such item or provision not affected thereby shall remain in force.

Section 12. *Effectivity Clause.* — This Act shall take effect on the day following its publication in at least two (2) national newspapers of general circulation or in the Official Gazette, whichever comes earlier.

Approved