

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **4988**



Introduced by **DIWA Party-list Representative Emmeline Y. Aglipay – Villar**

EXPLANATORY NOTE

The 1987 Constitution provides that, “ *The prime duty of the Government is to serve and protect the people. The Government may call upon the people to defend the State and, in the fulfillment thereof, all citizens may be required, under conditions provided by law, to render personal military, or civil service*”. (Article II, Section 4)

Motor vehicle accidents have steadily increased through the past years. In 2014, there were a total of ninety thousand two hundred fifty-eight road accidents in Metro Manila. According to the latest Road Crash Statistics Report of the Metropolitan Manila Development Authority’s Metro Manila Accident Recording and Analysis System, there were ninety-five thousand six hundred fifteen (95, 615) road accidents in the National Capital Region in 2015. Five hundred nineteen (519) were fatal, seventeen thousand one hundred three (17,103) resulted in nonfatal injuries, while seventy-seven thousand nine hundred ninety-three (77, 993) others resulted in damage to property.

Road accident is among the leading causes of death in the Philippines. Data show that around seventy-nine percent (79%) road crash fatalities are caused by driver error; eleven percent (11%) caused by defective vehicles; ten percent (10%) caused by bad road conditions and ill-maintained roads. Other causes include drunk driving, over-speeding, lack of discipline, poor vehicle maintenance and use of cell phones.

In the latter part of 2015, however, it has been discovered that there are multiple instances of accidents that are allegedly caused by defects in the automobiles themselves. It has come to a point that these alleged defects cannot anymore be ignored. Fear has crept into the hearts of those who own these alleged defective automobiles as danger can surprisingly leap towards them and other people at any given moment.

Hence, it is the mandate of the Constitution that the State shall protect the people and the consumers from this insidious fear and danger. Through the establishment of a national governing body that will specifically address the safeness of motor vehicles, the above-mentioned problems can be treated. The vehicle owners and the public can be then set free from fear. In addition, traffic accidents can also be reduced.

Further, it has been found out through pending investigation that there is a lack of teeth in our current laws with regard to the problem. There should be a system of transparency wherein automotive companies can be held liable for hiding safety defects, failing to recall defective vehicles, and making false reports.

This bill seeks to establish a National Motor Vehicle Safety Administration.

In view of the foregoing, the passage of this bill is earnestly sought.



EMMELINE Y. AGLIPAY – VILLAR
Representative, DIWA Party-list

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AN ACT
CREATING A NATIONAL MOTOR VEHICLE SAFETY ADMINISTRATION

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

SECTION 1. *Short Title.* – This Act shall be known as the “*National Motor Vehicle Safety Administration Act of 2016.*”

SEC. 2. *Declaration of Policies.* – In accordance with the Government’s prime duty to serve and protect the people, the State recognizes that there must be a governing body created and measures crafted to bolster the safeness of motor vehicles in order to prevent or lessen accidents involving motor vehicles or land transportation.

SEC. 3. *Definition of Terms.* –The following terms shall be defined as follows.

(a) “Manufacturer” means a person manufacturing or assembling motor vehicles or motor vehicle equipment, or a person importing motor vehicles or motor vehicle equipment for resale;

(b) “Motor vehicle” means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

(c) “Motor vehicle equipment” mean any system, part, or component of a motor vehicle as originally manufactured; any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle, or any device or an article or apparel (except medicine or eyeglasses prescribed by a licensed practitioner) that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk of accident, injury, or death; and

(d) “Motor vehicle safety” means the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents

occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes non-operational safety of a motor vehicle.

SEC. 4. *Creation of the National Motor Vehicle Safety Administration.* – There is hereby created a National Motor Vehicle Safety Administration (NMVSA), which shall be attached to the Department of Transportation (DOTr)

SEC. 5. *Composition and Organization.* – The NMVSA shall be composed of seven (7) full-time Members, and comprise of:

(a) The *Director-General*, who shall be appointed by the President, shall serve as the Chairman and have the rank of Assistant Secretary, and shall have a term of five (5) years. Provided that the term of the initial appointees shall be staggered such that the Chairman shall hold office for a term of five (5) years; the next three (3) members for three (3) years and the other three (3) members for two (2) years; and

(b) Six (6) other members, preferably one (1) representative each from the DOTr, Department of Public Works and Highways (DPWH), Department of Trade and Industry (DTI), and the Philippine National Police (PNP) appointed by the President, upon recommendation by the DOTr Secretary.

SEC. 6. *Executive Director.* – There shall be an Executive Director of the NMVSA, who shall be appointed by the Chairman.

(a) The Executive Director must be at least thirty-five (35) years of age at the time of his/her appointment, a Member of the Philippine bar, and who has practiced his profession for at least ten (10) years prior to the date of his appointment. He must not have been a candidate for any elective position in the elections immediately preceding his appointment.

(b) The Executive Director shall:

1. Record an official report on the proceedings of the NMVSA and shall have authority to administer oaths in all matters falling within NMVSA jurisdiction;
2. Run the day-to-day operations of the NMVSA;
3. Act as the custodian of the records, maps, profiles, reports, and other documents and papers filed in connection with any proceedings before the NMVSA;
4. Be responsible for the efficient and effective implementation of the policies, rules, and directives promulgated by the NMVSA; and

5. Coordinate and supervise the activities of the different operating units of the NMVSA and shall perform such other functions as may be assigned to him by the Chairman and/or the Members.

SEC. 7. *Compensation.* – The compensation of the Executive Director shall receive the compensation and other emoluments as provided by the Civil Service Rules and Regulations.

SEC. 8. *Operating Units in the NMVSA.* – The different operating units of the NMVSA shall be created, in accordance with existing rules and regulations, by the implementing rules and regulations of this Act.

SEC. 9. *Duties and Functions of the NMVSA.* –The NMVSA shall:

- (a) Prescribe motor vehicle safety standards for motor vehicles and motor vehicle equipment, which will serve as preventive measures;
- (b) Carry out needed safety research and development; and
- (c) Investigate causes of highway, road, and street accidents, especially those which in the judgment of the NMVSA, are catastrophic and/or recurring.

SEC. 10. *Investigation by the NMVSA.* – The NMVSA has jurisdiction to investigate motor vehicle safety-related defects, and those cases which in the NMVSA's judgment, suggest a potential safety defect involving groups of motor vehicles or motor vehicle equipment.

SEC. 11. *Conduct of Investigation by the NMVSA.* – The NMVSA shall conduct its investigations in the following stages:

- (a) *Screening.* Under the screening process, complaints and/or information are reviewed by the NMVSA. Should the NMVSA determine that there is a motor vehicle safety-related trend or a recurring or catastrophic failure, the NMVSA shall to an investigation;
- (b) *Petition Analysis.* Any person may submit a petition requesting the NMVSA to open an investigation into an alleged motor vehicle safety-related defect. After technical analysis, should the petition be granted, an investigation will be conducted. A person may also submit a petition requesting the NMVSA to hold a hearing on whether a manufacturer has reasonably met its obligation to notify and/or remedy a motor vehicle safety-related defect or noncompliance with a motor vehicle safety standard;
- (c) *Preliminary Evaluation.* This is opened on the basis of information received or complied by the NMVSA. In this evaluation, information is obtained from the manufacturer. The latter is given an opportunity to present its views regarding the motor vehicle safety-related defect. This can be closed on the basis that further investigation is not warranted, or when the manufacturer decides to conduct a recall; and

(d) *Engineering Analysis.* This part of the investigation involves a more complete and detailed analysis of the motor vehicle-related defect. Inspections, test, and surveys are done at this point while utilizing all the information gathered. The investigation may be closed if the manufacturer has notified the NMVSA that it will conduct a safety recall or if the NMVSA believes that the data compiled indicates that a safety-related defect exist, the NMVSA prepares a briefing to be presented to a panel of experts for peer review. If the panel concurs with NMVSA recommendation that a recall should be conducted, NMVSA notifies the manufacturer of the panel's concurrence and may, if appropriate, provide a final opportunity for the manufacturer to present new analysis or data. The NMVSA then sends a Recall Request Letter to the manufacturer.

Should the manufacturer decline to conduct a recall, the NMVSA shall issue an initial decision that a safety-related defect exists.

Thereafter, a public meeting shall be held. Manufacturers and public persons with interests can present information and arguments. Manufacturers can refute the government.

Once the above mentioned is presenting to the NMVSA, it shall issue a final decision. The manufacturer can challenge the final decision in court. The burden of proof is on the NMVSA can also seek the court to compel the manufacturer to conduct recall.

SEC. 12. Powers of the NMVSA. –The NMVSA shall have the following powers:

(a) The NMVSA or any member so designated may conduct hearings, administer oaths, and require the attendance and testimony of witnesses as well as the production of papers, contracts, agreements and all other relevant documents deemed necessary in any inquiry or investigation pending before the NMVSA;

(b) Any representative authorized by the NMVSA, 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 the appropriate investigation controls, and facilities relevant to the investigation of such accidents. Each inspection shall be commenced and completed with reasonable promptness;

(c) And officer or employee of the NMVSA may examine or test any motor vehicle. Such examination or test shall be conducted in a manner that:

(1) Does not unnecessarily, interfere with the transportation services provided by the owner or operator of the motor vehicle; and

(2) To the maximum extent feasible, preserves evidence related to the accident, consistent with the needs of the investigation and with the cooperation of that owner or operator.

(d) The NMVSA may require and shall be furnished a copy of the autopsy reports by the official concerned on any person who dies as a result of having been involved in a tests of such persons as may be needed for the investigation of the accident;

(e) The NMVSA may enter into such contract, leases, agreements and other transactions as may be necessary in the conduct of its functions and duties;

(f) The NMVSA may call assistance of, and use any available services, equipment, facilities, of the DOJ, DOTr, DPWH, PCG, PNP, Department of National Defense (DND) and other agencies and instrumentalities of the government;

(g) The NMVSA may create advisory committees composed of qualified private citizens and government officials with whom the NMVSA may consult in the implementation of its functions and duties. Whenever necessary, the NMVSA may likewise appoint or retain the services of recognized experts as consultants on the accidents under investigation;

(h) Appoint advisory committees composed of qualified private citizens and officials of the national government and LGUs as appropriate; and

(i) The NMVSA or any officer, or employee designated by the Chairman, may conduct an inquiry to obtain information related to motor vehicle safety.

SEC 13. Reportorial Requirement. – The manufacturer shall submit a report to the NMVSA should it discover that a safety-related defect or a potential safety-related defect exist in its motor vehicles or motor vehicle equipment, or when directed by the NMVSA to submit such report concerning a safety-related defect or a potential safety-related defect. There shall be a penalty of one (1) year imprisonment and a fine of ten million pesos (P10,000,000.00) imposed on the manufacturer should it fail to comply with this provision.

When the offender is a juridical person, liability shall attach to its president, chief operating officer, or manager.

SEC 14. Notification Requirement. – The manufacturer shall notify the motor vehicle owners should it discover that a safety-related defect or a potential safety-related defect exist in its motor vehicles or motor vehicle equipment, and it voluntarily implements a recall or it is ordered by the NMVSA to recall. There shall be a penalty of one (1) year imprisonment and a fine of ten million pesos (P10,000,000.00) imposed on the manufacturer should it fail to comply with this provision.

When the offender is a juridical person, liability shall attach to its president, chief operating officer, or manager.

SEC. 15. Submission of False Reports. – Should the manufacturer submit false reports, or does not disclose information concerning existing safety-related defects or potential safety-related defects in the said report, there shall be imposed upon the manufacturer a penalty of one (1) year imprisonment and a fine of ten million pesos (P10,000,000.00).

When the offender is a juridical person, liability shall attach to its president, chief operating officer, or manager.

SEC. 16. *Issuance of Implementing Rules and Regulations.* - Within ninety (90) days from the approval of this Act, the DOTr, and the DTI, in consultation with appropriate agencies, shall promulgate the rules and regulations to implement the provisions of this Act. Such rules and regulations shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

SEC. 17. *Appropriations.* - The amount necessary for the initial implementation of this Act shall be charged to the current appropriations of the DOTr and the DTI. Thereafter such sum as may be necessary for its continued implementation shall be included in the annual General Appropriations Act.

SEC. 18. *Separability Clause.* - If any provision, section, or provision of this Act shall be held invalid or unconstitutional, the remainder of the provisions shall not otherwise affected shall remain valid and subsisting.

SEC. 19. *Repealing Clause.* - Any other provisions of laws or parts thereof, decrees, orders, rules and regulations inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 20. *Effectivity.* - This Act shall take effect fifteen (15) days after its complete date of publication in the Official Gazette or in at least two (2) newspapers of general circulation, whichever comes earlier.

Approved,