

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **5092**



Introduced by Representative GLORIA MACAPAGAL ARROYO

**AN ACT TRANSFORMING THE OFFICE FOR TRANSPORTATION SECURITY INTO
THE NATIONAL TRANSPORTATION SECURITY REGULATORY COMMISSION
AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

The transportation industry is crucial to economic development as it facilitates trade and movement of people, goods and services within a state and across borders. Efficient transportation systems are vital to the growth of both domestic and international economy. Efficient air, land, and marine transportation systems require seamlessness and accessibility. However, these requirements for efficiency make transportation systems highly vulnerable to terrorist attacks and other forms of unlawful interference, which undermine the security of the commuting public;

The September 11, 2001 terrorist attacks of the United States Pentagon and the twin towers of the World Trade Center, the train bombing in Madrid (Spain); and the bus explosion in Northern Israel are just some of the many incidents demonstrating such vulnerability. In the Philippines, the sinking of the Super Ferry and the Rizal Day bombings of the LRT and the takeover of an air traffic control tower in NAIA by armed elements, in 2003, are some incidents which illustrate the susceptibility of the various modes of transport to acts of unlawful interference;

On August 23, 2010, twenty one (21) tourists from Hong Kong and four Filipinos had been taken hostage, by a policeman with a professional grievance, at the Quirino Grandstand in Manila, resulting to the tragic death of eight foreigners. The hostage crisis also resulted to diplomatic fallout between the Philippines and Hong Kong. Hong Kong and Chinese officials demanded an investigation, compensation for the victims, and an official apology. Hong Kong also imposed sanctions —issuing a travel ban against the Philippines and revoking visa-free privileges for Manila's government officials while angry Hong Kong employers threatened to fire their Filipino domestic helpers. Indeed, the repercussion of such incidents appears to be incalculable;

Recent events, such as the destruction of a Russian passenger jet above the Sinai Peninsula on October 31, 2015, apparently by a bomb aboard the aircraft, and the bombings in Brussels, Belgium, on March 22, 2016, renewed concerns over the security vulnerabilities

of airport terminals and mass transit stations. Once again, the security of transportation systems became a major focus of policy discussions worldwide;

Transportation security has always been and will always become a global concern due to the continuing threat of terrorism and other forms of unlawful interference. Disruptions in air, sea and land commerce operations; and, the diminishing confidence in transportation systems that goes along with such disruptions, significantly hamper economic growth. This is the reason why countries all over the world have incorporated transportation security measures in conventions and codes on civil aviation and maritime transportation and for the increasing regional and international discussions and dialogues on transportation security for land, rail and inland waterways transportation.;

As member of the community of nations and signatory state to international conventions, the Philippines is expected to dutifully comply with the provisions of the transportation security administration in Maritime travel under International Maritime Organization (IMO) as stated in the International Ship and Port Facility Security Code (ISPS CODE) and in Civil Aviation provided in Annex 17 of the International Civil Aviation Organization (ICAO);

As a responsible member of the international community, the Philippine government performs its international obligation in ensuring security of the international travels. On January 30, 2004, President Gloria Macapagal Arroyo issued Executive Order No. 277 creating the Office for Transportation Security (OTS), an agency attached to the Department of Transportation Communication. Executive Order 277 reconstituted the National Council for Civil Aviation Security (NCCAS) to the National Civil Aviation Security Committee (NCASC). As response to the international mandate calling for a single authority for securing all modes of transportation in the Philippines per the ICAO and IMO guidelines, President Arroyo issued Executive Order No. 311 on April 26, 2004, amending E.O. 277, and designating the OTS as the single authority responsible for the security of all transportation modes in the country;

Transportation security governance in the Philippines is characterized by institutional and the technical complexity arising from the numerous entities performing transportation security related functions such as the Civil Aeronautics Board (CAB), the Civil Aviation Authority of the Philippines (CAAP), Philippine Ports Authority (PPA), Maritime Industry Authority (MARINA), Subic Bay Metropolitan Authority (SBMA), Cebu Ports Authority (CPA), Bases Conversion Development Authority (BCDA), Philippine Veterans Investment and Development Corporation (PHIVIDEDEC), Land Transportation Office (LTO), Land Transportation Franchising Regulatory Board (LTFRB), Philippine National Police-Aviation Security Group (PNP-ASG), Maritime Group (PNP-MARIG), Traffic Management Group (PNP-TMG), Armed Forces of the Philippines (AFP), when appropriate, Philippine Coast Guard (PCG), Airport Police (AP), Customs Police (CP), Metro Manila Development Authority (MMDA), Light Rail Transit Authority (LRTA), Philippine National Railways (PNR), Metro Rail Transit (MRT 3 Office), and Autonomous Region for Muslim Mindanao. Most of these agencies perform regulatory functions while some are involved in both regulation and operations, and some, to a certain extent, in service provision to end-users. This raises concerns about lines of supervision and control, the system of checks and balances, conflicts of interest, and accountability. Hence the need for an oversight body to check and ensure compliance to international standards by these

implementing and regulatory agencies. Transforming OTS into a commission performing oversight and policy determining functions is, therefore, a logical conclusion;

An independent and single authority performing oversight function for transportation security becomes essential given the network characteristics of international and domestic travel and the consequent accountability challenges that exist in the transportation sector, which includes: (1) organizations' propensity to blame-shift because of sheer number involved in any one regulatory regime, and because of the scale and scope of the regulatory landscape (2) technical complexity and contestability of regulatory tasks involved; (3) opacity of the regulatory processes; and (4) unwillingness of accountee to be called to account by the accountant;

The transformation of the Office for Transportation Security (OTS) into the National Transportation Security Regulatory Commission (NTSRC) could pave the way for the development and improvement of transportation security governance necessary for bringing about a competitive and world-class transportation industry that is responsive to the needs of a fast-growing economy and to ensuring reliability and security of transportation services and infrastructure;

Just like the first world countries in America and Europe, as well as in Asia, the transportation industry in the Philippines is facing several challenges in the area of transportation security which, if not systematically addressed, could potentially jeopardize the phenomenal and unprecedented growth the country has been experiencing in the recent years. The fast growing economy of the Philippines, itself, presents a significant challenge because intensified economic activities result to a more intensified movement of people, goods and services. With this comes a greater exposure to safety and security risks that may result in accidents or disasters that will ultimately have a negative impact on the economy and endanger the lives of the country's citizens. Thus, defining and criminalizing acts of unlawful interference transportation systems, and imposing stringent penalties and sanctions to such acts or to any violations of transportation security regulations becomes mandatory. Moreover, further improvement in the present institutional arrangement for transportation security to enhance the system of accountability becomes necessary in light of the continuing threats to the security of transportation systems in the country. The system of accountability ensures that relevant government agencies, as well as industry players, task to perform functions geared towards deterrence, protection, and response to terrorist attacks and other acts of unlawful interference, are performing their functions effectively and efficiently, thereby reducing the possibility and mitigating the consequences of terrorist attacks.

Therefore, immediate passage of this bill is earnestly sought.


GLORIA MACAPAGAL ARROYO
2nd District, Pampanga

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

CHAPTER I

TITLE AND DECLARATION OF POLICY

SECTION 1. *Short Title.* – This Act shall be known as the “Philippine Transportation Security Act of 2017”. It shall hereinafter be referred to as the Act.

SECTION 2. *Declaration of Policy.* – It is hereby declared the policy of the State:

- a) To recognize the vital role of public transportation in nation building economic growth, protecting and promoting the rights of its people to a secured transportation system through the adoption and promulgation of Transportation Security Programs covering all modes of transport : civil aviation, maritime, land and rail, and inland transportation systems, following international standards and practices.
- b) To ensure compliance with the Convention on International Civil Aviation (Chicago Convention) and the International Convention for the Safety of Life at Sea, 1974 (SOLAS Convention). As a member of the community of nations and signatory State to international conventions, the Philippines shall faithfully comply with the provisions of: Chapter XI-2 otherwise known as, the International Ship and Port Facility Security Code (ISPS CODE) of the International Maritime Organization (IMO); Annex 17 of International Civil Aviation Organization (ICAO) and its other security related annexes; and such other transport security related international conventions, agreements and protocols.
- c) To ensure that responsibilities are properly delineated and allocated among and between government agencies responsible in the security of transportation system to avoid conflict of interest and establish accountability.
- d) To ensure that prescribed transportation security standards, policies, and rules and regulations are in accordance with international agreements and conventions and the practices are in accordance with international norms. The National

Transportation Security Regulatory Commission, created under this act, shall ensure that policies and standards are enforced.

- e) To harmonize all regulatory policies which are being implemented by various government regulatory agencies and ensure that they are consistent with the State's commitment under various international conventions.

CHAPTER II

TRANSPORTATION SECURITY STRUCTURE

SECTION 3. *Organization.* – The transportation security structure shall be divided into three (3) sectors, namely: civil aviation, maritime, land and rail.

In line with the policy declaration of the State, the following agencies shall be subject to the oversight power of the National Transportation Security Regulation Commission (NTSRC): Civil Aviation Authority of the Philippines (CAAP); Maritime Industry Authority (MARINA); Philippine Coast Guard (PCG); Land Transportation Office (LTO); and Land Transportation Franchising Regulatory Board (LTFRB); including government and private airport, sea port, and land transportation operators.

CHAPTER III

NATIONAL TRANSPORTATION SECURITY PROGRAM

SEC 8. *Adoption and Formulation of National Transportation Security Programs.*–The State shall adopt the National Civil Aviation Security Program (NCASP), in accordance with the Convention on International Civil Aviation (Chicago Convention); a National Security Program for Sea Transport and Maritime Infrastructure (NSPSTMI) in accordance with the International Convention for the Safety of Life at Sea, 1974 (SOLAS Convention); and shall develop and formulate National Security Programs for Land and Rail transportation.

SEC 9. *Promulgation of Transportation Security Programs.*– Within six (6) months from the effectivity of this Act, the National Civil Aviation Security Program (NCASP), the National Security Program for Sea Transport and Maritime Infrastructure (NSPSTMI), and the National Security Program for Land and Rail Transportation (NSPLRT) shall be promulgated by the Commission. The Commission shall conduct sectoral consultations with various stakeholders. The various transportation Security Programs shall undergo mandatory review every five (5) years.

Pursuant to the Transportation Security Programs, the Commission shall also establish and implement, for the three (3) modes of transportation, a National Transportation Security Training Program (NTSTP), for the training of personnel involved in or responsible for the implementation of transportation security measures; and a National Transportation Security Quality Control Program (NTSQCP), for measuring compliance with and validating effectiveness of the Transportation Security Programs.

CHAPTER IV

REGULATION FOR TRANSPORTATION SECURITY

SEC. 10. *Transformation of the Office for Transportation Security (OTS).* The OTS, created by virtue of Executive Order No. 277, as amended by Executive Order No. 311, is hereby transformed into the National Transportation Security Regulatory Commission (NTSRC), hereinafter referred to as the Commission, an independent and single regulatory oversight body for the security of transportation systems, with quasi-judicial and quasi-legislative powers.

The Commission is the authority with respect to the implementation of Annex 17 to the International Convention on Civil Aviation (Chicago Convention) and other civil aviation security related conventions; and shall be the Designated Authority and Administration with respect to the implementation of the International Ship and Port Facility Security (ISPS) Code of the 1974 Safety of Life at Sea (SOLAS) Convention.

The Commission shall be composed of a Chairman and four (4) members to be appointed by the President of the Philippines. The Chairman and the members of the Commission shall be natural-born citizens and residents of the Philippines, persons of good moral character, at least thirty-five (35) years of age, and of recognized competence in any of the following fields: transportation security, transportation engineering, transportation security management, with at least three (3) years actual and distinguished experience in their respective fields of expertise: *Provided*, That of the five (5) members of the Commission, one shall come from the civil aviation sector, one from the maritime sector and another from land transport or rail sector, with at least five (5) years of experience in active practice in their respective field. *Provided further*, that one (1) shall be a member of the Philippine Bar with at least five (5) years of experience in the practice of law, preferably in the field of transportation.

Within three (3) months from the creation of the Commission, the Chairman shall submit, for the approval by the President of the Philippines, a new organizational structure, staffing pattern and position classification necessary to carry out the powers and functions of the Commission.

The Chairman of the Commission shall act as the Chief Executive Officer of the Commission.

All members of the Commission shall have a term of seven (7) years: *Provided*, That for the first set of appointees, the Chairman shall hold office for seven (7) years, two (2) members shall hold office for five (5) years and the other two (2) members shall hold office for three (3) years; *Provided further*, that there shall be no reappointment for another term and in no case shall any member serve for more than seven (7) years in the Commission. Members of the Commission shall not be suspended or removed from office except for just cause as specified by law. In case of vacancy in the position of the Chairman of the Commission, the President shall appoint a new Chairman from among the two most senior members of the Commission who shall continue to serve as Chairman until the completion of seven (7) years of service in the Commission.

The Chairman and members of the Commission shall assume office at the beginning of their terms: *Provided*, that if upon the effectivity of this Act, the Commission has not been constituted and the new staffing pattern and plantilla positions have not been approved and filled up, the current and existing personnel of OTS shall continue to hold office.

The existing personnel of the OTS shall be given priority in the filling up of plantilla positions created for the Commission, subject to existing civil service rules and regulations.

The Chairman and members of the Commission shall avoid conflict of interest and shall be prohibited from holding any interest whatsoever, either as investor, stockholder, officer or director, in any company or entity engaged in the business of transportation and must, therefore, divest, through sale or other legal disposition, any and all interest in the transportation sector upon assumption of office.

The Chairman and members of the Commission shall ensure transparency in governance and shall submit to the President and the congressional committees with jurisdiction to the Commission, the list of their relatives, within the fourth civil degree of consanguinity or affinity, legitimate or illegitimate, holding any interest whatsoever, either as investor, stockholder, officer or director, in any company or entity engaged in the business of transportation and of any and all interest they have in the transportation sector.

The Commission shall meet at least once a month to tackle its order of business. Majority members of the Commission may call for a special meeting if the need arises. The President may, at any time, direct the Commission to convene to discuss important transportation security issues.

The presence of at least three (3) members of the Commission shall constitute a quorum and the majority vote of members in a meeting where a quorum is present shall be necessary for the adoption of any rule, ruling, order, resolution, decision, or other acts of the Commission.

The organizational structure of the Commission shall be defined in the IRR of this Act.

SEC 11. *Compensation and Other Emoluments for Personnel of the Commission.*

The compensation and other emoluments for the Chairman and members of the Commission and its personnel shall be exempted from the coverage of Republic Act No. 6758, otherwise known as the "Salary Standardization Act". For this purpose, the schedule of compensation of the Commission personnel, except for the salaries and compensation of the Chairman and members of the Commission, shall be submitted for approval to the President of the Philippines. The new schedule of compensation shall be implemented within six (6) months from the effectivity of this Act and may be upgraded by the President of the Philippines as the need arises: *Provided*, That in no case shall the rate be upgraded more than once a year.

The Chairman and members of the Commission shall be entitled to the same salaries, allowances and benefits as those of the Justices of the Court of Appeals. The Chairman and the members of the Commission shall, upon completion of their term or upon becoming eligible for retirement under existing laws, be entitled to the same retirement benefits and the privileges provided for Justices of the Court of Appeals.

SEC 12. *Enhancement of Technical Competence.* - The Commission shall establish rigorous training programs for its staff for the purpose of enhancing the technical competence of the Commission in the following areas: impact assessment, evaluation and audit of technical performance and monitoring of compliance with service and performance standards, environmental standards, transportation security standards, transportation infrastructure standards, transportation education and training, and such

other areas as will enable the Commission to adequately perform its functions or exercise its powers.

The Commission shall establish its own educational and training institute for the enhancement of knowledge and skills of personnel performing transportation security related responsibilities within the transportation security industry. *Provided*, that the Commission shall prioritize education and training programs not provided by private entities. *Provide further* that education and training for the development of core competencies necessary in the exercise of regulatory power of the Commission shall be given priority in the education and training budget of the Commission.

SEC 13. *Budget and Assets of the Commission.* – The amount of FIVE HUNDRED MILLION PESOS (P500,000,000.00) is hereby allocated for the initial operation of the Commission. Any deficit shall initially be sourced from the Office of the President of the Philippines. Thereafter, the annual budget of the Commission shall be included in the regular or special appropriations. The existing assets and/or liabilities, if any, of the OTS shall likewise be assumed by the NTSRC. Not less than two (2) percent of the total allocation for the Maintenance and Other Operating Expenses (MOOE) budget shall be used for relevant trainings of personnel of the Commission.

SEC 14. *Powers and Functions of the NTSRC.* –The Commission shall serve as the single regulatory oversight body for promoting security in the transportation industry in order to ensure public welfare and penalize violations of transportation security regulations. Towards this end, it shall be responsible for the following key functions in the security of the transportation systems:

- a. Review, revise and approve National Transportation Security Programs, its training and quality control program and other related programs.
- b. Ensure compliance with international minimum standards for transportation security, especially for international conventions and multilateral/bilateral agreements where the Philippines is a state party, through promulgation of protocols, standards, rules and regulations;
- c. Provide technical inputs to agreements being negotiated between the Philippines and other countries in relation to transportation security concerns;
- d. Promote desirable and inhibit undesirable transportation policies of regulatory agencies through the facilitation of evidence-based decision making;
- e. Assist the DOTr and other regulatory agencies within the transportation industry in strategic planning and design of regulatory policies;
- f. Issue guidelines on the quality of; or, conduct security assessments and other evaluative tools related to transportation security standards, rules and regulations;
- g. Review existing rules and regulations related to transportation security undertaken by transportation industry participants and agencies, and recommend or require impact assessment or changes to improve quality;
- h. Review proposed rules and regulations related to transportation security and recommend or require security assessment and/or changes;
- i. Review newly issued rules and regulations related to transportation security and recommend or require impact assessment and/or changes;
- j. Formulate and issue, after due notice and hearing, transportation security standards, rules and regulations, including penalties and sanctions;
- k. Issue specific security directives to transportation operators, law enforcement agencies and other relevant entities charged with the security of the transportation system;

"Transport operators" are any person holding government franchise or permit to operate any public means of transport and/or public transport facilities.

- l. Promote capacity building on transportation security;
- m. Adjudicate cases arising from non-compliance to transportation security standards, rules and regulations, provided, the decisions of the Commission on such cases are immediately executory; and, which may only be restrained or enjoined by Court Order;
- n. Issue subpoena duces tecum and/or ad testificandum in any investigation or hearing;
- o. Impose fines and penalties for non-compliance with or breach of this Act, or the IRR, standards, rules and regulations issued by the Commission, including but not limited to the suspension or revocation of any license, permit or certificate which authorizes the operation of public means of transport or public transport facilities;
- p. Before the end of April of each year, submit to the Office of the President of the Philippines and Congress, copy furnished the DOTr, an annual report containing such matters or cases which have been filed before or referred to it during the preceding year, the actions and proceedings undertaken and its decision or resolution in each case. The Commission shall make copies of such reports available to any interested party upon payment of a charge which reflects the printing costs. The Commission shall publish all its decisions in at least one (1) newspaper of general circulation, and/or post electronically and circulate to all interested transportation industry participants copies of its resolutions to ensure fair and impartial treatment;
- q. Monitor the activities in the transportation industry with the end view of promoting security; consequently, enjoin the transportation sector to cooperate and coordinate with the Commission;
- r. Initiate legal action against any person for violation of transportation security related laws, rules and regulations;
- s. In coordination with law enforcement agencies, access premises of any transportation operators in case of an act of unlawful interference and if the access is necessary to prevent such act;
- t. In the exercise of its oversight function, inspect, audit, survey and test *motu proprio* through its duly authorized representative documents, records, facilities or systems, at any time for purposes of determining compliance with transportation security standards, rules and regulations;
- u. Enforce the Implementing Rules and Regulations of this Act;
- v. Perform such other functions as are appropriate and necessary in order to preserve and promote transportation security.

Sec. 16. Transportation Security Committees. It is hereby created the National Civil Aviation Security Committee (NCASC) to coordinate security activities between or among departments, agencies and other instrumentalities of the government, airport and aircraft operators, air traffic service providers and other entities concerned with or responsible for the implementation of the various aspects of the National Civil Aviation Security Program (NCASP).

The NCASC shall be composed of the following:

Chairman, NTSRC
Secretary, Department of Transportation

Ex-Officio Chairman
Vice Chairman

Secretary, Department of Interior and Local Government	Vice Chairman
General Manager, Manila International Airport Authority	Member
General Manager, Mactan-Cebu International Airport Authority	Member
President, Clark International Airport Corporation	Member
Administrator, Subic Bay Metropolitan Administration	Member
Director General, Civil Aviation Authority of the Philippines	Member
Director, Philippine National Police Aviation Security Group	Member
Commissioner, Bureau of Customs	Member
Commissioner, Bureau of Immigration	Member
Undersecretary for Policy, Department of Foreign Affairs	Member
Director General, National Intelligence Coordinating Agency	Member

The NCASC, through its Chairman, may invite resource persons from other agencies of the government and from the private sector, as may be necessary.

The Commission may also create security committees for maritime and land transportation systems to facilitate the allocation of tasks and coordination of responsibilities and activities between or among government agencies.

SEC. 17. *Transportation Security Regulation Fund (TSRF).* The Commission may collect or levy fees and charges for licenses, permits, certificates issued and other services rendered to transportation security stakeholders, which shall form part of the TSRF.

The seaport and airport authorities, including privately operated airport and seaports, are hereby authorized and directed to collect transportation security fees which shall also form part of the TSRF. The TSRF shall accrue to the Commission to support its operation, subject to usual accounting and auditing rules and regulations. The TSRF shall be released annually to the Commission, subject to the schedule to be determined by the Department of Budget and Management (DBM).

CHAPTER V ADMINISTRATIVE OFFENSES AGAINST TRANSPORTATION SYSTEM

SEC. 18. *Other Offenses.* Administrative liability shall attach to any person or entity who:

- a. refuses or fails, without reasonable justification, to provide information or to give access to transportation facilities, necessary in the performance of the regulatory or oversight functions of the Commission;
- b. refuses or fails, without reasonable justification to comply with the standards, rules and regulations issued by the Commission;
- c. refuses or fails, without reasonable justification to comply with security directives issued by the Commission;

SEC. 19. *Administrative Penalties.* The Commission shall have the power to impose fines and penalties for violation of Sec. 18 hereof, consisting of:

- a. a fine of not less than one hundred thousand pesos (P100,000) but not exceeding one million pesos (P1,000,000); and/or
- b. suspension or revocation of any license, permit or certificate to operate public transportation;

CHAPTER VI GENERAL PROVISIONS

SEC. 15. *Separation Benefits of Officials and Employees of the Office for Transportation Security (OTS).* – Officials and employees of OTS who opt to be separated from the service as a result of the transformation of the OTS into the Commission, shall be entitled to either separation pay and other benefits in accordance with existing laws, rules or regulations or benefits and other privileges provided under a separation plan which shall be proposed by the Commission subject to the approval of the President. In no case shall there be any diminution of benefits under the separation plan until the full implementation of the transformation of OTS into the Commission.

Officials and employees of OTS who opted to be separated may re-apply to and be absorbed by the Commission; provided, however, that they shall start their government service anew.

CHAPTER VII FINAL PROVISIONS

SEC. 22. *Statutory Construction.* – The provisions of this Act shall be liberally construed to achieve the preservation and promotion of transportation security.

SEC. 23. *Implementing Rules and Regulations.* – The Commission shall adopt Implementing Rules and Regulations (IRR) within sixty (60) days upon approval of this Act.

SEC. 24. *Separability Clause.* – If for any reason, any provision of this act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 25. *Applicability and Repealing Clause.* – All laws, executive orders, letters of instructions, rules and regulations and other issuances, or provisions thereof, inconsistent with any of the provisions of this Act are hereby repealed and amended accordingly.

SEC. 26. *Effectivity Clause.* – This Act shall take effect after fifteen (15) days following its complete publication in at least two (2) newspapers of general circulation or in the Official Gazette of the Philippine Government.

Approved,