

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

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **5814**



Introduced by Rep. Pantaleon D. Alvarez, Rep. Rodolfo C. Fariñas and Rep. Danilo E. Suarez

EXPLANATORY NOTE

Article XII Section 11 of the Philippine Constitution states that no franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted, except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires.

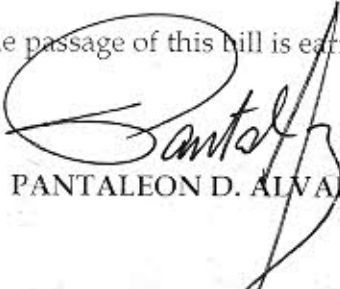
Article 1733 of the Civil Code on the other hand provides that common carriers are bound to observe extraordinary diligence in the vigilance over the goods and for the safety of the passengers transported by them, according to all circumstances of each case.

It is in this regard that Asian Spirit, Inc. (rebranded as Air Asia Zest but later on merged with Air Asia Philippines) was granted a legislative franchise by Congress through Republic Act No. 9183 in 2003, with the express provision that it will charge just and reasonable rates and provide efficient service to the riding public.

Unfortunately, various complaints have been made by passengers regarding the poor service of Air Asia Philippines, specifically exorbitant fees charged during peak season, inordinate delays in flights, and worse, unilateral cancellation of flights and even accidents, causing severe inconvenience to the people. These practices of Air Asia Philippines are detrimental to the common good and do not fall within the purview of "extraordinary diligence."

In fact, these are grounds for the amendment and alteration of the franchise of Air Asia Philippines, something that this bill seeks to achieve to make the compliance of Air Asia Philippines on its franchise more beneficial to the riding public.

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


PANTALEON D. ALVAREZ


DANILO E. SUAREZ


RODOLFO C. FARIÑAS

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Seventeenth Congress
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House Bill No. **5814**

Introduced by Honorable Pantaleon D. Alvarez, Honorable Rodolfo C. Fariñas and
Honorable Danilo E. Suarez

AN ACT
FURTHER AMENDING THE FRANCHISE GRANTED TO ASIAN SPIRIT, INC.,
DOING BUSINESS UNDER THE NAME AIR ASIA PHILIPPINES, UNDER REPUBLIC
ACT NO. 9183, OTHERWISE KNOWN AS "AN ACT GRANTING ASIAN SPIRIT, INC.
A FRANCHISE TO ESTABLISH, OPERATE, AND MAINTAIN DOMESTIC AND
INTERNATIONAL AIR TRANSPORT SERVICES"

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

1 **SECTION 1.** Section 4 of Republic Act 9183 otherwise known as "An Act Granting Asian
2 Spirit, Inc. a Franchise to Establish, Operate, and Maintain Domestic and International Air
3 Transport Services" is hereby amended to read as follows:

4 "Section 4. *Rates for Services.* - The grantee shall fix just and reasonable rates
5 for the transportation of passengers, mail, and freight, subject to the regulations and
6 approval of the Civil Aeronautics Board and other proper regulatory agencies of the
7 government. *PROVIDED HOWEVER, THAT ANY INCREASE IN RATES THAT IS*
8 *A NATURAL CONSEQUENCE OF THE INCREASE IN DEMAND DURING PEAK-*
9 *SEASON, SHALL BE SUBJECT TO A CAP OF 20% OVER THE REGULAR OFF-*
10 *PEAK RATES."*

11
12 **SECTION 2.** Section 5 of Republic Act 9183 is hereby amended to read as follows:

13 "Section 5. *Terms of Franchise.* - This franchise shall be for a term of twenty-
14 five (25) years from the date of effectivity of this Act, unless sooner revoked or
15 cancelled. This franchise shall be deemed ipso facto revoked in the event the grantee
16 fails to comply with any of the following conditions:

- 1 (a) Commence operation within one (1) year from the approval of its permit
2 by the Civil Aeronautics Board;
3 (b) Operate continuously for two (2) years; and
4 (c) Commence operations within two (2) years from the effectivity of this Act.
5

6 THE REMAINING TERM OF THIS FRANCHISE SHALL BE SUBJECT TO REVIEW
7 BY CONGRESS EVERY FIVE YEARS FROM THE EFFECTIVITY OF THIS
8 AMENDATORY ACT.
9

10 **SECTION 3.** A new Section 13 is hereby inserted in Republic Act No. 9183, to read as
11 follows:

12 "SECTION 13. TAX PROVISION. - THE GRANTEE, ITS SUCCESSORS OR
13 ASSIGNEES, SHALL PAY TO THE PHILIPPINE GOVERNMENT DURING
14 THE LIFE OF ITS FRANCHISE, THE VALUE-ADDED TAX UNDER
15 REPUBLIC ACT NO. 7716, AS AMENDED, OR A FRANCHISE TAX OF FIVE
16 PERCENT (5%) PER ANNUM OR AT SUCH PERCENTAGE AS MAY BE
17 PRESCRIBED BY LAW ON ALL GROSS RECEIPTS OF ITS TRANSPORT
18 BUSINESS TRANSACTED UNDER THIS FRANCHISE, WHICHEVER IS
19 HIGHER; PROVIDED, THAT THE GRANTEE, ITS SUCCESSORS OR
20 ASSIGNEES, SHALL CONTINUE TO BE LIABLE FOR INCOME TAXES
21 PAYABLE UNDER TITLE II OF THE NATIONAL INTERNAL REVENUE
22 CODE PURSUANT TO SEC. 2 OF EXECUTIVE ORDER NO. 72, UNLESS
23 THE LATTER ENACTMENT IS AMENDED OR REPEALED, IN WHICH
24 CASE, THE AMENDMENT OR REPEAL SHALL BE APPLICABLE
25 THERETO.
26

27 THE GRANTEE, ITS SUCCESSORS OR ASSIGNEES, SHALL BE LIABLE TO
28 PAY THE SAME TAXES ON THEIR REAL ESTATE, BUILDINGS AND
29 PERSONAL PROPERTY, EXCLUSIVE OF THIS FRANCHISE, AS OTHER
30 PERSONS OR CORPORATIONS ARE NOW OR HEREAFTER MAY BE
31 REQUIRED BY LAW TO PAY."
32

33 **SECTION 4.** A new Section 14 is hereby inserted in Republic Act No. 9183, to read as
34 follows:

1
2 "SECTION 14. COMPLIANCE WITH APPLICABLE LAWS. - THE
3 GRANTEE SHALL COMPLY WITH ALL APPLICABLE LAWS, RULES,
4 AND REGULATIONS, PARTICULARLY REPUBLIC ACT NO. 7432, AS
5 AMENDED BY REPUBLIC ACT NO. 9994, OTHERWISE KNOWN AS THE
6 "EXPANDED SENIOR CITIZENS ACT OF 2010" AND REPUBLIC ACT NO.
7 7277, AS AMENDED BY REPUBLIC ACT NO. 10754, OTHERWISE KNOWN
8 AS "AN ACT EXPANDING THE BENEFITS AND PRIVILEGES OF
9 PERSONS WITH DISABILITY (PWD)".
10

11 All other sections are hereby renumbered accordingly.
12

13 SECTION 5. *Repealability and Non-exclusivity Clause.* - This franchise shall be subject
14 to amendment, alteration, or repeal by the Congress of the Philippines when the
15 public interest so requires and shall not be interpreted as an exclusive grant of the
16 privileges herein provided for.
17

18 SECTION 6. *Separability Clause.* - If any of the sections or provisions of this Act is
19 held invalid, all other provisions not affected thereby shall remain valid.
20

21 SECTION 7. *Repealing Clause.* - All laws, decrees, orders, resolutions, instructions,
22 rules and regulations, and other issuances, or parts thereof which are inconsistent
23 with the provisions of this Act are hereby repealed, amended, or modified
24 accordingly.
25

26 SECTION 8. *Effectivity.* - This Act shall take effect fifteen (15) days after its
27 publication in the Official Gazette or in a newspaper of general circulation.

Approved,