

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



HOUSE OF REPRESENTATIVES

*Introduced by Representative Rufus B. Rodriguez and
Representative Maximo B. Rodriguez, Jr.*

House Bill No. **5628**

EXPLANATORY NOTE

The Philippines has been hit by a numerous maritime tragedies that claimed over 4,000 lives in the past 25 years. On December 20, 1987, MV Dona Paz collided with MT Vector. The disaster was considered the deadliest ferry disaster in maritime history with more than 4,000 people died. Recently, the country experienced a series of maritime tragedies with the sinking of MV Catalyn B on December 24, 2009, and MV Baleno 9 on December 26, 2009.

Other sea mishaps include the sinking of MV Dona Marilyn on October 24, 1988; MV Princess of the Orient on September 18, 1998; and MV Princess of the Stars on June 21, 2008. On May 23, 2009, a small passenger boat Commando 6 capsized. Last August 16, 2013, the MV St. Thomas Aquinas sank after colliding with a cargo ship, MV Sulpicio Express Siete claiming 114 lives.

Alarmed by the successive maritime tragedies, there is an immediate need to investigate these maritime accidents, determine the probable or root cause(s) thereof, issue recommendations for maritime safety measures, and a thorough evaluation of the effectiveness of government agencies involved in maritime transportation.

Aside from these marine tragedies, there are vehicular accidents that occur on a daily basis. From simple fender benders to tragedies where buses fall off ravines causing numerous casualties.

At present, various government agencies have jurisdiction on different types of accidents be it the MARINA or the DOTR or CAAP. It is about time that we have one independent government agency having jurisdiction over transport safety.

The bill therefore seeks for the creation of an independent Philippine Transportation Safety Board.

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


RUFUS B. RODRIGUEZ


MAXIMO B. RODRIGUEZ, JR.

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AN ACT
ESTABLISHING THE PHILIPPINE TRANSPORTATION SAFETY BOARD, DEFINING ITS
POWERS AND FUNCTIONS, AND APPROPRIATING FUNDS THEREFOR

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

ARTICLE I
GENERAL PROVISIONS

SECTION 1. **Short Title.** – This Act shall be known as the “*Philippine Transportation Safety Board Act.*”

SEC. 2. **Declaration of Policy.** – It is hereby declared the policy of the State to maintain a safe, viable, efficient, and dependable transportation system as it plays an important role in nation-building and in promoting economic growth.

Consistent with this policy, the State recognizes the importance of preventing transportation accidents thereby saving lives and property. Towards this end, there shall be established a government agency tasked with promoting safety and efficiency in the transportation of people, property and goods, and conducting investigations to determine the cause of transportation accidents.

ARTICLE II
CREATION

SEC. 3. **Philippine Transportation Safety Board.** – There is hereby created a Philippine Transportation Safety Board (PTSB), an independent and a non-regulatory agency under the Office of the President. The PTSB shall develop appropriate safety standards to be followed and implemented by concerned agencies.

It shall have the following objectives:

- (a) Improve transportation safety measures in order to prevent transportation accidents and mitigate dangers to human lives and property; and
- (b) Ensure the implementation of transportation safety standards.

The PTSB shall be the primary government body that shall investigate and determine the facts, conditions, circumstances and the causes of any major or fatal air, maritime, and land transportation accident, or threat of a major or fatal air, maritime, or rail accident.

SEC. 4. **Jurisdiction.** – The PTSB shall have jurisdiction over all major or fatal transportation accidents or those of alarming nature resulting in serious physical injury or loss of life or property or causing substantial damage to or destruction of property or surroundings.

A major or fatal transportation accident shall include:

- (a) Capsizing or grounding of a ship or marine vessel;
- (b) Collision of ships or vessels;
- (c) Air crash or collision of aircrafts;

- (d) Overshooting or emergency landing of an aircraft;
- (e) Vehicular crash or collision of motor vehicles; and
- (f) Derailment of trains.

The jurisdiction of the PTSB shall extend to any similar accident or incident with alarming magnitude such as:

- (a) Contamination of air or water due to pipe leakage; and
- (b) Failure or defect of transportation infrastructure facilities.

Accidents involving aircrafts, vessels, and vehicles operated by the Armed Forces of the Philippines (AFP), or occurring within military sites in the Philippines, or those involving solely aircrafts, vessels and vehicles of the armed forces of any foreign country occurring in the Philippines shall be the responsibility of the AFP.

SEC. 5. *Powers and functions of the PTSB.* –The PTSB shall have the following powers and functions:

(a) Evaluate and harmonize transportation safety standards with international safety standards of applicable conventions, treaties, and best practices in transportation safety including those developed by transportation agencies, and recommend its implementation to all sectors of Philippine transportation;

(b) Conduct hearings and investigations concerning any major or fatal transportation accident, and conduct special studies on matters pertaining to safety in transportation: *Provided*, That the Board shall not be prevented from making further inquiries on accidents subject of past investigations and shall require the investigating bodies to submit the pertinent records, reports, findings and recommendations: *Provided further*, That other agencies mandated to investigate concurrently such accidents shall coordinate with, cooperate with and extend its full support to the Board during the conduct of investigation;

(c) Require the involvement or collaboration of the members of the academe and the non-government organizations in investigations requiring their expertise and knowledge;

(d) Recommend to the concerned government agencies and private organizations the adoption of transportation safety standards and measures that will improve transportation safety;

(e) Prepare written reports regarding its investigations and special studies, including the findings and safety recommendations thereon and make such reports available to the public;

(f) Assess and evaluate the techniques and methods of accident investigation and prepare and publish from time to time the recommended procedures for accident investigations;

ARTICLE III ORGANIZATION

SEC. 6. *Composition, Qualifications, and Appointment of the Members of the Governing Board.* – The governing Board, hereinafter referred to as the Board, shall be composed of five (5) full-time members, including a Chairperson. All the members of the Board shall have extensive training and experience in their respective transportation fields and each must have adequate knowledge in investigation, analysis, and evaluation of transportation accidents, particularly in the field of accident reconstruction, safety engineering, or transportation safety.

The members shall be Filipino citizens and residents of the Philippines, at least thirty-five (35) years of age, and persons of good moral character, unquestionable integrity, and recognized probity and competence.

Within sixty (60) days from the effectivity of this Act, the President of the Philippines shall appoint the members of the Board. Any member may be removed by the President for cause as provided for by law.

In case of incapacity or absence of the Chairperson, the members shall choose from among themselves an acting Chairperson.

SEC. 7. **Term of Office.** – All members shall have a fixed term of six (6) years. Of those first appointed, the Chairperson shall hold office for six (6) years, two (2) members shall hold office for four (4) years and the remaining two (2) members shall hold office for two (2) years. Upon the expiration of one's term of office, the member shall continue to serve until a successor is appointed and qualified. Appointment to any vacancy shall be only for the unexpired term of the predecessor. Such vacancy shall be filled within sixty (60) days from the date of its occurrence.

SEC. 8. **Powers and Functions of the Governing Board.** – The powers and functions of the PTSB shall be vested in and exercised by the Board.

The Board shall have the following powers and functions:

- (a) Cite for contempt any person for refusing to obey a subpoena, an order, or an inspection notice of the Board;
- (b) Authorize any of its officers or officials to enter any property where a transportation accident has occurred, or where wreckage is found, or where any such accident is located, and conduct a proper investigation thereon. The authorized officer or official may inspect, at a reasonable time, records, files, processes, controls and facilities relevant to the investigation of such accident. Each inspection shall be commenced and completed with reasonable promptness and the results thereof shall be made available to the concerned parties;
- (c) Enter into contracts or agreements with any person or entity as may be necessary in the conduct of its powers and functions, including the employment of experts on accidents under investigation;
- (d) Use, when appropriate, available services, equipment, personnel and facilities of the other agencies and instrumentalities of the government in the conduct of its investigation;
- (e) Establish and maintain an adequately staffed laboratory and ancillary facilities for the purpose of examining evidence obtained during the course of its investigation;
- (f) Create advisory committees composed of qualified private citizens and government officials as may be necessary or appropriate;
- (g) Authorize an autopsy to be performed and the conduct of other tests when necessary to investigate an accident: *Provided*, That local or national laws protecting religious beliefs related to autopsies shall be observed to the extent that will meet the requirements of a proper investigation: *Provided, further*, That the Board shall be provided with a copy, free of charge, of any autopsy report performed by a national or local authority;
- (h) Require government agencies and persons engaged in transportation services to submit a written report with respect to any matter pertinent to transportation safety, such report to be submitted within a reasonable period of time as may be determined by the PTSB;
- (i) Promulgate, in coordination with the relevant law enforcement and investigating agencies, the necessary protocols in the conduct of its investigations;
- (j) Delegate any of its powers and functions to the heads of the different bureaus, divisions or offices of the PTSB to further facilitate the implementation of the provisions of this Act; and
- (k) Accept voluntary and uncompensated services, gifts or donations notwithstanding any other provision of law to the contrary.

SEC. 9. **Chairperson; Duties and Powers.** — The Chairperson shall be the chief executive and administrative officer of the PTSB. The Chairperson shall:

- (a) Administer oaths, sign and issue *subpoena duces tecum* or *subpoena ad testificandum* which may be served by any officer, personnel or employee of the PTSB as designated by the Chairperson;
- (b) Execute the policies, decisions, orders, and resolutions approved by the Board;
- (c) Direct and supervise the operations and internal administration of the PTSB, including enforcement of disciplinary actions;

- (d) Sign appointments, make temporary assignments, rotate and transfer of personnel in accordance with law;
- (e) Prepare the annual budget of the PTSB for approval by the Board;
- (f) Supervise the expenditures of the PTSB;
- (g) Delegate authority, in whole or in part, to other officials of the PTSB in accordance with Executive Order No. 292, otherwise known as the Administrative Code of 1987, as amended, and the rules and regulations of the Board; and
- (h) Perform such other functions as may be authorized by the Board.

SEC. 10. **Quorum.** – The presence of at least three (3) members shall constitute a quorum and the majority vote of members present shall be necessary for the adoption of any rule, ruling, order, resolution, decision or other acts of the Board.

SEC. 11. **Compensation.** – The salary of the Chairperson and the members of the Board shall be the same as those of the Chairperson and members of the different Constitutional Commissions. They shall be entitled to representation and transportation allowances under existing laws.

SEC. 12. **Offices of the PTSB.** – For the proper management and effective implementation of the objectives of the PTSB, the following offices are hereby established:

(a) *Office of the Executive Director.* – The PTSB shall have an Executive Director who shall be appointed by the President of the Philippines upon recommendation of the Board. The Executive Director must be at least thirty-five (35) years of age at the time of appointment, a member of the Philippine bar, and engaged in the practice of law for at least ten (10) years prior to the date of appointment. The appointee must not have been a candidate for any elective position in the elections immediately preceding the appointment.

The Executive Director shall assist the Chairperson in the discharge of the latter's functions as executive and administrative head of the Board and be responsible for the day-to-day management of the PTSB; record and report the proceedings of the Board; act as custodian of records, maps, profiles, reports, and other documents filed in connection with any case or proceedings before the PTSB; supervise the PTSB laboratory; and, perform such other functions as may be assigned by the Chairperson or the Board.

(b) *Office of Aviation Safety.* – The Office of Aviation Safety shall conduct investigations of all aviation accidents and submit the corresponding reports and necessary transportation safety recommendations to the Board.

(c) *Office of Maritime Safety.* – The Office of Maritime Safety shall conduct investigations of all maritime accidents and submit the corresponding reports and necessary transportation safety recommendations to the Board.

(d) *Office of Surface Transportation Safety.* – The Office of Surface Transportation Safety shall conduct investigations of road transportation, railroad, and pipeline accidents and submit the corresponding reports and necessary transportation safety recommendations to the Board.

(e) *Office of Transportation Safety Standards.* – The Office of Transportation Safety Standards shall prescribe safety standards in all transportation systems; establish and update transportation safety standards through continuing research and in-depth studies; and oversee the implementation of the safety recommendations program of the PTSB.

(f) *Office of Research and Engineering.* – The Office of Research and Engineering shall provide technical advice and services to the PTSB; conduct research and carry out analytical studies and tests on all aspects of the PTSB's transportation accident investigation, accident prevention, and safety promotion activities; conduct safety studies on specific safety issues; perform statistical analyses of transportation accident and incident data; maintain archival records of the PTSB's accident investigation and safety promotion activities; and, support the PTSB's data processing, computing and information management requirements.

(g) *Office of the General Counsel.* – The Office of the General Counsel shall provide legal advice and assistance to the PTSB and its officers, personnel and employees; prepare rules, opinions and orders; and represent the PTSB in court actions and other proceedings.

(h) *Office of Public Affairs.* – The Office of Public Affairs shall provide the general public, including Congress and the national agencies, the transportation industry, and the media with current and accurate information concerning the activities, programs and objectives of the PTSB.

(i) *Administration Office.* – The Administration Office shall provide administrative support in the following aspects: budget; accounting and audit; human resource management; information and automatic data processing management; property, space, communications, facilities and transportation management; and, printing, publications, correspondence, procurement, contracting, and accident inquiry services.

SEC. 13. ***Personnel.*** – Subject to civil service laws, rules and regulations, and the approval of the Department of Budget and Management, the Board shall determine its own staffing pattern and the number of personnel of the organization. The Board shall, in accordance with existing laws and policies, select, appoint, employ, and fix the compensation of such officers and employees, including investigators, and attorneys, as may be necessary to carry out its powers and duties.

SEC. 14. ***Prohibited Interests.*** – The Chairperson, members of the Board, officers, and employees shall not, during their tenure, hold any other office or employment. Neither shall they engage in the practice of any profession or in the active management or control of any business which, in any way, may be affected by the functions of their office, nor shall they be financially interested, directly or indirectly, in any contract with, or in any franchise or privilege granted by the government and its subdivisions, agencies or instrumentalities, including government-owned or controlled corporations or their subsidiaries. They shall directly avoid conflict of interest in the conduct of their office.

No spouse or relative by consanguinity or affinity within the fourth civil degree and no law, business, or professional partner, or associate of the Chairperson or members may appear as counsel or agent on any matter pending before the Board, or transact business directly or indirectly therewith.

The disqualification shall apply during the tenure of the official concerned and one (1) year thereafter.

Any violation of this section shall be a ground for removal from the PTSB as well as administrative, civil, or criminal prosecution under applicable laws.

SEC. 15. ***Recommendations of the Board.*** – The Board shall submit its recommendation on transportation safety to appropriate government agencies which shall respond formally and in writing not later than thirty (30) days after receipt thereof. The failure on the part of the concerned agency to abide by the recommendation of the Board without any justifiable reason shall be a ground for administrative liability of the head of the agency or concerned official including other penalties as provided under existing laws.

The Board shall recommend to the appropriate government agencies the recall of defective means of transportation and to cause the installation of the required part or parts to make those safe and notify not only the distributor or purchaser but also the public of such defect. It shall also recommend the grounding of any defective means of transportation pending the investigation of the cause or nature of its defect. Moreover, the Board may also recommend the denial, amendment, modification, suspension, or revocation of a certificate of public convenience, registration or franchise of the shipping, air transport, or land transport company if found negligent, as well as the suspension or revocation of their license to operate, as the case may be.

In its report, the Board shall include the accountabilities of officials and employees of regulatory transport agencies who fail to properly implement the transportation safety

standards provided under pertinent or applicable conventions, treaties, laws, rules and regulations.

SEC. 16. *Disclosure, Availability, and Use of Information.* – (a) Except as provided in this section, any copy of record, information or report of investigation submitted to the PTSB shall be made available to the public upon request and payment of reasonable cost;

(b) The Board shall not make the records available for purposes other than accident or incident investigation, unless the appropriate authority for the administration of justice determines that their disclosure outweighs the adverse domestic and international impact;

(c) The Board shall not disclose any information related to a trade secret except:

1. To another department, agency, or instrumentality of the national government, when requested for official use;

2. To a committee of Congress having jurisdiction over the subject matter to which the investigation is related, when requested by that committee;

3. In a judicial proceeding under a court order that preserves the confidentiality of the information without impairing the proceeding; and

4. To the public: *Provided*, That such disclosure shall be for the protection of public health and safety: *Provided, further*, That the disclosure shall be made in a manner designed to protect and preserve its confidentiality.

(d) The Board shall not publicly disclose any part of a cockpit voice recording or transcript of oral communications by and between flight crew members and ground station related to an accident or incident investigated by the PTSB: *Provided*, That the PTSB shall make public any part of the transcript that it deems relevant to the said accident or incident:

1. When the PTSB holds a public hearing on the accident or incident; or

2. When the PTSB makes public its findings relative to the said accident or incident.

(f) Except as provided in Section 16 (b) of this Act, the Board shall maintain the confidentiality of, and exempt from disclosure:

1. Laboratory records provided to the Board; and

2. Medical information related to the test or a review of the test voluntarily provided to the Board by the tested officer or employee.

(g) The Board may use a laboratory record of a person made available to it under this Act to develop an evidentiary record in its investigation of an accident or incident where the fitness of such person is at issue.

SEC. 17. *Non-admissibility as Evidence.* – No part of a report of the PTSB related to a transportation accident investigation may be admitted into evidence or used in a civil action for damages resulting from a matter mentioned in the report. Furthermore, the PTSB shall have immunity from suits arising from its investigation, pronouncements, and findings.

ARTICLE IV MISCELLANEOUS PROVISIONS

SEC. 18. *Relationship with Other Government Agencies.* – (a) Nothing in this Act shall deprive other government agencies from performing their intrinsic functions, including the investigation of accidents or making inquiries thereon: *Provided*, That the PTSB, at its discretion, may require the submission of the records, findings, and recommendations of the investigation or inquiry. For this purpose, the agency concerned shall transmit to the PTSB, within fifteen (15) days from receipt thereof, said records, findings, and/or recommendations;

(b) In the exercise of its powers, the PTSB shall take into consideration the provisions of any treaty entered into by the Republic of the Philippines with other countries relative to the investigation of accidents over which the PTSB assumed jurisdiction.

SEC. 19. *Annual Report.* – The PTSB shall submit to both Houses of Congress an annual report at the end of each year.

SEC. 20. **Privacy Protection.** – Nothing in this Act shall be construed as weakening the protections mandated under Republic Act No. 10173, otherwise known as the “*Data Privacy Act of 2012*.”

SEC. 21. **Seal.** – The PTSB shall have a seal which shall be officially recognized.

ARTICLE V FINAL PROVISIONS

SEC. 22. **Transportation Safety Fund.** – (a) There is hereby created a Transportation Safety Fund, hereinafter known as the Fund, to be deposited in a special trust fund to be administered by the PTSB. The Fund shall be sourced from:

1. Savings from the annual operating expenses of the PTSB; and
2. Monetary donations and gifts received by the PTSB under Section 8 of this Act.

(b) Subject to the usual accounting and auditing rules and regulations, the Fund shall be used exclusively for the following purposes:

1. Operational expenses in investigating transportation accidents;
2. Studies and research on transportation safety;
3. Reimbursement of extraordinary expenditures and expenses of government and private agencies and persons mobilized by the Board in investigating transportation accidents; and
4. Training and related conferences to enhance the expertise of the officers, personnel and employees of the PTSB.

SEC. 23. **Appropriations.** – The amount of Thirty million pesos (P30,000,000.00) is appropriated to finance the operation of the PTSB for the first year out of the funds of the National Treasury not otherwise appropriated. Thereafter, such amounts as may be necessary and sufficient to finance its operations and activities shall be included in the annual General Appropriations Act.

SEC. 24. **Implementing Rules and Regulations.** – Within sixty (60) days from the effectivity of this Act, the PTSB, in coordination with the Department of Justice, Department of Transportation, Department of Public Works and Highways, Department of Energy, Department of Trade and Industry and the Philippine National Police, shall promulgate the implementing rules and regulations for the effective implementation of this Act.

SEC. 25. **Separability Clause.** – If any provision or part of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected thereby shall remain in full force and effect.

SEC. 26. **Repealing Clause.** – All laws, decrees, orders, proclamation, rules and regulations, or parts thereof, which are inconsistent with any provision of this Act are hereby repealed, amended, or modified accordingly.

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

Approved,