

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

OFFICE : _____

10 AUG 12 PM '89

SENATE
S. No. **2405**

OFFICE : _____

Introduced by Senator Ramon "Bong" Revilla, Jr.

EXPLANATORY NOTE

Article 1733 of Republic Act No. 386, otherwise known as the Civil Code of the Philippines, provides that:

"Common carriers, from the nature of their business and for reasons of public policy, 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."

The said provision explicitly states that a common carrier is required by law to observe not only the diligence that a reasonable man will exercise under the circumstances of each case, but extraordinary vigilance over the goods they are carrying and extraordinary vigilance for the safety of their passengers. The responsibility imposed by law on common carriers is a necessary consequence of their operation, due to the nature of their business which is imbued with public interest.

In fact, a more stringent obligation is imposed by Republic Act No. 386 on common carriers with respect to the carriage of passengers. Article 1755 of the same statute provides that:

"A common carrier is bound to carry passengers safely as far as human care and foresight can provide, using the utmost diligence of very cautious persons, with a due regard for all the circumstances."

The Supreme Court of the Philippines, in its earliest decisions until the present, has continuously cited the aforementioned provisions and other laws relative to the diligence required to be observed by common carriers. These decisions defined and construed said laws, and has been used as a basis for awarding civil indemnity and damages by reason of the injury caused by the negligent operation of common carriers, thereby enriching Philippine jurisprudence in the process.

Unfortunately, only Philippine jurisprudence has been enriched by the promulgation of the said decisions for the fact remains that vehicular accidents due to the negligent operation of public utility vehicles continue to hound our streets, highways and other major thoroughfares.

One need not look at the statistics. Reports of vehicular accidents involving public utility buses, jeepneys, cabs and other vehicles are commonplace in radio, television, print media and the cyberspace. While the law already provides for remedies to recover indemnity from the erring common

carrier, the process involved is usually difficult and burdensome for the average Filipino. Much worse is the fact that common carriers would oftentimes try to elude responsibility by pointing a finger to the drivers of its conveyances, who are normally incapacitated to shoulder such financial liability. What follows is court litigation which is more cumbersome, leaving the hapless victims and/or their families suffering more and becoming victims once again, now due to the deceit being employed by the common carriers in trying to delay, or much worse, evade responsibility.

But despite recovery of civil indemnity and damages, the same shall never compensate the untimely injury or loss suffered by one who becomes the hapless victim of such tragedy, or their family.

Hence, this bill seeks to supplement existing statutes by mandating drivers of public conveyances to undergo training and education, so as to be sufficiently informed of their responsibilities and liabilities as the agents of their respective employers. Through the said measure, it is intended that said drivers will develop and exercise the necessary prudence in safeguarding the safety of the riding public, thereby preventing loss or destruction of life and property.

Furthermore, the responsibility imposed upon common carriers to exercise extraordinary diligence in the supervision of their employees is expanded so as to ensure that the latter are observing the necessary prudence and precautions required by law depending on the circumstances, being the employers and the beneficiaries of the proceeds of their respective businesses.

Conversely, this bill intends to benefit the riding public through driver information aimed at safety measures, and the common carriers and their respective drivers by preventing vehicle mishaps from taking place, thereby preventing injury to others and, consequently, liability from attaching to the common carriers and its drivers.

Passage of this bill is therefore earnestly sought.



RAMON "BONG" REVILLA, JR.

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

OFFICE OF THE CLERK

10 AUG 12 AM 29

SENATE
S. No. 2405

RECEIVED

Introduced by Senator Ramon "Bong" Revilla, Jr.

**AN ACT MANDATING SUFFICIENT INFORMATION OF DRIVERS OF
PUBLIC UTILITY VEHICLES AS A REQUIREMENT FOR THE
ISSUANCE AND EXTENSION OF FRANCHISES OF COMMON
CARRIERS**

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

SECTION 1. Short Title. – This Act shall be known as the "Common
Carriers Act of 2010."

Sec. 2. Declaration of Policy. – It is hereby declared to be the policy of
the State to reduce, with the end in view of totally eliminating, death and physical
injuries, as well as destruction and damage to property, due to accidents caused
by reason of the reckless driving of public utility vehicles. The State hereby
mandates that the drivers thereof be sufficiently informed of the laws, rules and
the risks involved in the operation of common carriers, the same being imbued
with public interest.

For purposes of this act, a public utility vehicle shall be understood as one
that is being owned and/or operated by a common carrier as defined in Article
1732 of Republic Act No. 386, otherwise known as the Civil Code of the
Philippines.

Sec. 3. Driver Education. – Every common carrier shall be required to
subject the drivers of their public utility vehicles to complete a course of
instruction that provides information on driver and safety matters; existing laws,
traffic rules and regulations relative to public safety; the effects of consumption of
alcoholic beverage products and the use of illegal drugs, prescription drugs, and
non-prescription drugs on the ability of a person to operate a motor vehicle, and
the hazards and penalties for driving under the influence thereof; and the
carriage of passengers and goods, the liabilities and penalties for violations
thereof.

Thereafter, the drivers of public utility vehicles being employed by
common carriers shall be required to take a test which covers the subject matters
provided in the preceeding paragraph which shall include written questions
concerning the legal and financial consequences resulting from violations of such
laws, traffic rules and regulations.

The course of instruction and test as herein provided shall be conducted
by the Land Transportation Franchising and Regulatory Board. No person shall
be allowed to drive a public utility vehicle unless he has successfully completed
the course of instruction and passed the test provided in this section.

Sec. 4. Reportorial Requirements. – A report indicating compliance with the preceeding section shall be filed with the LTFRB:

- (a) Twice every year for common carriers with valid and existing Certificate of Public Convenience;
- (b) Within two (2) months from compliance with the requisite course and test provided in the preceeding section for drivers of persons, corporations, firms or associations applying after the effectivity of this Act: *Provided*, that the requisite course and test provided in this section shall be complied with six (6) months from the issuance of the Certificate of Public Convenience;
- (c) Within six (6) months prior to the application for extension of the validity of a Certificate of Public Convenience.

Sec. 5. Non-extension of Validity of Certificate. – Upon proof that a common carrier has failed to comply with the requisite course and test required in Section 3 of this Act, the LTFRB, upon complaint or *motu proprio*, shall deny the application for the extension of the validity of a Certificate of Public Convenience.

However, despite compliance with the required course and test, the application for the extension of the validity of a Certificate of Public Convenience may, upon complaint, and after due process has been observed, likewise be denied by the LTFRB for failure to file the necessary reportorial requirements as provided in the preceeding section.

Sec. 6. Costs of Instruction and Examination. – The costs and other expenses for the course and test provided in Section 3 of this Act shall be for the account of the persons, corporations, firms or associations owning the Certificate of Public Convenience.

It shall be unlawful for a common carrier to collect any amount or contribution from the driver employed as payment for costs to be incurred in compliance with this Act. Violation of this section shall result in the suspension of the Certificate of Public Convenience for a period of six (6) months for the first infraction; suspension of the Certificate of Public Convenience for a period of one (1) year for the second infraction; and revocation of the Certificate of Public Convenience for the third and/or subsequent infractions: *Provided*, that multiple violations of this section shall be treated as independent infractions regardless if the same was filed in one and the same complaint, and involving two or more complainants.

For purposes of this section, the phrase "driver employed" in the immediately preceeding paragraph shall be understood as including job applicants for driver of the common carrier, contractual drivers and those driving the public utility vehicle working under the "boundary system".

Sec. 7. Presumption of Negligence. – Failure of the common carrier to comply with the course of instruction and test required by Section 3 of this Act shall be conclusive as to the negligence of the said common carrier in cases of vehicle mishaps.

However, the failure of the common carrier to file the reportorial requirements mandated by Section 4 shall only raise a presumption of negligence on the part of the common carrier, which may be rebutted by evidence of compliance with Sec. 3 of this Act.

Sec. 8. Registered Owner Rule. – The presumption of negligence in the immediately preceeding section shall attach to the registered owner of a public utility vehicle, regardless if said vehicle has been previously sold, leased or otherwise conveyed to another who is operating the same under the “Kabit System”.

The liability for breach of contract of carriage shall attach to the registered owner of a public utility vehicle, who may be entitled to reimbursement from the transferee thereof.

Sec. 9. Implementing Rules and Regulations. – It shall be the duty of the LTFRB of the Department of Transportation and Communication to promulgate the necessary implementing rules and regulation for the proper implementation of this Act.

It is likewise the duty of the LTFRB to formulate the syllabus of the course provided in Section 3 of this Act, and to conduct the tests in compliance therewith.

Sec. 10. Separability Clause. – If any part, section, or provision of this Act shall be held invalid or unconstitutional, the other provisions shall not be affected thereby.

Sec. 11. Repealing Clause. – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with, the provisions of this Act is hereby repealed, modified or amended accordingly.

Sec.12. Effectivity. – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,