

'14 JUN -2 P 4 :29

SENATE
S. B. **2266**

RECEIVED BY: *ji*

Introduced by Senator Poe

**AN ACT
TO PROMOTE COST-EFFECTIVE MEASURES FOR THE TRANSPORT SECTOR
AND COMMUTING PUBLIC, PROVIDING FOR THE CREATION OF A NATIONAL
TRANSPORTATION SAFETY BOARD, PRESCRIBING ITS POWERS AND
FUNCTIONS, AND APPROPRIATING FUNDS THEREFOR**

Explanatory Note

The Philippines long needs a central agency tasked with probing transportation-related incidents, conducting special studies concerning transportation safety and recommending improvements in transportation safety.

The proposed National Transportation Safety Board (NTSB) under this bill shall be the central independent agency of the Philippine government that would envision achieving the highest standards of excellence in investigating aviation and surface transportation disasters and prevent the loss of lives through its thorough, accurate and independent investigations, results and recommendations of which shall be forwarded to Congress and concerned government agencies for proper action.

Among the functions of the proposed NTSB include conducting safety inspections on land, sea and air transportation and appraising or assessing existing practices and policies regarding the transportation sector.

This legislation is inspired by the efforts of road safety advocate Elvira Medina and the National Council for Commuters Safety and Protection and the various organizations supporting key reforms in the transportation sector.


As such, in line with promoting a safer transportation industry in the Philippines, approval of this measure is earnestly sought.


GRACE POE



'14 JUN -2 P4 :29

SIXTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

RECEIVED BY: 

SENATE
S. B. **2266**

Introduced by Senator Poe

AN ACT
TO PROMOTE COST-EFFECTIVE MEASURES FOR THE TRANSPORT SECTOR
AND COMMUTING PUBLIC, PROVIDING FOR THE CREATION OF A NATIONAL
TRANSPORTATION SAFETY BOARD, PRESCRIBING ITS POWERS AND
FUNCTIONS, AND APPROPRIATING FUNDS THEREFOR

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

SECTION 1. Title – This Act shall be known as the “National Transportation Safety Board Act of 2014.”

SECTION 2. Declaration of Policy. – It is hereby declared the policy of the State to promote safety in the transportation of people and goods through cost-effective measures that either prevent, remedy or mitigate accidents involving any mode of transport, including pipelines and conveyors. Towards this end, the Government shall:

- (a) Conduct independent accident investigations;
- (b) Support safety programs based on continuing and objective reviews of causes or reasons for unsafety acts and conditions; and
- (c) Appraise and assess operating practices and regulations of government agencies involved in the transportation sector, insofar as they affect safety, and where appropriate, shall initiate, coordinate, formulate or promulgate safety improvement standards for the observance and implementation by the concerned government agencies and/or private entities.

SECTION 3. Creation of the National Transportation Safety Board. – There is hereby created a National Transportation Safety Board, hereinafter referred to as the “Board” which shall be attached to the Office of the President.

SECTION 4. Composition and Organization. –

- (a) The Board shall be composed of seven (7) full-time Members, headed by a Chairman, who shall be appointed by the President of the Philippines. A Member of the Board

must be a natural born citizen at the time of his/her appointment, and must have at least three (3) years of actual experience in the administration, operation and management of a transport utility firm or regulatory agency in either air, land, sea and rail transportation and knowledgeable in accident reconstruction, safety engineering or transportation and traffic safety. Provided, that three (3) of the full-time members must come from the commuting public including a representative from the organizations advocating for road safety.

- (b) The Chairman shall have a term of five (5) years but may be renewed for a non-extendible period of one (1) year. 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.
- (c) Upon the expiration of their respective terms, they shall continue to serve until their successor shall have been appointed and qualified. In case a member fails to complete his term, his successor shall only serve the unexpired portion of the term of his predecessor.
- (d) A member may be removed from office by the President for cause in accordance with the Civil Service rules and regulations.
- (e) The Chairman shall be the Chief Executive Officer of the Board. He shall exercise all the powers and discharge all functions of the Board. He shall control over all personnel employed by the Board, including, the following:
 - 1. The appointment and supervision of personnel employed by the Board;
 - 2. The distribution of business among such personnel and among any administrative units of the Board; and
 - 3. The use and expenditure of its funds.
- (f) The Board shall establish and maintain distinct appropriately staffed bureaus, division, or offices, to investigate and report on accidents involving each of the following modes of transportation:
 - 1. Aviation;
 - 2. Highway and motor vehicle;
 - 3. Pipeline, railroad, and tracked vehicle; and
 - 4. Marine transport carriers
- (g) The Board shall, in addition, establish and maintain such capabilities as may be needed to investigate and report on the safe transportation of hazardous and toxic materials.

SECTION 5. The Executive Director. –

- (a) The Board shall have an Executive Director who shall be appointed by the Chairman.
- (b) No person shall be appointed Executive Director unless he is at least thirty five (35) years of age at the time of his 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.

(c) The Executive Director shall;

1. Record and officially report on the proceedings of the Board and shall have authority to administer oaths in all matters falling within the jurisdiction of the Board.
2. Be responsible for running the day to day operation of the Board;
3. Act as the custodian of the records, maps, profiles, reports, and other documents and papers filed in connection with any case or proceedings before the Board;
4. Be responsible for the effective implementation of the policies, rules, and directives promulgated by the Board; and
5. Coordinate and supervise the activities of the different operating units of the Board and shall perform such other functions as may be assigned to him by the Chairman and/or the Board.

SECTION 6. Compensation. –

- (a) The Chairman and the Members of the Board shall have the rank of a Department Secretary and Undersecretary, respectively. They shall receive the compensation and other emoluments corresponding to those of a Department Secretary and Undersecretary, respectively.
- (b) The Executive Director shall have the rank of Assistant Secretary and shall be entitled to compensation and other emoluments corresponding to those of an Assistant Secretary.
- (c) The Chairman, The Members of the Board, and the Executive Director shall be entitled to commutable representation and transportation allowances per month in the amount not exceeding the monthly salary of the lowest-paid regular employee of the Board.
- (d) The Board shall determine the schedule of salaries of the employees subject to the compliance with the existing compensation law; Provided, that the Board shall determine and fix the compensation and fringe benefits of employees holding technical positions that are not common to the agencies of the government which shall be specified in the implementing Rules and Regulations.

SECTION 7. Duties and Functions of the Board. – The Board shall:

- (a) Investigate or cause to be investigated and determine the facts, conditions, and circumstances and the cause of any of the following:
 1. Aircraft accidents, in accordance with ANNEX 13 of the ICAO regulations. The result of the investigation shall be made available to the public by the Board within sixty (60) days from its completion.
 2. Highway accidents, including railroad grade crossing accidents in coordination with the Local Government Unit (LGU) where the accident occurred.
 3. Railroad accidents in which there is fatality, substantial property damage, or which involved a passenger train.

4. Pipelines accidents, in which there is fatality or substantial property damage;
 5. Major marine accident, except those involving military vessels, occurring on the navigable waters or territorial seas of the Philippines. The result of the investigation shall be made available to the public by the Board within sixty (60) days from its completion.
 6. Other accidents involving transportation of people and property, which, in the judgement of the Board, are catastrophic and of a recurring character.
- (b) Report in writing to Congress and the President on the facts, conditions, and circumstances of each accident investigated pursuant to Section 7 (a) of this Act, and cause such report to be made available to the public by the Board within sixty (60) days from the completion of its investigation.
 - (c) Issue periodic reports to Congress, the President, and to make it available to government agencies and instrumentalities, and non-government organizations concerned with transportation safety upon request, including owners of public transportation carriers who may be concerned with the findings of the Board and to interested persons. Such reports shall contain proposals for corrective measures to make the transportation of persons as safe and free from the risk of injury as possible, including steps to minimize human injuries from transportation accident: Provided, the said reports shall be made public within sixty (60) days from its submission to the Congress or to the president, as the case may be;
 - (d) Initiate and conduct special studies and investigation on matters pertaining to safety in transportation and avoiding injury to persons and damage to property;
 - (e) Gather, analyse, maintain, and publish from time to time data and statistics on transportation accidents;
 - (f) Carry out special studies and investigations relative to transportation safety;
 - (g) Prescribe requirement for persons reporting accidents and aviation incidents that:
 1. May be investigated by the Board pursuant to this Act; or
 2. Involve public aircraft, except aircraft of the Armed Forces of the Philippines.
 - (h) Perform such other functions as may be necessary to effectively implement the objectives and provisions of this Act.

SECTION 8. Powers of the Board. –

- (a) The Board 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 Board.*
- (b) Any representative authorized by the Board, 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 thereof. The representative may inspect at reasonable times, records, files processes, controls, and facilities relevant to the investigation of such accidents. Each inspection shall be commenced and completed with reasonable promptness;

- (c) In investigating the aircraft accident pursuant to this Section, the Board may inspect and test, to the extent necessary, any civil aircraft engine, equipment, propeller, appliance, or property on an aircraft involved in an accident in air commerce: Provided, however, That any civil aircraft engine, equipment, propeller, appliance, or property on an aircraft involved in air commerce shall preserved, and may be moved, only as prescribed by regulations promulgated by the Board;
- (d) And officer or employee of the Board may examine or test any motor vehicle, vessel, rolling stock, track, or pipeline component. 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, vessel, rolling stock, or pipeline component; 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.
- (e) The Board shall have the sole discretion to:
 - 1. Decide the manner by which the testing will be undertaken pursuant to this Act;
 - 2. The person who will conduct the test;
 - 3. The type of test to be conducted; and
 - 4. Any individual or individuals who will witness the test;

Provided, that an inspection, examination, or test conducted pursuant to this Act by an officer or employee of the Board shall be started and completed promptly: Provided, further, that the results and findings of such inspection, examination, or test shall made public within thirty (30) days upon completion thereof.

- (f) The Board 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 transportation accident. The Board may order, if necessary, the autopsy, or require other tests of such persons as may be needed for the investigation of the accident;
- (g) The Board may enter into such contract, leases, agreements and other transactions as may be necessary in the conduct of its functions and duties;
- (h) The Board may call assistance of, and use any available services, equipment, facilities, of the DOJ, DOTC, PCG, Department of National Defense (DND), Department of Public Works and Highways (DPWH), Philippine National Police (PNP), and other agencies and instrumentalities of the government;
- (i) The Board may create advisory committees composed of qualified private citizens and government officials with whom the Board may consult in the implementation of its functions and duties. And to pay honoraria of these persons for meetings actually attended. Whenever necessary, the Board may likewise appoint or retain the services of recognized experts as consultants on the accidents under investigation. Such consultants shall be paid compensation as fixed by the Board: Provided, That not more than three (3) consultants shall be appointed for each accident being investigated: Provided, further, That no officer, external auditor, or legal counsel of any investigated: Provided, further, That no officer, External auditor, or legal counsel of any private company or enterprise primarily engaged in the transportation industry shall be eligible for appointment as a consultant of the Board within three (3) years from his retirement, resignation, or separation therefrom;

- (j) Appoint advisory committees composed of qualified private citizens and officials of the national government and LGUs as appropriate;
- (k) Any law to the contrary notwithstanding, accept voluntary and uncompensated services;
- (l) Accept donations and gifts of money and other property;
- (m) Enter into contacts with non-profit entities to carry out studies related to the duties and powers of the Board for its operating expenses;
- (n) Require that departments, agencies, and instrumentalities of the government, including LGUs and government of foreign countries, provide appropriate consideration for the reasonable costs of goods and services supplied by the Board; Provided. That such amounts shall accrue exclusively to the Board for its operating expenses;
- (o) The Chairman of the Board may determine the number of committees that are appropriate to maintain effective liaison with other departments, agencies and instrumentalities of the national government and LGUs, non-government organizations, and independent standard-setting authorities that carry out program and activities related to transportation safety. The Board shall designate representative to serve in the committees;
- (p) The Board or any officer, or employee designated by the Chairman, may conduct an inquiry to obtain information related to transportation safety;
- (q) The Board, or its designated officer or employee, may require by order, a department, agency, or instrumentality of the national government, LGU, or a person, natural or juridical, which transports persons or goods, to submit to the Board a written report and answers to request and questions pursuant to the powers of the Board under this Act. The Board shall prescribe the time within which the reports and the answers thereto must be submitted to its designated officer or employee. Copies of the report and the answers thereto shall be made public within sixty (60) days from submission to the Board; and

SECTION 9. 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, when those functions exist prior to the effectivity of this Act: Provided, however, That the Board, at its discretion, may require the submission of the records, findings, and recommendations of the investigation or inquiry;
- (b) The PNP or any other law enforcement agency shall continue to investigate and record accidents involving motor vehicles and/or pedestrians. For this purpose, the Board shall prescribe a uniform and standard operating system for investigation of such accidents, which shall be mandatory on the part of the investigating body or person;
- (c) The Board power shall take precedence over those of other government agencies tasked with investigating air and marine accidents which, in the Board's judgement, requires its inquiry or attention;

- (d) For the preservation, proper handling, conservation, and protection of evidence, records, files, and/or specimens related to any accident over which it assumes or has jurisdiction, the Board may assume control or possession of the evidence, records, files, and/or specimens;
- (e) The Board may require the submission of the records, findings, and/or recommendations of previous accidents and/or investigations of such accidents, from any government agency. For this purpose, the agency concerned shall transmit to the Board, within fifteen (15) days from receipt thereof, said records, findings, and/or recommendations;
- (f) In the exercise of its powers, the Board 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 Board assumed jurisdiction.

SECTION 10. 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 Board shall be made available to the public upon request and at reasonable cost;
- (b) The Board shall not make the records available for purpose 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 information so disclosed will not be detrimental to public health and safety: Provided finally, 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 Board: Provided, however, That the Board shall make public any part of transcript the Board decides is relevant to the said accident or incident:
 - 1. When the Board holds a public hearing on the accident or incident; or
 - 2. When the Board makes public its findings relative to the said accident or incident
- (e) Any law to the contrary notwithstanding, the head of the concerned agency shall, upon order or written request by the Board, provide the following information to the board:

1. Any report or a confirmed positive toxicological test, verified as positive by the medico-legal officer of the National Bureau of Investigation (NBI), conducted on an officer or employee of the concerned agency under post-accident, unsafe practice, or reasonable toxicological requirements of the concerned with the circumstances of an accident or incident under the investigative jurisdiction of the Board; and
 2. Any laboratory record documenting that the test is confirmed as positive.
- (f) Expert as provided in Section 10 (b) of this Act, the Board shall maintain the confidentiality of, and exempt from disclosure:
1. Laboratory records provided to the board shall maintain the confidentiality of, and exempt from disclosure; 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 made available to it under this Act to develop an evidentiary record in its investigation of an accident or incident if:
1. The fitness of the tested officer or employee is at issue in the investigation; and
 2. The use of that record is necessary to develop the evidentiary record.

SECTION 11. Testimony. –

- (a) Any party to an administrative proceeding may, at any time, make an offer to the Board, conditionally or otherwise for a consented decree, voluntary compliance or desistance and other settlement of the case.
- (b) Testimony, of the offer thereof, and any or all of the ultimate facts upon which the offer is based, shall be considered for settlement purpose only and cannot be used as evidence against any party for any other purposes and shall not constitute an admission by the party making the offer of any violation of this Act, and the rules, regulations, orders, and resolutions promulgated by the Board.

SECTION 12. 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 Board. The Fund shall be funded from:
1. Savings from the Board's annual operating expenses; and
 2. Monetary donations and gifts received by the Board under Section 8 (1) 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 major accidents;
 2. Initiate studies and research in the causes and possible prevention of accidents and other disasters, as provided in this act;
 3. Reimbursement of extraordinary expenditures and expenses of government and private agencies and/or persons mobilized by the Board in investigating major accidents; and

4. Training and related conferences to further and enhance the expertise of the officers and employees of the Board under the provisions of this Act.

SECTION 13. Appropriations. – The sum of Fifty Million Pesos (P 50,000,000.00) is hereby appropriated out of any funds in the National Treasury not otherwise appropriated, for the initial organization and operations of the Board. Thereafter, such sums, as may be necessary for the operations of the Board, shall be included in the annual General Appropriations Act.

SECTION 14. Annual Report. – The Board shall submit to the President and Congress an annual report at the end of every calendar year containing, among others:

- (a) Statistical and analytical information of accident or incident investigations conducted and reviewed by the Board during the preceding year;
- (b) A survey and summary of the recommendations made by the Board to reduce the likelihood of the recurrence of those accidents, together with the observed response to each recommendation;
- (c) A detailed appraisal of each accident investigation and accident prevention activity of other departments, agencies, other instrumentalities of the national government and the LGUs; and
- (d) The uses of, disbursement from, and receipt to the Fund created in accordance with this Act.

SECTION 15. Implementing Rules and Regulations. – Within sixty (60) days from the effectivity of this Act, the Board, in consultation with the DOJ, DOTC, PCG, DND, DPWH, PNP, and NBI, shall promulgate the implementing Rules and Regulations (IRR) for the effective implementation of this Act. The IRR shall provide procedures geared towards streamlined processes and swift justice by observing timeline or deadline in rendering decisions and issuances, plain writing or easy-to-understand instructions, and over-all improvement of the industry.

SECTION 16. Separability Clause. – If, for any reason, any provisions of this Act is declared invalid or unconstitutional, the other part or parts thereof which are not affected thereby shall continue to be in full force and effect.

SECTION 17. Repealing Clause. – All laws, decrees, executive orders, issuances, or rules and regulations, or portions thereof, that are inconsistent with this Act or any provision or provisions, thereof, are repealed or modified accordingly.

SECTION 18. Effectivity. – This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,