


THIRTEENTH CONGRESS OF THE }
REPUBLIC OF THE PHILIPPINES }
First Regular Session

'04 JUN 30 P10:50

SENATE

S. No. 783

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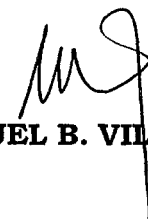
INTRODUCED BY HON. MANUEL B. VILLAR, JR.

EXPLANATORY NOTE

Promotion of safety in the transport of people and goods through effective measures that prevent or minimize accidents is a policy of the State.

This bill seeks to create a National Transportation Safety Board which shall be an independent, non-regulatory agency that shall undertake thorough and impartial investigations of transportation accidents. The board shall be tasked to primarily do the analysis, evaluation, and prevention of air, highway and marine accidents, including railway and pipeline systems for the effective promotion of safety.

To promote the safety of our transportation system and to prevent the loss of lives and damage to properties, passage of this bill is earnestly sought.


MANUEL B. VILLAR, JR.

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AN ACT
CREATING A NATIONAL TRANSPORTATION SAFETY BOARD
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

SECTION 1. *Title* - This Act shall be known and cited as the "Transportation Safety Act of 2004"

SECTION 2. *Declaration of Policy* - It is the policy of the State to promote safety in the transportation of people and goods through effective measures that prevent or minimize accidents involving various modes of transportation, transportation networks and systems including pipelines and conveyors. In pursuit of this objective, the Government shall conduct independent accident investigation, to determine probable cause(s), support safety programs based on continual and objective review of causes or reasons for unsafe practices, appraise and assess operating practices and regulations of government agencies involved in transportation insofar as they affect safety issue safety recommendations and, where appropriate, shall initiate, coordinate, recommend safety improvement standards for observance and implementation by concerned public agencies and/or private entities, reporting publicly on its investigations and on the findings in relation thereto. It is not the function of the Board to assign fault or determine civil or criminal liability.

SECTION 3. *Creation of the National Transportation Safety Board and its relationship with other Government Agencies* - A National Transportation Safety Board, hereinafter referred to as the Board, is hereby created, as an independent investigative and regulatory body, to implement the foregoing policy of the State. For administrative purposes, the Board shall be attached to the Office of the President.

SECTION 4. *Organization*

1. The Board shall consist of five (5) full-time members, including a Chairman, who shall be appointed by the President of the Philippines, with the advice and consent of the Commission on Appointment. A member must have

at least ten (10) years of practiced experience as an employee or officer of transport utility firms or regulatory agency in either air, land or sea mode of transportation and preferably, with knowledge of accident investigation, safety engineering or transportation and traffic safety.

2. The terms of office of the members of the Board shall be six (6) years, except that the first appointees shall have a term of two, four and six years, respectively. A member may be re-appointed for another term, but in no case exceeding twelve (12) years of service with the Board. Even before the expiration of his term of office, a member of the Board may be removed by the President of the Philippines for cause, including inefficiency, neglect of duty, or malfeasance in office.

3. The Chairman shall be the Chief Executive Officer of the Board and shall exercise executive and administrative functions with respect to the appointment and supervision of personnel employed by the Board; the distribution of business among such personnel and administrative units; and the use of expenditure of funds. The Chairman shall be assisted by a managing Director and both shall be governed by the general policies established by the Board en banc, including any decisions, findings, determinations, rules, regulations and formal resolutions.

4. The Board shall have a Managing Director who shall be appointed by the President of the Philippines upon the recommendation of the Board. The Managing Director shall be responsible for the day to day administration of the Board.

5. The Board shall establish and maintain distinct and appropriately staffed bureaus, divisions or offices to investigate and report on significant accidents involving each of the following modes of transportation:

- a. Aviation;
- b. Marine Transport carriers;
- c. Highway and other motor vehicle; and
- d. Pipeline, railroad and tracked vehicle.

SECTION 5. *Compensation* - The Chairman of the Board shall receive an annual salary equivalent to an Undersecretary of a Department, while the members of the Board shall receive an annual salary equivalent to an Assistant Secretary. They 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.

SECTION 6. *Duties and Functions of the Board* - The Board shall have the following duties and functions:

1. Investigate or cause to be investigated, in such detail as it shall prescribe, and determine the facts, conditions and circumstances and the probable cause or causes, of any:

- a. Aircraft accident in accordance with International Standards and Recommended Practices as proscribed in Aircraft Accident and Incident Investigation, ANNEX 13, to the Convention of International Civil Aviation, Seventh (7) Edition, October 11, 1994;
- b. Marine accident except one involving only military vessels, occurring on the navigable waters or territorial sea of the Philippines, in accordance with regulations as prescribed by International Marine Standards and Recommended Practices;
- c. Significant highway accident;
- d. Significant railroad accident in which there is fatality, substantial property damage or which involves another train; or rail vehicle; or
- e. Significant pipeline accident in which there is fatality or substantial property damage.

2. Report in writing on the facts, conditions and circumstances of each accident investigated pursuant to paragraph (1) of this section and cause such reports to be made available to the public within the shortest possible time after the occurrence of the accident.

3. Issue periodic reports to the President, as well as furnish copies of such reports to both houses of Congress, the Secretary of the Department of Transportation and Communications (DOTC) and to other governmental and nongovernmental agencies concerned with transportation safety, including owners of public transportation carriers who may be involved in the investigations of the Board, with proposals of corrective steps to make the transportation of persons as safe and free from risk of injury as possible, including steps to minimize human injuries from transportation accidents.

4. Initiate and conduct special studies and special investigations on matters pertaining to safety in transportation and human injury avoidance.

5. Assess and re-assess techniques and methods of accident investigation and promulgate recommended procedures for accident investigations for the information and guidance of concerned government agencies.

6. Evaluate and assess the effectiveness of the concerned government agencies in promoting transportation safety consciousness and in preventing accidents.

7. Evaluate the adequacy of safeguards and procedures concerning the transportation of hazardous material and the performance of carriers and government agencies charged with assuring the safe transportation of such materials.

8. Gather, analyze maintain and publish from time to time data and statistics on transportation accidents.

9. Insure adequate training of technical personnel in the conduct of investigations in line with the advancement of new technology, including participation in seminars and international conferences.

10 Perform such other functions as may be necessary to implement effectively the objectives and provisions of this Act.

SECTION 7 Powers of the Board - The Board shall have the following powers:

1. To conduct hearings, administer oaths and require by subpoena duces tecum the production of such evidence as the Board may deem necessary.

In case of refusal to obey a subpoena, or an inspection notice of the Board or of any duly designated employee thereof by any person, such person may be required to comply forthwith by a court of competent jurisdiction upon the request of the Board. Failure to obey such an order is punishable by such court as contempt of court.

2. Any employee duly authorized by the Board, upon the presentation of the appropriate documents, may enter any property wherein a transportation accident has occurred or wreckage from such accident is located in order to undertake investigation thereof. The employee may inspect, at reasonable times, records, files, processes, controls and facilities relevant to the investigation of accidents. Each inspection shall be commenced and completed with reasonable promptness.

3. The Board may require and shall be furnished a copy of the autopsy reports by the officials concerned of 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 test of such persons as may be needed for the investigation of the accident.

4. The Board may enter into such contracts, leases, agreements and other transactions as may be necessary in the conduct of its functions and duties.

5. The Board may request the assistance of and use the available services, equipment and facilities of the Department of Transportation and Communications (DOTC), the Department of Public Works and Highways (DPWH) and other agencies and instrumentalities of the government.

6. The Board may create advisory committees composed of qualified private citizens and government officials with which the Board may consult in the implementation of its functions and duties, and to pay honoraria to these persons for meetings actually attended. Whenever necessary, the Board may likewise appoint recognized experts as consultants for specific investigations being conducted who shall be paid the compensation fixed by the Board; *Provided*, That not more than two (2) consultants shall be appointed for each accident being investigated.

SECTION 8. *Recall, Replacement and Notification of Defective Conveyances* - The Board may recommend to the DOTC the recall by the manufacturer or its agent or representative, of all locally sold units of a particular model of vehicle or transport vessel which was involved in an accident, if the accident can be attributed to the defect in design or manufacture of any part or instrumentation of the model. *Provided*, That said recall is within five (5) years from the date of introduction of the model and said defect in design can be proven to affect many units of that model. *Provided further*, That the purpose of such recall shall be for the correction of said defect in all affected units either by replacement or the redesign of the defective device in order to render the particular transport/vessel model safe for public and commercial use. *Provided finally*, That the Board shall notify the distributor or purchaser of the defective unit as well as the public of such defect and the cost for such remedial measures shall be for the account of the manufacturer or its agents or distributors.

SECTION 9 *Grounding Defective Conveyance* - The Board shall, after consultations with the proper government regulatory or registering agency, recommend the grounding of any conveyance or unit involved in an accident pending the investigation of the cause or nature of its defect. If the defect will not affect the safety of transport operations, the Board may recommend the continuous operation of the conveyance or unit under certain limitations to be prescribed by it.

SECTION 10. *Non Admissibility of Testimony* - No testimony or part thereof taken during any investigation conducted by the Board relating to the accident or the investigation thereof shall be admissible in evidence nor shall it be used in any suit or action for damages growing out of any matter mentioned in such testimony.

SECTION 11. *Relationship with Other Institutions*

1. Nothing herein shall deter other existing government investigative agencies from performing their intrinsic functions including investigation of accidents or making inquiries thereon where these functions existed prior to this Act; *Provided, however*, that the Board, at its discretion, may direct the

manner in which such investigation shall be conducted, require the submission of the records, reports, findings and recommendations or assume direct responsibility for accidents enumerated under Section 6 paragraph 1 of this Act.

2. The police or law enforcement agency shall continue to investigate and record accidents on the roads involving motor vehicle and/or pedestrians. The Board shall prescribe a uniform and standard reporting system for such accidents which shall be mandatory to the principal investigating body or person.

3. The Board's investigation shall take precedence over those of other government agencies tasked with investigating air and marine accidents which in the judgment of the Board requires its inquiry and attention. For proper handling, conservation and protection, the Board may assume possession or control of the records, files specimens, pieces of evidence and the like pertaining to such accidents.

4. The Board may require the submission of the records, reports, findings and recommendations of past investigations from any government investigating body.

5. In the exercise of its powers, the Board shall take into consideration the provisions of any treaty or agreement entered into by the Philippines with other countries relative to investigation of transportation accidents.

SECTION 12. *Appropriations* - The sum of TEN MILLION PESOS (P10,000,000.00) is hereby authorized to be appropriated initially, out of any funds of the National Treasury not otherwise appropriated for the initial organization and operation of the Board. Thereafter, such amount as may be necessary to finance its operation and maintenance shall be included in the annual General Appropriations Act.

Savings from its annual operating budget shall be constituted into a TRANSPORTATION SAFETY FUND, to be administered by the National Treasurer.

SECTION 13. *Separability Clause* - Any portion or provision of this Act which maybe declared unconstitutional shall not have the effect of nullifying other portions or provisions hereof as long as such remaining portions or provisions can still subsist and be given effect in their entirety.

SECTION 14. *Repealing Clause* - All laws, decrees, orders, proclamations, rules and regulations, or parts thereof, which are inconsistent with any of the provisions of this Act is hereby repealed, amended or modified accordingly.

SECTION 15. *Effectivity* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,