

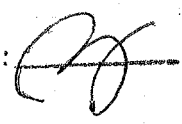
13th Congress of the Republic
of the Philippines
First Regular Session

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SENATE

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S. No. 1161

Introduced by Senator Aquilino Q. Pimentel, Jr.

EXPLANATORY NOTE

Congress is empowered to grant franchises for the operation of public utilities. It may also delegate such power to administrative agencies.

The aforesaid Congressional prerogative was beclouded by the claim and position of the Civil Aeronautics Board that it has the authority to issue a Certificate of Public Convenience and Necessity to operate domestic air service to persons who have not yet been granted a legislative franchise to engage in air commerce or transportation. The claim was reinforced by a Court of Appeals decision in AVIA Filipinas International vs. Civil Aeronautics Board, CA-GR No. 23365SP wherein the Court ruled that CAB may issue a Certificate of Public Convenience and Necessity to a domestic air service. In fact, the Civil Aeronautics Board has issued a Temporary Operating Permit to operate a scheduled domestic air service to a company which has not been granted a legislative franchise allowing it to engage in domestic air service.

There is therefore a need for legislation to put an end to the above conflict and to lay the policy involving this matter.


AQUILINO Q. PIMENTEL JR.

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**AN ACT
REQUIRING A LEGISLATIVE FRANCHISE FOR THE
OPERATION OF A DOMESTIC AIR SERVICE**

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 "Domestic Air Service Act of 2004."

SEC. 2. Declaration of Policy. - It is hereby declared the policy of the State to make the grant of a legislative franchise a requirement for the operation of domestic air service in the Philippines.

SEC. 3. Definitions of Terms. - For purposes of this Act, the following shall mean:

- (a) *Legislative Franchise* - An authorization granted by Congress to an applicant to engage in domestic air carrier service.
- (b) *Domestic Air Service* - The business of transporting by aircraft, persons, property and/or mail, to and from points within the territorial jurisdiction of the Republic of the Philippines.

SEC. 4. Operation of Domestic Air Service. - Any provision of existing law

to the contrary notwithstanding, no person shall operate a domestic air service without first securing a legislative franchise.

SEC. 5. *Franchise, A Condition Sine Qua-Non.* – No person shall be granted a Certificate of Public Convenience and Necessity (CPCN) or a Temporary Operating Permit (TOP) to operate a domestic air service or other authority of a similar nature unless such person shall have first been granted a legislative franchise to engage in domestic air service.

SEC. 6. *Revocation of Authority.* – All Certificates of Public Convenience and Necessity or Temporary Operating Permits to operate a domestic air service or other authority of similar nature previously granted to persons who have not been granted a legislative franchise to engage in domestic air service are hereby revoked.

SEC. 7. *Implementing Agency.* – The Civil Aeronautics Board (CAB) shall be the agency primarily tasked with the implementation of the objectives and provisions of this Act.

The CAB shall, pending acquisition of a legislative franchise, dismiss all applications for Certificate of Public Convenience and Necessity or Temporary Operating Permits to operate a domestic air service, or other authority of a similar nature filed by persons who have not been previously granted a legislative franchise, without prejudice to such applications being refiled.

SEC. 8. *Separability Clause.* – In the event that any provision of this Act is declared invalid and unconstitutional, the remainder of this Act shall not be affected by such declaration.

SEC. 9. *Repealing Clause.* – All laws, decrees, executive orders, rules and

regulations or any part thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 10. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* and in at least two (2) national newspapers of general circulation.

Approved,