

10 JUL -8 AM 120

SENATE

S. No. 970

RECEIVED BY: 

Introduced by Senator Manuel "Lito" M. Lapid

EXPLANATORY NOTE

The world was shocked with the spate of terrorist attacks upon transportation systems and facilities which all resulted to lost of lives and enormous damage to properties. Worth mentioning is the train bombing in Madrid, Spain and, of course, the 9/11 bombings in the United States of America wherein terrorists used various airplanes to succeed in instilling fears not only in the hearts and minds of Americans but in the hearts and minds of the people of the world.

Here in the Philippines, we are not spared of these terrorist attacks: the sinking of the Super ferry off the coast of Quezon Province, the Rizal Day bombing of the Light Rail Transit (LRT) and the bombing of the Davao International Airport.

These local and international terrorist attacks necessitate the formulation of a comprehensive security program to protect the air, water and land transport system, under a singular administrative authority armed with law enforcement powers to prevent, if not eradicate, security threats and incidents to precious human lives.

This bill seeks to create the Philippine Transport Security Authority, under the Department of Transportation and Communications (DOTC), to consolidate the civil aviation, maritime, land and rail national security programs throughout the country to prevent lawless violence and terrorist attacks.

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


MANUEL "LITO" M. LAPID
Senator

10 JUL -8 AM 120

SENATE

S. No. 970

RECEIVED BY: K

Introduced by Senator Manuel "Lito" M. Lapid

AN ACT

**CREATING THE PHILIPPINE TRANSPORTATION SECURITY
AUTHORITY, APPROPRIATING FUNDS THEREFOR AND FOR OTHER
PURPOSES**

*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 **"Philippine
Transportation Security Authority Act of 2010"**.

SEC. 2. Declaration of Policy. - The State recognizes the vital role of
public transportation and commerce in nation building and in the promotion of
international and domestic trade relations for economic growth and comity among
nations.

The State, in preserving and protecting the rights of its people to a secured public
transport system, supports and promotes the installation and implementation of a
consolidated transportation security management to improve and maintain an effective
inter-modal (air, land and water) transportation system by fostering state of the art
security measures in full compliance with the international standards / practices.

The State supports the implementation and enforcement of the strictest
measures to stamp out terrorism, economic sabotage and all forms of criminal
interference that tend to breach the integrity, safety and security of international and
domestic transportation systems.

The State adopts generally accepted principles of international law and universal
recommendations on the standards and practices on transportation security measures
as part of the laws of the land and adheres to the policy of comity and cooperation with
other nations.

**SEC. 3. Creation and Mandate of the Philippine Transportation
Security Authority.** - There is hereby created an Authority to be known as the
"Philippine Transportation Security Authority", hereinafter referred to as "Authority",
which shall be the central security agency for all transport systems in the Philippines.
The Authority shall be attached to the Department of Transportation and
Communications (DOTC) for general direction and administration.

The Authority shall be organized, trained and equipped to perform law
enforcement functions in pursuit of its mandate and in coordination with other law

enforcement agencies. The Authority shall render reciprocal support, assistance and coordination with the following agencies:

1. Civil Aeronautics Board (CAB);
2. Air Transportation Office (ATO);
3. Philippine Ports Authority (PPA);
4. Land Transportation Office (LTO);
5. Maritime industry Authority (MARINA);
6. Subic Bay Metropolitan Authority (SBMA);
7. Cebu Ports Authority (CPA);
8. Bases Conversion Development Authority (BCDA);
9. Land Transportation Franchising Regulatory Board (LTFRB);
10. Philippine National Police -Aviation Security Group (PNP-ASG);
11. Philippine National Police - Maritime Group (PNP-MARIG);
12. Philippine National Police - Traffic Management Group (PNP-TMG);
13. Armed Forces of the Philippines (AFP);
14. Philippine Coast Guard (PCG);
15. Airport Police (AP);
16. Customs Police (CP);
17. Metropolitan Manila Development Authority (MMDA);
18. Light Rail Transit Authority (LRTA);
19. Philippine National Railways (PNR);
20. Metro Rail Transit - 3 Office;
21. Autonomous Region for Muslim Mindanao, and
22. such other agencies related to and/or undertaking, promoting and pursuing transportation security.

The Authority shall encourage, promote, formulate, implement and ensure the installation of standard security and safety measures and policies that are internationally acceptable for the prevention of transportation disasters and for the protection, security, and safety of passengers, transportation facilities and properties.

SEC. 4. Powers and Functions. - The Authority shall have the following powers and functions:

a. Exercise control and supervision over all police and security agencies performing, pursuing or rendering transportation security services;

b. Responsible for the security of all modes and means of public transportation system in the Philippines including, but not limited to, screening of passengers, baggage or cargoes; hiring and retention of security screening personnel; training and testing of personnel in security screening, inspection, verification and audit;

c. Advise the President, through the Secretary of the Department of Transportation and Communications (DOTC), on all matters involving security concerns in the transportation sector. In cases of urgency or necessity where time is of the essence, the Authority, through the Administrator, may report directly to the President on matters pertaining to national or international transportation security concern;

d. Formulate, promulgate and develop, in coordination with appropriate government agencies, comprehensive and flexible security plans, policies, measures and programs to ensure the safety and security of all means of transportation in the Philippines.

The Authority shall implement, review and continue to upgrade such plans, policies, measures and programs periodically to improve transportation security and safety on sound professional concepts and principles;

e. Examine, verify and audit the transport security performance, activities and facilities of all modes of transportation system;

f. Prepare a comprehensive and separate National Transport Security Program, prescribing rules and regulations for the efficient operation of land/rail, air/civil aviation and water/maritime transportation security, including procedures and screening for the issuance of security access pass and the determination of levels of security clearance on transportation facilities and infrastructures;

g. Prescribe transport security standards in all modes of transportation systems in the Philippines in accordance with existing laws, rules, regulations and international conventions;

h. Exercise law enforcement power over all matters involving transportation security incident and/or unlawful interference upon all modes of transportation system. The Authority may enlist the assistance of other law enforcement agencies or appoint and/or deputize their personnel and/or the agency itself to carry out its mandate;

i. Actively pursue the investigation and prosecution of any act of unlawful interference against public transportation system, facilities and infrastructure, effect the arrest of offenders in accordance with law, and file appropriate charges related thereto through the appropriate government agencies;

j. Acquire, purchase, own, administer, lease, mortgage, sell or otherwise dispose of or encumber any real or personal property, equipment, assets and rights in furtherance of its mandate. The Authority shall be exempt from payment of any or all direct and indirect taxes, import fees and charges, capital gains taxes, local and national taxes, interests, import duties, fees, taxes and charges of any kind or nature, on all of its real and personal properties, assets, income and revenues, importations, transactions, loans and obligations (principal or interests) as required and incurred in the exercise of its mandate under the provisions of this Act;

k. Sue and be sued with its consent;

l. Procure, own and carry firearm, and have the authority to issue mission orders thereon, subject to existing laws, rules and regulations, and

m. Perform such other Functions necessary to effectively carry out the provisions of this Act and as the President of the Philippines or the Secretary of the Department of Transportation and Communications (DOTC), may direct.

SEC. 5. Administrator and Deputy Administrator: Their Qualifications, Appointments and Terms of Office. - The Authority shall be headed by an Administrator with the rank of an Undersecretary, and is responsible for the general administration and management of the Authority. He/she must be a natural-born citizen of the Philippines; at least forty-five (45) years of age; have an extensive experience in a field directly related to transportation and/or security; with at least five (5) years experience in the management of a field directly related to security or allied services.

The Administrator shall be appointed by the President of the Philippines upon recommendation of the Secretary of the Department of Transportation and Communications (DOTC). The Administrator shall serve a fixed term of seven (7) years which shall commence from the time he/she takes his/her oath of office.

The Administrator shall be assisted by a Deputy Administrator with the rank of Assistant Secretary and shall have the same qualifications and term of office as the Administrator.

For purposes of this Act, the Administrator and the Deputy Administrator shall be deemed as persons in authority. All subordinate officials and personnel are deemed agents of persons in authority.

SEC. 6. *Functions, Powers and Duties of the Administrator.* - The administrator shall have the following functions, powers and duties:

a. Exclusive power to interpret the provisions of this Act subject to review on certiorari by the Court of Appeals on the ground of grave abuse of discretion amounting to excess or lack of jurisdiction;

b. Promulgate rules, regulations and impose sanctions to effectively implement the provisions of this Act;

c. The sole and unilateral responsibility to determine sensitive security information (SSI). The Administrator shall prohibit the disclosure of information, files or records or data of any sort, if in his/her opinion, the disclosure of such information:

1. is detrimental to the security of persons and things in the transportation sector;

2. will reveal trade secrets or privileged or confidential information obtained from any person, natural or juridical;

3. will constitute unwarranted invasion of privacy of persons, including but not limited to information contained in any personnel, medical or similar file;

4. will undermine public trust and confidence in duly constituted authorities in the exercise of judgment calls and discretions in any or all risk managements and preventive/preemptive actions undertaken.

d. To administer and implement, subject to existing laws, rules and regulations, the mandate, powers and functions of the Authority. *Provided, That*, the Administrator solely designates an officer employee of the Authority to serve as a law enforcement officer of the Authority;

e. To direct and supervise the management, operation, and administration of the Authority in complying with international standards of transportation security measures and to ensure transportation security in accordance with the approved security program, plan, policy, procedure and guideline;

f. To administer, implement and enforce decisions, orders and transportation security rules and regulations prescribed by law and/or issued by the Authority;

g. To exercise visitorial and inspection powers over all transportation facilities, complexes, buildings, offices, seaports and airports, tarmacs, wharfs, terminals, infrastructures and the likes; issue travel and mission orders for the purpose; and coordinate with the corresponding transportation entities for the implementation of the same. All transportation systems must provide, within its premises, adequate operational office space and quarters for the localized security functions of the Authority;

h. To undertake researches, studies, investigations and other activities related to contemporary transportation system security and future innovative requirements thereof, on his own initiative or upon instructions of the higher authorities, and to submit comprehensive reports and appropriate recommendations to the

Secretary of the Department of Transportation and Communications (DOTC) for his/her information and action;

i. To formulate, develop, implement, revise and update inter-modal (air, land and water) national transportation security programs and operational plans/manuals;

j. To appoint, transfer, suspend, remove or otherwise discipline any subordinate officer or employee of the Authority, subject to Civil Service laws, rules and regulations;

k. To provide for employees benefit program and policies on promotions and Salary Standardization Program at par with the international transportation security service but subject to approval of the Department of Budget and Management (DBM) and the Civil Service Commission (CSC);

l. To organize or re-organize the structure of the Authority respecting the major services to meet the changing conditions, subject to existing laws and rules on the matter;

m. To assess threats to transportation security and to receive, assess and distribute on a timely basis, all intelligence related to transport security;

n. To develop policies, strategies, and plans in dealing with prevention and management crises and threat to transportation security; and ensure the formulation, installation, and enforcement of the respective national security program in all modes of transportation systems in the Philippines;

o. To perform such other functions necessary to carry out the provisions of this Act; and as the President of the Philippines or the Secretary of the Department of Transportation and Communications (DOTC), may direct.

SEC. 7. Services. - For purposes of carrying out its duties and powers as provided for in this Act, the Authority shall have the following transportation security services which shall be headed by Service Directors:

a. Civil Aviation Security Service (CASS) - shall conduct continuous inspection, monitoring, audit of facilities and operations at all levels of air transportation system and shall monitor and/or directly implement the Authority's projects, programs and regulations relative to security of air transportation; to conduct investigation on all matters involving illegal acts or unlawful interference committed upon or directed to air transportation facility and submit recommendation relative thereto;

b. Maritime Security Service (MARS) - shall conduct continuous inspection, monitoring, audit of facilities and operations at all levels of maritime transportation system; and shall monitor and/or directly implement the rules and regulations relative to security of maritime transportation; to conduct investigation on all matters involving illegal acts or unlawful interference committed upon or directed to maritime transportation facility and submit recommendation relative thereto in adherence to reciprocal support, assistance and coordination with the appropriate law enforcement agencies;

c. Land and Rail Security Service (LARS) - shall conduct continuous inspection, monitoring and audit of facilities and operations at all levels of land and rail transportation systems and shall monitor and/or directly implement the Authority's projects, programs and regulations relative to security of land and rail transport systems; to conduct investigation on all matters involving illegal acts or unlawful

interference committed upon or directed to land and rail transportation systems and submit recommendations relative thereto;

d. Intelligence and Communications Security Service (ICSS) - shall conduct continuous intelligence gathering and evaluation to direct and substantiate policy directions of the agency. It shall likewise promulgate programs to strengthen the intelligence capability of the Authority in securing the different modes of transportation including transportation communications systems, facilities, services and infrastructure in the country;

e. Administrative and Finance Service (AFS) - shall provide necessary services relating to finance and administrative matters; keep records, correspondence, supplies, property, equipment and general services, and the maintenance and utilization of facilities; and provide services relating to manpower, career planning and development, personnel placements and employees welfare;

f. Legal, Policy Research and Adjudication Service (LPRAS) - shall provide the efficient and effective service as in-house legal counsel; draft or study contracts affecting the Authority; review reports relative to investigations conducted by the Authority and submit recommendations pertaining thereto; render legal opinions arising from the administration and operation of the Authority and adjudicate matters affecting the regulatory issuances relative to matters of national policy on civil aviation, maritime and land and rail transportations security;

g. Transportation Security Training and Development Institute (TSTDI) - shall formulate, develop, provide and maintain an effective, efficient and continuing training-training program for transportation security personnel and all allied agencies and their personnel who will apply standards and recommended level of security for the secured operation of all modes of transportation covering but not limited to: screening, verifying, auditing and inspecting of personnel, equipment and facilities involved in providing transportation security; conduct tests and qualifying procedures for transportation security equipment and such other undertaking to maintain the quality participation/contribution of man and machine in sanitizing the integrity of all modes of the transportation from criminal acts. The TSTDI undertakes the training development and the upgrading process of all course materials, monitoring and supervision of other security training entities, liaison and cooperation with other states training institutes, coordination and cooperation with industries and operations for the research and development of new technology and other endeavors which shall be essential to conform with national security training program, transportation security policy and oversight function.

Incidental matters that may be uncovered and which may pertain to another office, agency, bureau or division, holding or operating within the transportation facilities and complexes must be reported to the appropriate enforcement agencies and the same may be subjected to direct control and police action by the operatives and elements of the Authority.

Provided, That, the Authority may from time to time change its organizational structure and thus create, merge, consolidate or abolish functional offices or divisions, as it may deem proper and appropriate to achieve in maximum its transportation security mandate: Provided, further, That the Authority establish and maintain regional offices which shall be primarily responsible for the implementation of this Act and for the policies, programs and projects of the Authority in their respective regions.

The Service Directors shall be appointed by the Secretary of the Department of Transportation and Communications (DOTC) upon recommendation of the Administrator of the Authority.

SEC. 8. *Removal and Filling of Vacancy.* - The Administrator may only be removed from office by the President of the Philippines for cause after due process and in accordance with the Civil Service laws, rules and regulations.

In case of vacancy in the Authority due to death, resignation, removal or permanent disability of the incumbent Administrator, the Deputy Administrator shall serve as Acting Administrator in a concurrent capacity until a new Administrator is appointed, has qualified and assumed office for the full term.

SEC. 9. *Prohibition.* - The Administrator, Deputy Administrator, Service Directors and all officials, officers, staff and personnel of the Authority shall not own stock in or bonds of a transportation or security enterprise or in an enterprise that manufactures equipment that could be used for transport security purposes.

SEC. 10. *Membership in the National Security Council.* - The Administrator or his/her duly qualified representative is hereby designated as member of the National Security Council and shall report directly to the President of the Philippines regarding sensitive transportation security information.

SEC. 11. *Control, Supervision and Delegation of Powers.* - The Authority shall have sole jurisdiction and precedence in control, over the movement of persons, cargoes, or both, within the operational area of any mode of transportation system and shall, therefore, possess authority to prescribe and issue security access passes within the transport operational area. The designated law enforcement officer and personnel of the Authority or those that maybe deputized to carry law enforcement power, shall have the power to effect arrest or take law enforcement action on any criminal act committed within its jurisdictional area or in their presence or endorse the records of arrest and apprehension to the local police officer with jurisdiction over the area where the transportation security incident happened. The Authority exercises primary jurisdiction over acts of unlawful interference against any transport system but may delegate or endorse the same to any government agency for effective enforcement, who is likewise obliged to accept the same and see its prompt conclusion. The Authority reserves its right to supervise, monitor and coordinate the stages of such investigation.

SEC. 12. *Personnel Complement.* - For purposes of implementing the provisions of this Act, personnel of units/offices of the Philippine Coast Guard (PCC); Philippine Ports Authority (PPA) police; Airport Police; Customs Police; Philippine National Police - Maritime Group (PNP-MARIG); Philippine National Police - Aviation Security Group (PNP-ASG); Philippine National Police – Traffic Management Group (PNP-TMG); Philippine National Railways (PNR) police; Civil Security Unit - Air Transportation Office (CSU-ATO) and all other government agencies having the primary duty and function of providing transportation security shall be under the operational direction and supervision of the Authority. *Provided, That*, subject to the limitations in this Act, the Office for Transportation Security (OTS) under the Department of Transportation and Communications (DOTC), created under Executive Order No. 277 and Executive Order No. 31 1, is hereby abolished and the present officers and staff of said office are hereby absorbed to the Authority and shall serve as the initial personnel complement of the Authority.

SEC. 13. *Entry Level into the Authority.* - The entry eligibility of the absorbed personnel of the Office for Transportation Security (OTS) under the Department of Transportation and Communications (DOTC), shall be waived by the Civil Service Commission (CSC): *Provided, That* the absorbed personnel possesses equivalent qualifications in terms of training in basic security of not less than one hundred (100) hours and extensive experience for at least two (2) years in actual investigation, intelligence and security functions or assignments.

SEC. 14. *Promotion and Selection Board.* - There shall be a Promotion and Selection Board within the Authority which shall screen and evaluate organic personnel for promotion. Appointment and promotion process shall follow the procedures prescribed in this Act. All positions in the Authority hereinafter created shall be filled up in accordance with the Authority's organizational and operational manual which shall define the qualification standards consistent with the minimum requirements of the Civil Service Commission (CSC). There shall be a Selection and Qualification Committee which shall recommend to the Administrator the appointment of all other personnel not herein provided.

SEC. 15. *Transfer of Existing Facilities.* - All existing facilities, equipment and all other assets and properties, rights, interests and privileges belonging to Office for Transportation Security (OTS) that may be absorbed by the Authority, are hereby transferred to the Authority. Immediately upon appointment and assumption of powers and authority by the Administrator, all financial and logistical resources, facilities and equipment shall be released and put under the control of the Authority. All organizations and agencies that may be absorbed by the Authority in the future shall use funds and resources of the Authority upon enactment of this Act.

SEC. 16. *Implementing Rules and Regulations (IRR).* - Within ninety (90) days from appointment, the Deputy Administrator and Service Directors of the Authority shall be the designated members of the Ad-Hoc Committee directed to formulate the Implementing Rules and Regulations (IRR) of the Authority. The Implementing Rules and Regulations shall cover all aspects of the administration, management, operations, logistics and finance, law enforcements, standard measures and practices of safety and security and all other matters affecting or related to the full operation of the Authority. The Implementing Rules and Regulations (IRR) shall be accomplished and recommended by the Administrator of the Authority, for approval by the President of the Philippines within one hundred and eighty (180) days from constitution of the Ad Hoc Committee.

SEC. 17. *Transfer and Integration of Personnel, Facilities, Equipment, Property and other Assets and Liabilities.* - The absorption and integration process shall commence on the first day of the quarter of the year following completion of the Implementing Rules and Regulations. Initially appointed members of the Ad-Hoc Committee may continue to serve in their official capacities with the Authority if duly qualified and appointed in accordance with civil service laws, rules and regulations on eligibility. Employees and personnel of the absorbed or integrated offices and agencies may opt to remain with their original government affiliation or be transferred and absorbed with the Authority which must be exercised within ninety (90) days from notice of the absorption and integration.

SEC. 18. *Headquarters, Offices and Location.* - The Authority shall have its central office and headquarters at the office of the Office for Transportation Security (OTS) at Andrews Avenue corner Aurora Boulevard (formerly Tramo Street) in Pasay City, or to any place in Metro Manila as the Authority may deem proper and appropriate. The Authority may also establish field offices as may be determined by the Implementing Rules and Regulations (IRR). The amount of Fifty Million Pesos (Php50,000,000.00) or at least Ten Percent (10%) of the initial funding of the Authority shall be appropriated to refurbish and renovate the building of the Office for Transportation Security (OTS) into a security center.

SEC. 19. *Appropriation.* - For purposes of reorganizing and constituting the Authority, and for carrying out the provisions of this Act, the Authority shall have an initial funding of Five Hundred Million Pesos (Php500,000,000.00). In addition, the appropriation, funding and/or budget of the absorbed agency under Section 15 of this

Act, shall be transferred to the Authority. Appropriation for the succeeding years shall be included in the General Appropriations Act.

SEC. 20. *Penalties for Violations of the Provisions of this Act.* - The penalty of not less than six (6) months but not more than one (1) year and a fine of not less than Twenty Thousand Pesos (Php20,000.00) but not more than one (1) year and a fine of not less than Twenty Thousand Pesos (Php20,000.00) but not more than Fifty Thousand Pesos (P50,000.00) shall be imposed upon any person convicted of any offense involving violation of any other provisions of this Act.

SEC. 21. *Repealing Clause.* - All laws, executive orders, letters of instructions, rules and regulations and other issuances, or provisions thereof, which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 22. *Separability Clause.* - The provisions of this Act are hereby declared separable. If any provision or portion thereof shall be held invalid or unconstitutional, the other provisions will remain in full force and effect.

SEC. 23. *Effectivity Clause.* - This Act shall take effect after fifteen (15) days following its publication in two (2) national newspapers of general circulation or in the *Official Gazette*.

Approved,