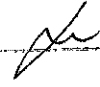


FOURTEENTH CONGRESS OF THE)
 REPUBLIC OF THE PHILIPPINES)
 Second Regular Session)

8 NOV 10 23:15

SENATE

RECEIVED BY: S. No. 2701

Introduced by Senator FRANCIS G. ESCUDERO

EXPLANATORY NOTE

The recent spate of road mishaps apparently caused by buses or common carriers is too alarming to ignore.

As early as 2003, the Department of Health Road Safety Program statistics already showed that road accidents ranked as the fourth leading cause of deaths among Filipinos and first in terms of injury morbidity, which is 20%.

With this, legislation must provide a preventive policy to address this problem. And as such, this bill proposes the increase of penalty for criminal negligence caused by common carriers against persons albeit without limiting its application to buses or land common carriers only.

As a matter of fundamental statutory policy, common carriers are required “to carry their passengers safely as far as human care and foresight can provide, using utmost diligence of very cautious persons, with due regard for all the circumstances¹” (underscoring supplied). Nevertheless, this mandatory provision of law merely covers civil liability of common carriers to their passengers and excludes third persons and criminal obligation.

The criminal liability of common carriers is found in Article 365 of the Revised Penal Code, Criminal Negligence, which provides as penalty of imprisonment *arresto mayor* to *prision correccional* in its medium period, or from one (1) month to four (4) years and two (2) months, depending on the gravity of the resultant crime or felony.

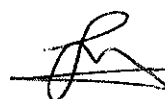
These penalties may no longer be apt considering the way common carriers, especially buses, have lightly treated their obligation under existing laws. The utmost diligence required must be extended to third parties and their criminal liability expanded or be made stringent and strict.

This bill aims to penalize criminal negligence committed by common carriers with imprisonment ranging from *arresto mayor* in its maximum period to *prision mayor*, or from four (4) months one (1) day to six (6) months to twelve (12) years, in case of injury, depending on the extent or gravity of the injury as provided for under Title Eight, Chapter 2, on Physical Injuries, of this Act. And *reclusion temporal*, or twelve (12) years to twenty (20) years, in case of death.

It is strongly hope that an increase penalty for criminal negligence committed by common carriers, especially buses, serves not only a reminder to extant statutory

¹ Article 1755, Civil Code of the Philippines.

duties to common carriers but as a means to put an end to recklessness and irresponsibility which at times already appear intentional and malicious.


A handwritten signature in black ink, appearing to read 'Francis G. Escudero', with a horizontal line drawn through the bottom of the signature.

FRANCIS G. ESCUDERO

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

8 NOV 10 12:35

SENATE
S. No. 2701

RECEIVED BY: 

Introduced by Senator FRANCIS G. ESCUDERO

**AN ACT INCREASING THE PENALTY FOR CRIMINAL NEGLIGENCE
COMMITTED BY COMMON CARRIERS, FURTHER AMENDING
ARTICLE 365 OF ACT NO. 3815, AS AMENDED, OR THE REVISED
PENAL CODE**

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

1 **SECTION 1.** Article 365 of Act No. 3815, as amended, is hereby further
2 amended to read as follows:

3 “Art. 365. *Imprudence and negligence.* — Any person who, by
4 reckless imprudence, shall commit any act which, had it been
5 intentional, would constitute a grave felony, shall suffer the penalty
6 of *arresto mayor* in its maximum period to *prision correccional* in its
7 medium period; if it would have constituted a less grave felony, the
8 penalty of *arresto mayor* in its minimum and medium periods shall
9 be imposed; if it would have constituted a light felony, the penalty
10 of *arresto menor* in its maximum period shall be imposed.

11 Any person who, by simple imprudence or negligence, shall
12 commit an act which would otherwise constitute a grave felony,
13 shall suffer the penalty of *arresto mayor* in its medium and
14 maximum periods; if it would have constituted a less serious
15 felony, the penalty of *arresto mayor* in its minimum period shall be
16 imposed.

17 When the execution of the act covered by this article shall have only
18 resulted in damage to the property of another, the offender shall be
19 punished by a fine ranging from an amount equal to the value of
20 said damages to three times such value, but which shall in no case
21 be less than twenty-five pesos.

22 A fine not exceeding two hundred pesos and censure shall be
23 imposed upon any person who, by simple imprudence or
24 negligence, shall cause some wrong which, if done maliciously,
25 would have constituted a light felony.

26 In the imposition of these penalties, the court shall exercise their
27 sound discretion, without regard to the rules prescribed in Article
28 sixty-four.

29 The provisions contained in this article shall not be applicable:

1 1. When the penalty provided for the offense is equal to or lower
2 than those provided in the first two paragraphs of this article, in
3 which case the court shall impose the penalty next lower in degree
4 than that which should be imposed in the period which they may
5 deem proper to apply.

6 2. When, by imprudence or negligence and with violation of the
7 Automobile Law, the death of a person shall be caused, in which
8 case the defendant shall be punished by *prision correccional* in its
9 medium and maximum periods.

10 **3. WHEN BY IMPRUDENCE OR NEGLIGENCE OF A**
11 **COMMON CARRIER EITHER THROUGH ITS SHIP CAPTAIN,**
12 **AIRPLANE CHIEF, DRIVER, EMPLOYEE, AGENT, OPERATOR**
13 **OR OWNER, THE DEATH OR INJURY OF A PERSON SHALL**
14 **BE CAUSED, IN WHICH CASE THE DEFENDANT SHALL**
15 **SUFFER THE PENALTY OF *RECLUSION TEMPORAL*, IN CASE**
16 **OF DEATH, AND *ARRESTO MAYOR* IN ITS MAXIMUM**
17 **PERIOD TO *PRISION MAYOR*, IN CASE OF INJURY,**
18 **DEPENDING ON THE EXTENT OR GRAVITY OF THE INJURY**
19 **AS PROVIDED FOR UNDER TITLE EIGHT, CHAPTER 2, ON**
20 **PHYSICAL INJURIES, OF THIS ACT.**

21 Reckless imprudence consists in voluntary, but without malice,
22 doing or falling to do an act from which material damage results by
23 reason of inexcusable lack of precaution on the part of the person
24 performing or failing to perform such act, taking into consideration
25 his employment or occupation, degree of intelligence, physical
26 condition and other circumstances regarding persons, time and
27 place.

28 Simple imprudence consists in the lack of precaution displayed in
29 those cases in which the damage impending to be caused is not
30 immediate nor the danger clearly manifest.

31 The penalty next higher in degree to those provided for in this
32 article shall be imposed upon the offender who fails to lend on the
33 spot to the injured parties such help as may be in this hand to give.
34 (*As amended by R.A. 1790, approved June 21, 1957.*)"

35 **SEC. 2. *Separability Clause.*** If any provision or part hereof is held invalid
36 or unconstitutional, the remainder of the law or the provision not otherwise
37 affected shall remain valid and subsisting.

38 **SEC. 3. *Repealing Clause.*** All laws, presidential decrees, executive
39 orders, proclamations and/or administrative regulations which are
40 inconsistent with the provisions of this Act are hereby amended, modified,
41 superseded or repealed accordingly.

42 **SEC. 4. *Effectivity Clause.*** This Act shall take effect fifteen (15) days
43 from its publication in at least three (3) newspapers of national circulation.

44

45 Approved,