

FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

SENATE
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SENATE
S. No. 1631

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Philippine government pursues the development and utilization of our air potential, and the development of an air transportation system properly adapted to the present and future of foreign and domestic commerce. Accordingly, the government recognizes the need to: (1) promote safety of flight in air commerce of the Philippines; and (2) determine the corresponding liability of those concerned in cases of accidents.

Republic Act No. 776 or "The Civil Aeronautics Act of the Philippines," as amended, provides for, among other things the investigation of accidents involving aircraft and penalizes anyone who operates civil aircraft in violation of rules, regulations, or orders relating to aeronautics safety standards, practices, or procedures. However, it does not provide a system for determining liability and damages for compensating individuals injured in general aviation accidents.


Accordingly, this Act seeks to establish standards for determining liability for harm arising out of general aviation accidents.¹

ccs. 
MIRIAM DEFENSOR SANTIAGO

¹ This bill was re-filed during the Thirteenth Congress, First Regular Session.

10 JUL 19 P5:40

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1 AN ACT
2 PROVIDING FOR UNIFORM STANDARDS OF LIABILITY FOR HARM ARISING
3 OUT OF GENERAL AVIATION ACCIDENTS

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

4 SECTION 1. *Short Title.* - This Act shall be known as the "General Aviation
5 Accident Liability Standards Act."

6 SECTION 2. *Declaration of Policy.* - The State, in its pursuit of the development
7 and utilization of the air potential and the development of an air transportation system
8 properly adapted to the present and future of foreign and domestic commerce in the
9 Philippines, recognizes the need to:

10 (A) Promote safety of flight in air commerce of the Philippines; and

11 (B) Determine the corresponding liability of those concerned in cases of
12 accidents.

13 SECTION 3. *Definition of Terms.* -For purposes of this Act, the terms:

14 (A) "Administrator" means the Administrator of the Air Transportation Office;

15 (B) "Claimant" means any person who brings a general aviation accident liability
16 action subject to this Act, and any person on whose behalf such an action is brought,
17 including:

18 (1) The claimant's decedent; and

19 (2) The claimant's parent or guardian, if the action is brought through or
20 on behalf of a minor or incompetent;

1 (C) "General Aviation Accident" means any accident which arises out of the
2 operation of any general aircraft and which results in harm;

3 (D) "General Aviation Aircraft" means any aircraft for which a type certificate or
4 an airworthiness certificate has been issued by the Air Transportation Office which, at the
5 time such certificate was originally issued, had a maximum seating capacity of fewer than
6 twenty (20) passengers, and which is not, at the time of the accident, engaged in
7 scheduled passenger carrying operations;

8 (E) "Airworthiness" means that an aircraft, its engines, propellers and other
9 components and accessories, are of proper design and construction, and are safe for air
10 navigation purposes, such design and construction being consistent with accepted
11 engineering practice and in accordance with aerodynamic laws and aircraft science;

12 (F) "General Aviation Manufacturer" means:

13 (1) The builder or manufacturer of the airframe of a general aviation
14 aircraft;

15 (2) The manufacturer of the engine of a general aviation aircraft; and

16 (3) Pain and suffering which is caused by such bodily injury; and
17 emotional harm, including bereavement and loss of affection, care, or society,
18 which is caused by such bodily injury;

19 (G) "Product" means a general aviation aircraft and any system, component,
20 subassembly or other part of a general aviation aircraft; and

21 (H) "Property damage" means physical injury to tangible property, including loss
22 of use of tangible property.

23 SECTION 4. *Coverage.* -The provisions of this Act shall apply only to-

24 (A) Any manufacturer, owner, or operator of any general aviation aircraft, and
25 any person who repairs, maintains, or provides any other support for such an aircraft;

1 (B) Any occupant of a general aviation at the time of a general aviation accident,
2 and any person who brings an action for harm caused by such accident on behalf of such
3 occupant; and

4 (C) Any non-occupant of a general aviation aircraft at the time of a general
5 aviation accident, only if such non-occupant is bringing an action for harm caused by such
6 accident which arises out of the harm to an occupant of such aircraft at the time of such
7 accident.

8 SECTION 5. *Uniform Standards of Liability for General Aviation Accidents.* -

9 (A) Any person claiming damages for harm arising out of general aviation
10 accident may bring an action against a party and may recover damages from such party, if
11 such party was negligent and such negligence is a proximate cause of the claimant's
12 harm.

13 (B) Any person claiming damages for harm arising out of a general aviation
14 accident may bring an action against a general aviation manufacturer of a product and
15 may recover damages from such general aviation manufacturer if-

16 (1) The product, when it left the control of the manufacturer, was in a
17 defective condition unreasonably dangerous for its intended purpose, according to
18 engineering and manufacturing practices which were reasonably feasible;

19 (2) The defective condition is a proximate cause of the claimant's harm;
20 and

21 (3) The general aviation aircraft was being used at the time of the accident
22 for a purpose and in a manner of which it was designed and manufactured.

23 (C) Any person claiming damages for harm arising out of a general aviation
24 accident may bring an action against a general aviation manufacturer of a product and
25 may recover damages from such general aviation manufacturer if-

26 (1) At the time the product left the control of the manufacturer, the
27 manufacturer-

1 (a) Knew, or in the exercise of reasonable care should have known,
2 about a danger connected with the product that caused the claimant's
3 harm; and

4 (b) Failed to provide the warnings or instructions that a person
5 exercising reasonable care would have provided with respect to the danger
6 which caused the harm alleged by the claimant, unless such warnings or
7 instructions, if provided, would not have materially affected the conduct of
8 the user of the product; or

9 (2) After the product left the control of the general aviation manufacturer; the
10 manufacturer-

11 (a) Knew, or in the exercise of reasonable care should have known,
12 about the danger which caused the claimant's harm; and

13 (b) Failed to take reasonable steps to provide warnings or
14 instructions, after the manufacture of the product, which would have been
15 provided by a person exercising reasonable care, unless such warnings or
16 instructions; if provided, would not have materially affected the conduct
17 of the product user; and the failure to provide warnings or instructions
18 described in subparagraph (1) or (2) of this paragraph is a proximate cause
19 of the claimant's harm.

20 (D) Any person claiming damages for harm arising out of general aviation
21 accident may bring an action against a general aviation manufacturer of a product and
22 may recover damages from such general aviation manufacturer if-

23 (1) The manufacturer made an express warranty with respect to the
24 product;

25 (2) Such warranty relates to that aspect of the product which caused the
26 harm;

27 (3) The product failed to conform to such warranty; and

1 (4) The failure of the product to conform to such warranty is a proximate
2 cause of the claimant's harm.

3 (E) In an action governed by paragraph (B) of this section, a general aviation
4 manufacturer shall not be liable if such manufacturer proves, by a preponderance of evidence,
5 that-

6 (1) The defective condition could have been corrected by compliance with action
7 described in an airworthiness directive issued by the Administrator or a service bulletin
8 issued by the manufacturer of the product; and

9 (2) Such directive or service bulletin was issued at a reasonable time before the
10 date of the accident and after the product left the control of the general aviation
11 manufacturer.

12 (F) In any action governed by paragraph (B) of this section, evidence of compliance with
13 standards, conditions or specifications established, adopted or approved by the Civil Aeronautics
14 Board shall be admissible with regard to whether the product was defective and
15 unreasonably dangerous for its intended purpose.

16 SECTION 6. *Comparative Responsibility.* -

17 (A) All actions for harm arising out of a general aviation accident shall be governed by
18 the principles of comparative responsibility. Comparative responsibility attributed to the
19 claimant's conduct shall not bar recovery in an action under this Act, but shall reduce any
20 damages awarded to the claimant in an amount proportionate to the responsibility of the
21 claimant. The trier of fact shall determine comparative responsibility by making findings
22 indicating the percentage of total responsibility for the claimant's harm attributable to the
23 claimant, each defendant, each third party defendant, and any other person not a party to the
24 action.

25 (B) Except as provided in paragraph (C) of this section, a defendant is severally, but not
26 jointly liable in any action for harm arising out of a general aviation accident, and the liability of

1 any defendant in any such action shall be determined on the basis of such defendant's
2 proportionate share of responsibility for the claimant's harm.

3 (C) In any action for harm arising out of a general aviation accident-

4 (1) A general aviation manufacturer who is the builder or manufacturer of the
5 airframe of the general aviation aircraft involved is jointly and severally liable for harm
6 caused by a defective system, component, subassembly or other part of such aircraft that
7 the manufacturer installed or certified as part of the original type design for such aircraft;
8 and

9 (2) A general aviation manufacturer who is the manufacturer of a system or
10 component of a general aviation aircraft involved is jointly and severally liable for
11 damages caused by a defective subassembly or other part of such system or component.

12 (D) A general aviation manufacturer and any other person jointly liable under paragraph
13 (C) of this section shall have the right to bring an action for indemnity or contribution against
14 any person with who they are jointly liable under paragraph (C) of this section.

15 SECTION 7. *Time limitation on Liability.* -

16 (A) Except as provided in paragraph (B) of this section, no civil action for harm arising
17 out of a general aviation accident which is brought against a general aviation manufacturer may
18 be brought for harm which is alleged to have been caused by *an* aircraft or a system, component,
19 subassembly, or other part of an aircraft and which occurs more than --

20 (1) Twenty (20) years from -

21 (a) The date of delivery of the aircraft to its first purchaser or lessee, if
22 delivered directly from the manufacturer; or

23 (b) The date of first delivery of the aircraft to a person engaged in the
24 business of selling or leasing such an aircraft; or

25 (2) With respect to any system, component, subassembly, or other part which
26 replaced another product in, or which was added to, the aircraft, and which is alleged to

1 have caused the claimant's harm, twenty (20) years from the date of the replacement or
2 addition.

3 (B) Paragraph (A) of this section does not apply in the case of harm to a claimant which o
4 c h s after the period set forth in paragraph (A) of this section if the general aviation
5 manufacturer or the seller of the product that caused the claimant's harm gave an express
6 warranty that the product would be suitable, for the purpose for which it was intended, for a
7 longer period of time.

8 (C) Nothing in this section shall be construed to affect a person's duty to provide, after
9 the sale or lease of an aircraft, to aircraft owners, and to repair facilities to which a license or
10 certificate to perform repairs has been issued by the Administrator, additional or modified
11 warnings or instructions regarding the use of maintenance of such aircraft or any system,
12 component, or other part of such aircraft.

13 SECTION 8. *Subsequent Remedial Measures.* - In any general aviation accident liability
14 action governed by this Act, evidence of any measure taken after an event which, if taken
15 previously, would have made the event less likely to occur is not admissible to provide liability.
16 Such evidence is admissible to the extent permitted under the Rules of Evidence.

17 SECTION 9. *Admissibility of Certain Evidence.* - In an action governed by this Act,
18 evidence of national or local income tax liability, or any Social Security or other payroll tax
19 liability attributable to past or future earnings, support, or profits and the present value of future
20 earnings, support or profits alleged to have been lost or diminished because of harm arising out
21 of a general aviation accident is admissible regarding proof of the claimant's harm.

22 SECTION 10. *Punitive Damages.* -

23 (A) Punitive damages may be awarded in an action under this Act for harm arising out of
24 a general aviation accident only if the claimant establishes by clear and convincing evidence that
25 the harm suffered was the direct result of conduct manifesting a conscious, flagrant indifference

1 to the safety of those persons who might be harmed by use of the general aviation aircraft
2 involved.

3 (B) Evidence regarding the financial worth of a defendant or the defendant's profits or
4 any other evidence relating solely to a claim for punitive damages under this Act is not
5 admissible unless the claimant establishes, before any such evidence is offered, that the claimant
6 can present evidence that will establish *prima facie* proof of conduct manifesting a conscious,
7 flagrant indifference to the safety of those persons who might be harmed by use of the general
8 aviation aircraft involved.

9 (C) In any civil action in which the alleged harm to the claimant is death and the
10 applicable law provides, or has been construed to provide, for damages only punitive in nature, a
11 defendant may be liable for any such damages pursuant to the provisions of this Act regardless of
12 whether a claim is asserted under this section. The recovery of any such damage shall not bar a
13 claim under this section.

14 SECTION 11. *Time Limitation on Bringing Actions.* - Any action for harm arising out of
15 general aviation accident shall be barred, notwithstanding any law, unless-

16 (A) The complaint is filed within two years after the date on which the accident occurred
17 which caused the claimant's harm; and

18 (B) The summons and complaint are properly served upon the defendant within one
19 hundred and twenty (120) days after the filing of such complaint, unless the party on whose
20 behalf such service is required can show good cause why such service was not made within such
21 one hundred and twenty (120) day period.

22 (C) Paragraph (B) of this section shall not apply to service of process in a foreign
23 country.

24 SECTION 12. *Penalties.* - Any manufacturer, owner, or operator of any general aviation
25 aircraft, and any person who repairs, maintains, or provides any other support for such aircraft
26 found to be liable in this Act, shall be punished by a fine of not less than Five Thousand Pesos

1 (P5,000.00) and not more than One Hundred Thousand Pesos (P100,000.00) in case of death or
2 disability, or by imprisonment for not more than one (1) year of both, in the discretion of the
3 Court; and in case of property damage, by a fine proportionate to the damage on the property or
4 by imprisonment for not more than one (1) year or both, in the discretion of the Court; Provided,
5 that if the Penal Code has a more appropriate penalty or penalties, its applicable provisions shall
6 be imposed instead of the ones specified in this Act.

7 SECTION 13. *Separability Clause.* - If any provisions or part hereof, is held invalid or
8 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
9 valid and subsisting.

10 SECTION 14. *Repealing Clause.* - Any law, presidential decree or issuance, executive
11 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
12 with, the provision of this Act is hereby repealed, modified or amended accordingly.

13 SECTION 15. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
14 publication in at least two (2) newspapers of general circulation.

Approved,