

10 JUL 27 AM 108

SENATE

S. B. No. **2095**

RECEIVED BY: 

---

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 circumstances<sup>1</sup>" (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

---

<sup>1</sup> Article 1755, Civil Code of the Philippines

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



FRANCIS G. ESCUDERO

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

SENATE  
OFFICE OF THE SECRETARY

10 JUL 27 AM '08

SENATE

S. B. No. 2095

RECEIVED

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:*

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

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

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

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

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

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

The provisions contained in this article shall not be applicable:

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

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

3. WHEN BY IMPRUDENCE OR NEGLIGENCE OF A COMMON CARRIER EITHER THROUGH ITS SHIP CAPTAIN, AIRPLANE CHIEF, DRIVER, EMPLOYEE, AGENT, OPERATOR OR OWNER, THE DEATH OR INJURY OF A PERSON SHALL BE CAUSED, IN WHICH CASE THE DEFENDANT SHALL SUFFER THE PENALTY OF *RECLUSION TEMPORAL*, IN CASE OF DEATH, AND *ARRESTO MAYOR* IN ITS MAXIMUM PERIOD TO *PRISION MAYOR*, 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.

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

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

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

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

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

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

*Approved,*