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SENATE

Senate Bill No. 1365

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

The increasing occurrence of road accidents caused by common carriers and the extent of their damages to life and property are increasingly alarming. According to the "Health Policy Notes" issued by the Department of Health in 2008, "Road traffic crashes constitute the second leading cause of injury death with a mortality rate of 7.8/100,000. (Source: Philippine Health Statistics, 2003)."

The same report states that "Along national roads and highways, 1,185 deaths and 5,870 non-fatal injuries were reported in 2006: (Source: Traffic Accident Report Application System, Department of Public Works and Highways, 2007)." It further reveals that, "In Metro Manila, the most common vehicle types involved in traffic accidents in 2006 were: cars (52.6%), jeepneys (9.6%), motorcycles (9.0%), and vans (8.69%). (Source: Metro Manila Accident Reporting and Analysis System, MMDA, 2006).

In line with the government's efforts to prevent such accidents and avoid further loss of life and property, this measure seeks to amend the Revised Penal Code in order to increase the penalty for criminal negligence committed by common carriers. Increased penalty will make the parties of the common carrier more conscious of their responsibilities and more careful in providing service to their clients.

This measure was submitted by the Committees on Justice and Human Rights, and Public Services during the Fifteenth Congress. However, it was overtaken by events and did not prosper into law.

The immediate passage of this bill is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator



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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

4 "Art. 365. *Imprudence and negligence.* – Any person who, by
5 reckless imprudence, shall commit any act which, had it been
6 intentional, would constitute a grave felony, shall suffer the penalty
7 of *arresto mayor* in its maximum period to *prision correccional* in its
8 medium period; if it would have constituted a less grave felony, the
9 penalty of *arresto mayor* in its minimum and medium periods shall
10 be imposed; if it would have constituted a light felony, the penalty of
11 *arresto menor* in its maximum period shall be imposed.
12

13 "Any person who, by simple imprudence or negligence, shall
14 commit an act which would otherwise constitute a grave felony,
15 shall suffer the penalty of *arresto mayor* in its medium and
16 maximum periods; if it would have constituted a less serious felony,
17 the penalty of *arresto mayor* in its minimum period shall be
18 imposed.
19

20 "When the execution of the act covered by this article shall have
21 only resulted in damage to the property of another, the offender
22 shall be punished by a fine ranging from an amount equal to the
23 value of said damages to three times such value, but which shall in
24 no case be less than twenty-five pesos.
25

26 "A fine not exceeding two hundred pesos and censure shall be
27 imposed upon any person who, by simple imprudence or
28 negligence, shall cause some wrong which, if done maliciously,
29 would have constituted a light felony.
30

1 "In the imposition of these penalties, the court shall exercise their
2 sound discretion, without regard to the rules prescribed in Article
3 sixty -four.
4

5 "The provisions contained in this article shall not be applicable:

- 6 1. When the penalty provided for the offense is equal to or
7 lower than those provided in the first two paragraphs of this
8 article, in which case the court shall impose the penalty next
9 lower in degree than that which should be imposed in the
10 period which they may deem proper to apply.
11
- 12 2. When, by imprudence or negligence and with violation of the
13 Automobile Law, the death of a person shall be caused, in
14 which case the defendant shall be punished by *prision*
15 *correccional* in its medium and maximum periods.
16
- 17 3. WHEN BY IMPRUDENCE OR NEGLIGENCE OF A
18 COMMON CARRIER EITHER THROUGH ITS SHIP
19 CAPTAIN, AIRPLANE CHIEF, DRIVER, EMPLOYEE,
20 AGENT, OPERATOR OR OWNER, THE DEATH OR
21 INJURY OF A PERSON SHALL BE CAUSED, IN WHICH
22 CASE THE DEFENDANT SHALL SUFFER THE PENALTY
23 OF *RECLUSION TEMPORAL* IN CASE OF DEATH, AND
24 *ARRESTO MAYOR* IN ITS MAXIMUM PERIOD TO
25 *PRISION MAYOR*, IN CASE OF INJURY, DEPENDING ON
26 THE EXTENT OR GRAVITY OF THE INJURY AS
27 PROVIDED FOR UNDER TITLE EIGHT, CHAPTER 2, ON
28 PHYSICAL INJURIES, OF THIS ACT.
29

30 "Reckless imprudence consists in voluntary, but without malice,
31 doing or failing to do an act from which material damage results by
32 reason of inexcusable lack of precaution on the part of the person
33 performing or failing to perform such act, taking into consideration
34 his employment or occupation, degree of intelligence, physical
35 condition and other circumstances regarding persons, time and
36 place.
37

38 "Simple imprudence consists in the lack of precaution displayed in
39 these cases in which the damage impending to be caused is not
40 immediate nor the danger clearly manifest.
41

42 "The penalty next higher in degree to those provided for in this
43 article shall be imposed upon the offender who fails to lend on the
44 spot to the injured parties such help as may be in this hand to give.
45 (*As amended by R..A. 1790, approved June 21, 1957.*)"
46

47
48 **SEC. 2. Separability Clause.** – If any provision or part hereof is held invalid or
49 unconstitutional, the remainder of the law or the provision not otherwise affected
50 shall remain valid and subsisting.
51

52
53 **SEC. 3. Repealing Clause.** – All laws, presidential decrees, executive orders,
54 proclamations and/or administrative regulations which are inconsistent with the
55 provisions of this Act are hereby amended, modified, superseded or repealed
56 accordingly.
57

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

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8 *Approved,*