


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

7 JUL -2 2012

SENATE

RECEIVED BY: 

Senate Bill No. 385

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

The role of the airline industry in promoting economic growth in the Philippines can never be underestimated. However, it is ironic that instead of responding to the rapid growth of technology by taking advantage of the opportunities for economic progress our country has chosen a more restrictive stance. Our policies cry for liberalization yet we seem to have neglected the urgent changes needed in our policies.

98% of the visitors to the Philippines arrive by air. The aviation industry links our country to the world and facilitates our participation in the mainstream of tourism, trade and investments. Unless we change the stance of protectionism in the airline industry, we are faced with the prospect of economic stagnation.

This is especially true in the tourism industry in our country. Tourism is the world's biggest service industry. More than 100 countries are actively engaged in converting and promoting their cities and rural areas as attractive destinations since there is no longer any dispute that tourism is a prime mover for economic development, especially in the countryside. A case in point is Thailand. They have demonstrated that a tourism-propelled economy can generate employment, attract investments and contribute to the general welfare.

The liberalization of the policy foundation of the Civil Aeronautics Board is desperately needed if we are to catch up with our neighbors. This bill seeks to amend, inter alia, Republic Act No. 776, by introducing the following changes; (1) the composition of the Board shall now include representatives from the Department of Tourism and the Department of Foreign Affairs, (2) creating the office of the Executive Director, (3) increase of penalties for violation of the provisions of R.A. 776, and (4) the imposition of policy guidelines and directions for the Board to observe and implement in the exercise of its regulatory functions. The passage of this bill would give a major boost to our economy and protectionism in the airlines industry would be reduced.


The passage of this bill is thus earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator

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

7 JUL -2 2015

SENATE

RECEIVED BY: 

Senate Bill No. 385

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

AN ACT
LIBERALIZING THE CIVIL AVIATION INDUSTRY, AMENDING FOR THIS
PURPOSE REPUBLIC ACT NUMBERED 776 OTHERWISE KNOWN AS "THE
CIVIL AERONAUTICS ACT OF THE PHILIPPINES AND FOR OTHER
PURPOSES"

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

SECTION 1. Title. This Act shall be known as the "**Civil Aviation Liberalization Act of the Philippines**".

SEC. 2. Declaration of Policy. In the exercise and performance of its powers and duties under R.A. 776, the Civil Aeronautics Board shall consider the following, as being in the public interest, and in accordance with the public convenience and necessity:

- (a) An air transportation system exists primarily for the benefit of its principal users, i.e., passengers and shippers;
- (b) The promotion of tourism, trade and investments and the enhancement of opportunities for increasing the level thereof are the primary objectives of civil aviation policy on the Philippines;
- (c) All air carriers subjects to regulation by the Board shall have maximum flexibility in offering a variety of adequate, dependable, efficient, comfortable, fast safe transport and related services at fares that correspond to the demands of the users of such services; *Provided*, such air carriers do not engage in unreasonable discriminations, unfair or deceptive practices or predatory pricing in providing such services;
- (d) Operation and marketing restriction on air transport and related service shall be eliminated to the greatest extent possible;

- (e) Charter air transport shall be encourage to the greatest extent possible by placing the least number of restrictions on its operation and marketing, and by ensuring that the amounts imposed by the way fees or changes will not undermine the financial and technical viability of such operations;
- (f) The exercise by the board of its regulatory authority should hinder or impede in a significant manner the ability of air carriers subject to such authority to respond in a timely manner to shifts in either market demand or business opportunities;
- (g) Opportunities for foreign air carriers to increase their access to place in the Philippines shall be allowed, provided such increase in access will result in opportunities for the development of tourism, trade, investment, and more services to the users; *Provided further*, that domestic civil aviation (cabotage) shall be reserved exclusively for local airlines unless the Board declares otherwise in cases of extreme emergencies involving the sudden inability of said local airline to service their designation routes for an indefinite period of time due to problems such as but not limited to financial and/or labor disputes.
- (h) The prevention and elimination of discrimination and unfair practices faced by domestic air carriers in foreign air transportation including but not limited to excessive landing and users fees, unreasonable ground handling requirement and restrictions on operations, prohibitions o change of gauge and other restrictive practices shall be a continuing responsibility of the Board;
- (i) Since air transport is one of several modes of transporting people, goods and mail, the Board, in the exercise of its regulatory authority, shall encourage and encourage and contribute to the development of an integrated of an integrated transport system that relies on competitive market forces to determine the extent, variety, quality and price of the services provided by such systems;
- (j) All Air Service Agreements or similar arrangements granting traffic rights and routes to which the Philippines is party should, as far as practicable, provide for multiple designation of Philippine carriers for any route which under the terms of such Agreement or arrangements shall be operated from the Philippines;
- (k) Any domestic route within the territory of the Philippines may, as far as practicable be operated at least two (2) domestic air carriers offering schedule services;
- (l) Upon certification from the Executive Director of the board that the demand for passenger seats and/or cargo space, as determined by the implementing Rules and regulations, are not being adequately serviced by the designated carriers on a particular route, special flights on such route may be authorized to remedy such service deficiencies;

- (m) All unilateral grants of frequencies or capacity or of any increase in such frequency or capacity, or the unilateral grant of new routes or traffic rights to any foreign carrier on a provisional basis shall be the sole prerogative of the Board with the affirmative vote at least five (5) members of the Board. These grants can likewise be rescinded or withdrawn only by the Board with five (5) members voting affirmatively.
- (n) All Philippine air carrier designed under an Air Service Agreement or similar arrangement shall utilize in total capacity and/or frequency entitlement allocated to them by the Board within the period prescribed by the Board. Should any designated Philippine air carrier fail to utilize its entitlements within the period prescribed by the Board, it shall forfeit the unutilized portion of such entitlement and such portion shall be allocated to another designated Philippine air carrier which utilize such portion within the period prescribed by the Board. Under no circumstances shall the Board allow a designated Philippine air carrier to assign, lease or in any other manner transfer the utilized portion of its entitlement to any other air carrier for any consideration whatsoever. In the absence of any designated Philippine air carrier that can utilize the entitlements or any portion thereof for such air carrier an Air Service Agreement or similar arrangement, the Board may allow a non-Philippine air carrier to utilize such entitlements or portions thereof for valuable consideration: *Provided*, That such consideration shall inure to the exclusive benefit of the Philippine government;
- (o) Economic gain for the Philippines shall be the principal criterion for determining whether the exchange of rights, freedoms and opportunities under an Air Service Agreement or similar arrangement are of equal or equivalent value. The interest of the various sectors affected by civil aviation, including but not limited to tourism, trade, investments and overseas Filipino workers shall always be considered in assessing the nature and extent of economic gain for the Philippines.

ARTICLE II THE CIVIL AERONAUTICS BOARD

SEC 3. Composition of the Board. Notwithstanding any provision of the law to the contrary, the Civil Aeronautics Board shall be composed of seven (7) members as follows:

- (a) The Secretary of the Department of Transportation and Communication (DOTC) as ex-officio Chairperson;
- (b) The Secretary of Department of Tourism (DOT) as ex-officio Vice Chairperson;
- (c) The Assistant Secretary for Air Transportation of the Department of Transportation and Communication (DOTC) as ex-officio Member;

- (d) A representative from the Department of Trade and Industry (DTI) as ex-officio Member;
- (e) A representative from the Department of Foreign Affairs (DFA) as ex-officio Member;
- (f) Two (2) members from the private sector who shall be appointed by the President of the Philippines for a term of three (3) years, one of whom shall come from the tourism industry and the other from the business and investment sector. In the event of vacancy by reason of expiration of term, resignation, incapacity or removal from office or for any of the causes specified by law, the successor to the position shall be appointed as non-ex officio member of the Board may be re-appointed to the same position but the total term of such re-appointee shall not exceed six (6) years.

At least one member of the Board shall be lawyer.

SEC 4. Meetings. The Chairperson or Vice-Chairperson and three (3) Members shall constitute a quorum. A majority vote of those constituting a quorum shall be necessary for a valid and enforceable decision of the Board. A tie vote shall refer to the full membership of the Board for resolution.

The Board shall meet regularly at least once a month and may hold special meeting to consider urgent matters upon call of any of the following:

- (a) The DOTC Secretary
- (b) The DOT Secretary
- (c) Any three (3) Board members

Internal rules of procedure in the conduct of board meetings shall be prescribed by the Board.

SEC 5. Compensation. Board members shall receive for every meeting where they are personally present, a per diem of Five Thousand Pesos (P5,000.00), Provided, That the total per diem that each receives every month shall not exceed Fifteen Thousand Pesos (P15,000.00).

ARTICLE III EXECUTIVE DIRECTOR

SEC 6. Appointment and Term. – The Office of the Executive Director of the Board is hereby created. The President of the Republic of the Philippines shall appoint the Executive Director of the Board for a term of six (6) years. In case said position becomes vacant due to expiration of term, resignation, incapacity or removal from office for causes specified by law, the successor to the said position shall be appointed for a term of six (6) years. Any person who has served as Executive Director of the Board can no longer be re-appointed to said position but the total term of such re-appointee shall not exceed twelve (12) years.

SEC 7. Powers and Functions. – The Executive Director shall be the Chief Executive and Operating Officer of the Board with the following powers, duties and responsibilities:

- (a) To execute, administer and implement the objectives, policies and programs approved by the Board and enforce the resolutions, orders, rules and regulations approved or prescribed by the Board;
- (b) To direct and supervise the personnel of the Board with the power to appoint, transfer, discipline or dismiss administrative officers and members composing the staff of the Board in accordance with the Civil Service Rules and Regulations;
- (c) To administer the funds, records, equipment, facilities and other assets of the Board;
- (d) To represent the Board in all dealings and transactions with officers, agencies and instrumentalities of the government and/or with all persons, firms and institutions, public and private, domestic and foreign, including the International Civil Aviation Organization and other international agencies and institutions in all matter relating to civil aviation subject to final approval and or/ratification by the Board; and
- (e) To exercise such other powers and perform such other functions as may be directed by the Board.

ARTICLE IV VIOLATIONS AND PENALTIES

SEC 8. Penalties. – Paragraph (A), Section 42 of Republic Act No. 776 is hereby amended to read as follows:

- A. Any person engaging in air commerce without a permit issued by the Board as provided in this Act shall be punished by a fine of not less than One Million Pesos (P1,000,000.00) nor more than Five Million Pesos (P5,000,000.00) and/or by imprisonment for not less than two (2) years nor more than five (5) years or both in the discretion of the court. In the case of a corporation, the director or officer who was responsible for the violation shall suffer the penalty of imprisonment prescribed. Failure to pay the fine in any case within the time specified in the order or decision of the Board shall be a ground for the suspension of the permit of such air carrier until such payment shall be made.

SEC 9. Disposition of Receipts. All money collected by the Board shall constitute a revolving fund for the operation and maintenance of the CAB and employees benefits allowable by law and the same shall be disbursed in accordance with auditing rules and regulations.

**ARTICLE V
FINAL PROVISIONS**

SEC 10. Separability Clause. - If any Section or provision of this Act shall be declared unconstitutional or invalid, the other sections or provisions thereof shall continue in full force and effect.

SEC 11. Repealing Clause. – The provisions of Republic Act No. 776 as well as all laws and rules and regulations inconsistent with any provision of this Act are hereby repealed or modified accordingly.

SEC 12. Effectivity. – This Act shall take effect fifteen days after its publication in the Official Gazette or in at least one (1) newspaper of general circulation.

Approved,