

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

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SENATE  
S. No. 1856

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Introduced by Senator Miriam Defensor Santiago


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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.\*

  
MIRIAM DEFENSOR SANTIAGO

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

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

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

6 SECTION 1. *Short Title.* – This Act shall be known as the “General Aviation Accident  
7 Liability Standards Act of 2007.”

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

- 12 (A) Promote safety of flight in air commerce of the Philippines; and  
13 (B) Determine the corresponding liability of those concerned in cases of accidents.

14 SECTION 3. *Definition of Terms.* – For purposes of this Act, the terms:

- 15 (A) “Administrator” means the Administrator of the Air Transportation Office;  
16 (B) “Claimant” means any person who brings a general aviation accident liability action  
17 subject to this Act, and any person on whose behalf such an action is brought,  
18 including:  
19 (1) The claimant’s decedent; and  
20 (2) The claimant’s parent or guardian, if the action is brought through or on behalf  
21 of a minor or incompetent;  
22 (C) “General Aviation Accident” means any accident which arises out of the operation of  
23 any general aircraft and which results in harm;

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

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

10 (F) "General Aviation Manufacturer" means:

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

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

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

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

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

20 SECTION 4. *Coverage*. – The provisions of this Act shall apply only to—

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

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

26 (C) Any non-occupant of a general aviation aircraft at the time of a general aviation  
27 accident, only if such non-occupant is bringing an action for harm caused by such

1 accident which arises out of the harm to an occupant of such aircraft at the time of  
2 such accident.

3 SECTION 5. *Uniform Standards of Liability for General Aviation Accidents.* –

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

7 (B) Any person claiming damages for harm arising out of a general aviation accident  
8 may bring an action against a general aviation manufacturer of a product and may recover  
9 damages from such general aviation manufacturer if—

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

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

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

16 (C) Any person claiming damages for harm arising out of a general aviation accident  
17 may bring an action against a general aviation manufacturer of a product and may recover  
18 damages from such general aviation manufacturer if—

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

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

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

26 (2) After the product left the control of the general aviation manufacturer; the  
27 manufacturer—

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

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

9 (D) Any person claiming damages for harm arising out of general aviation accident may  
10 bring an action against a general aviation manufacturer of a product and may recover damages  
11 from such general aviation manufacturer if—

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

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

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

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

17 (E) In an action governed by paragraph (B) of this section, a general aviation  
18 manufacturer shall not be liable if such manufacturer proves, by a preponderance of evidence,  
19 that—

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

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

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

1           SECTION 6. *Comparative Responsibility.* -

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

10           (B) Except as provided in paragraph (C) of this section, a defendant is severally, but not  
11 jointly liable in any action for harm arising out of a general aviation accident, and the liability of  
12 any defendant in any such action shall be determined on the basis of such defendant's  
13 proportionate share of responsibility for the claimant's harm.

14           (C) In any action for harm arising out of a general aviation accident—

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

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

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

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

27           (A) Except as provided in paragraph (B) of this section, no civil action for harm arising  
28 out of a general aviation accident which is brought against a general aviation manufacturer may

1 be brought for harm which is alleged to have been caused by an aircraft or a system, component,  
2 subassembly, or other part of an aircraft and which occurs more than --

3 (1) Twenty (20) years from --

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

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

8 (2) With respect to any system, component, subassembly, or other part which  
9 replaced another product in, or which was added to, the aircraft, and which is alleged to  
10 have caused the claimant's harm, twenty (20) years from the date of the replacement or  
11 addition.

12 (B) Paragraph (A) of this section does not apply in the case of harm to a claimant which  
13 occurs after the period set forth in paragraph (A) of this section if the general aviation  
14 manufacturer or the seller of the product that caused the claimant's harm gave an express  
15 warranty that the product would be suitable, for the purpose for which it was intended, for a  
16 longer period of time.

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

22 SECTION 8. *Subsequent Remedial Measures.* -- In any general aviation accident liability  
23 action governed by this Act, evidence of any measure taken after an event which, if taken  
24 previously, would have made the event less likely to occur is not admissible to provide liability.

25 Such evidence is admissible to the extent permitted under the Rules of Evidence.

26 SECTION 9. *Admissibility of Certain Evidence.* -- In an action governed by this Act,  
27 evidence of national or local income tax liability, or any Social Security or other payroll tax  
28 liability attributable to past or future earnings, support, or profits and the present value of future

1 earnings, support or profits alleged to have been lost or diminished because of harm arising out  
2 of a general aviation accident is admissible regarding proof of the claimant's harm.

3 SECTION 10. *Punitive Damages.* —

4 (A) Punitive damages may be awarded in an action under this Act for harm arising out of  
5 a general aviation accident only if the claimant establishes by clear and convincing evidence that  
6 the harm suffered was the direct result of conduct manifesting a conscious, flagrant indifference  
7 to the safety of those persons who might be harmed by use of the general aviation aircraft  
8 involved.

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

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

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

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

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



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

3 SECTION 12. *Penalties.* – Any manufacturer, owner, or operator of any general aviation  
4 aircraft, and any person who repairs, maintains, or provides any other support for such aircraft  
5 found to be liable in this Act, shall be punished by a fine of not less than Five Thousand Pesos  
6 (P5,000.00) and not more than One Hundred Thousand Pesos (P100,000.00) in case of death or  
7 disability, or by imprisonment for not more than one (1) year or both, in the discretion of the  
8 Court; and in case of property damage, by a fine proportionate to the damage on the property or  
9 by imprisonment for not more than one (1) year or both, in the discretion of the Court; Provided,  
10 that if the Penal Code has a more appropriate penalty or penalties, its applicable provisions shall  
11 be imposed instead of the ones specified in this Act.

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

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

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

20 Approved,