

HOUSE OF REPRESENTATIVES

House Bill No. **3517**

HOUSE OF REPRESENTATIVES

RECEIVED

DATE: 06 SEP 2016

TIME: 6:10 pm

BY: Porella

REGISTRATION UNIT
BILLS AND INDEX SERVICE

Introduced by
BEN P. EVARDONE
Representative, Lone District, Eastern Samar

EXPLANATORY NOTE

Time and again, airline companies operating in the Philippines have been found violating rules and regulations, conditions and stipulations that are designed to ensure an efficient, convenient, safe and reliable air transportation services.

Recently, a local airline company¹ was fined around P52 million pesos² when its crew and personnel spoiled Christmas by stranding thousands of Filipinos at the airport, especially the vacationing OFWs wanting to come home to their families and tourists. This is the biggest fine paid within the 2012-2016 period, per CAB records.

Looking at the CAB records, particularly on FINES AND PENALTIES, on a quarterly and annual basis (2012-2016 2nd quarter), there seems to be a steady growth in the CAB collection³ of fines and penalties.

Worse, the CAB has provided a Fines and Penalties Annual Revenue Target for 2016 at P1,623,000⁴. Yet, the total collection for the first and second quarter of 2016 has already reached P3,654,450.

¹ The carrier had a total of 20 cancelled and 288 delayed flights at the Ninoy Aquino International Airport Terminal 3 from Dec. 24 to Dec. 26, according to data it earlier submitted to the CAB.

Please read: <http://www.bworldonline.com/content.php?section=Corporate&title=cebu-pacific-ordered-to-pay-p52-million-fine-in-holiday-melee&id=100725>

² Reflected in the 2015 1st quarter CAB collection. See footnote 3 below.

³ **CAB QUARTERLY COLLECTION OF FINES AND PENALTIES (2012-2016):**

Quarters	2012	2013	2014	2015	2016
1 st	705,800	946,300	360,900	56,050,980	1,608,600
2 nd	977,133.33	1,514,100	440,400	2,201,370	2,045,850
3 rd	1,507,833.32	2,000,900	398,700	1,796,200	
4 th	2,124,788.00	2,142,100	433,280	3,264,770	

⁴Please read the link as follows:
[http://www.cab.gov.ph/images/downloads/Transparency%20Seal/2016/CAB%20Quarterly%20Report%20of%20Revenue%20and%20other%20Receipts\(As%20of%20the%20Quarter%20Ending%20June%2030,%202016\)%20-%20FAR%20No.%205.pdf](http://www.cab.gov.ph/images/downloads/Transparency%20Seal/2016/CAB%20Quarterly%20Report%20of%20Revenue%20and%20other%20Receipts(As%20of%20the%20Quarter%20Ending%20June%2030,%202016)%20-%20FAR%20No.%205.pdf)

That is not good, especially considering that the CAB deals with airline companies, legally considered **common carriers**,⁵ mandated to exercise utmost care and diligence⁶ in providing air transport services to the public.

Indeed, the data on Fines and Penalties could lead one to think that while we apparently have a more efficient CAB enforcer, we might also have an airline company or companies that disregard the *raison d'etre* for imposing fines and penalties — deterrence.

Apparently, one reason for the almost constant infraction of air transportation rules and regulations is the low penalty imposable in the form of a fine. The fine seems to be “affordable” in the sense that when breaking the rule is more profitable than paying the fine, then we can expect a choice of the former.

Currently, the fine is around PhP5,000 Pesos per violation, with an additional PhP200 Pesos per day of delay in complying with a CAB Order to pay the fine. This was first imposed 39 years ago, when in 1978, then President Ferdinand Marcos amended Section 42 (B) of Republic Act No. 776 (1952), which imposed a fine of P1,000 for the violation.

Under the bill, the author proposes the increase of fine from the current PhP5,000 to PhP15,000 per breach. In addition, the penalty of PhP200 for the delay in the compliance increased to P1,000 per day. Also, the penalty of imprisonment of one (1) year is increased to five (5) years but as a further or additional penalty and not as an alternative penalty. This somehow clarifies the rule on enforcing compliance thru the courts.

Furthermore, the author believes that the provision on CAB’s power to compromise should be looked into and amended to promote transparency and avoid corruption. Thus, the author proposes that this power to compromise be subject to review by the Office of the President of the Philippines.

In view of the foregoing, the passage of this bill is urgently sought.


BEN P. EVARDONE

⁵ Republic Act 386, Article 1732. **Common carriers** are persons, corporations, firms or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water, or air, for compensation, offering their services to the public.

⁶ Republic Act No. 386, Article 1755. A common carrier is bound to carry the passengers safely as far as human care and foresight can provide, using the utmost diligence of very cautious persons, with a due regard for all the circumstances.

1 SEVENTEENTH CONGRESS)
2 OF THE REPUBLIC OF THE PHILIPPINES)
3 *First Regular Session*)
4
5

6 HOUSE OF REPRESENTATIVES

7
8 House Bill No. 3517
9

10
11 Introduced by
12 BEN P. EVARDONE
13 Representative, Lone District, Eastern Samar
14

15 AN ACT
16 FURTHER AMENDING REPUBLIC ACT SEVEN HUNDRED AND SEVENTY-SIX,
17 AS AMENDED, OTHERWISE KNOWN AS "THE CIVIL AERONAUTICS ACT OF
18 THE PHILIPPINES"
19

20 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
21 *assembled:*
22

23 SECTION. 1 Section 42 of Republic Act Numbered Seven Hundred and Seventy-Six,
24 otherwise known as the Civil Aeronautics Act of the Philippines, as amended, is hereby further
25 amended to read as follows:
26

27 "Sec. 42. Specific penalties. — (A) Any person engaging in air
28 commerce without a permit issued by the Board as provided in this Act
29 shall be punished by a fine [not exceeding five thousand pesos or by
30 imprisonment for not more than one year, or both, in the discretion of
31 the court: Provided, That a person engaging in air commerce on the date
32 of the approval of this Act may continue so to engage until such time as
33 the Board shall pass upon an application for a permit for such service,
34 which application must be filed, as provided in Chapter IV of this Act,
35 within one hundred and twenty days after the approval of this Act.] OF
36 FIFTEEN THOUSAND PESOS, WITHOUT PREJUDICE TO
37 IMPRISONMENT OF FIVE (5) YEARS UPON NATURAL
38 PERSONS GUILTY OF VIOLATING THIS PROVISION.
39

40
41 (B) Any carrier or person who violates or fails to comply with any
42 provision of this Act or of the terms, conditions, or limitations in a
43

1 permit or amendment thereto or any orders, rules or regulations issued
2 by the Board, shall be subject to a fine [not exceeding Five Thousand
3 Pesos] **OF FIFTEEN THOUSAND PESOS** for each violation. In
4 addition thereto, a fine [not exceeding Two Hundred Pesos] **OF ONE**
5 **THOUSAND PESOS** per day for every day during which such default
6 or violation continues shall likewise be imposed. The Board is hereby
7 empowered to impose such fine, after due notice and hearing.

8
9 The fines so imposed shall be paid to the government of the Philippines
10 through the Board, and failure to pay fines in any case within the time
11 specified in the order or decision of the Board shall be a ground for the
12 suspension of the permit of such air carrier until payment shall be made.

13
14 Payment may also be enforced by appropriate action brought to a court
15 of competent jurisdiction.

16
17 The other fines as penalty for violation prescribed elsewhere under this
18 section are amended and/or modified accordingly.

19
20 [(C) Any air carrier violating any order, rule and regulation issued by
21 the Board shall be punished by a fine not exceeding one thousand pesos
22 for each violation.]

23
24 [(D)] (C) The following acts shall subject any air carrier to a fine [
25 not exceeding one thousand pesos] **OF FIFTEEN THOUSAND**
26 **PESOS** for each offense:

- 27 (1) Discounts or rebates on authorized rates, fares and charges;
28 (2) Adopting rates, fares and charges which have been found
29 or determined by the Board to be unjust, unreasonable, unduly
30 preferential or unjustly discriminatory in a final order; or which have not
31 been previously approved and authorized by the Board;
32 (3) Issuing any free pass, free tickets or free or reduced rates,
33 fares or charges for passengers except to the following persons: (a)
34 officers, agents, employees of the air carrier and their immediate

families; (b) witnesses and attorneys attending any legal investigation into accidents or any legal investigation in which such air carrier is interested; (c) persons injured in aircraft accidents and physicians and nurses attending such persons; (d) members of the Board; (e) officers and personnel of the Civil Aeronautics Administration when traveling on official business upon the exhibition of their credentials; (f) Members of Congress of the Philippines; and (g) such other persons duly approved by the Board.

[(E)] **(D)** Any person who operates any civil aircraft in violation of any rule, regulation or order issued by the Administrator relating to aeronautical safety standards or practices or procedures shall be punished by a fine [not exceeding five thousand pesos or by imprisonment for not more than one year, or both, in the discretion of the court.] **OF FIFTEEN THOUSAND PESOS, WITHOUT PREJUDICE TO IMPRISONMENT OF FIVE (5) YEARS UPON NATURAL PERSONS GUILTY OF VIOLATING THIS PROVISION.**

[(F)] **(E)** Any person who, without the previous approval of the Civil Aeronautics Board, effects any consolidation, merger, purchase, lease, operating contract or acquisition and control between domestic air carriers, or between domestic air carriers and foreign air carriers, or between domestic air carriers and any person engaged in any phase of aeronautics shall be punished by a fine [of five thousand pesos or by imprisonment for not more than one year, or both, in the discretion of the court.] **OF FIFTEEN THOUSAND PESOS, WITHOUT PREJUDICE TO IMPRISONMENT OF FIVE (5) YEARS UPON NATURAL PERSONS GUILTY OF VIOLATING THIS PROVISION.**

[(G)] **(F)** No person shall use an unregistered aircraft eligible for registration under the provisions of this Act. Any person who operates such aircraft shall be punished by a fine [not exceeding five thousand

1 pesos or by imprisonment for not more than six months, or both, in the
2 discretion of the court.] **OF FIFTEEN THOUSAND PESOS,**
3 **WITHOUT PREJUDICE TO IMPRISONMENT OF FIVE (5)**
4 **YEARS UPON NATURAL PERSONS GUILTY OF VIOLATING**
5 **THIS PROVISION.**
6

7 [(H)] (G) Any person serving in any capacity as an airman in
8 connection with any civil aircraft without an airman certificate, or in
9 violation of the terms of any such certificate or in excess of the rating of
10 such certificate shall be punished by a fine [not exceeding five thousand
11 pesos] **OF FIFTEEN THOUSAND PESOS.** The repetition of this
12 offense shall be sufficient cause for the revocation of the airman's
13 certificate.
14

15 [(I)] (H) Any person who employs in connection with any civil aircraft
16 used in air commerce an airman who does not have an airman's
17 certificate authorizing him to serve in the capacity for which he is
18 employed, shall be punished by a fine [not exceeding five thousand
19 pesos] **OF FIFTEEN THOUSAND PESOS.** A repetition of the offense
20 shall be sufficient cause for revocation of the permit.
21

22 [(J)] (I) Any person who operates any civil aircraft for which there is
23 not currently in affect an airworthiness certificate or in violation of the
24 terms of such certificate shall be punished by a fine [not exceeding five
25 thousand pesos] **OF FIFTEEN THOUSAND PESOS.** The repetition
26 of this offense shall be sufficient cause for the revocation of the permit.
27

28 [(K)] (J) Any person who without previous approval and
29 authorization of the Board, shall adopt, establish, maintain, change,
30 revise, abandon, alter, amend, defer, reject, discontinue, suspend, or
31 restore, any classification, rule or regulation, or practice affecting routes,
32 itineraries, schedules, classifications, increase or decrease of frequency
33 of flights, in any manner whatsoever, shall be punished by a fine [of
34 five thousand pesos] **OF FIFTEEN THOUSAND PESOS.** The

1 repetition of such offense shall be sufficient cause for revocation of the
2 permit.

3
4 [(L)] **(K)** No person shall interfere, obstruct, hinder, or delay the Civil
5 Aeronautics Board or any person duly delegated by the Board in the
6 performance of its duties in the public interest. A fine [not exceeding
7 five thousand pesos] **OF FIFTEEN THOUSAND PESOS** shall be
8 imposed upon anyone who:

9 (1) with intent to interfere with the performance of the duties
10 of the Board or any person duly delegated by the Board, shall knowingly
11 or willfully alter, falsify, mutilate any report, accounts, records, books,
12 papers, contracts, agreement and all other documents; or

13 (2) shall knowingly and willfully fail or refuse: (a) to make
14 and/or submit the books, contracts, tariffs, papers, agreements, reports
15 and all other documents required to be submitted by him for
16 consideration before the Administrator or his duly authorized
17 representative or before the Board; or (b) to keep or preserve accounts,
18 records, memoranda, books, reports, papers and all other documents
19 required by the Administrator or his duly authorized representative, or
20 by the Civil Aeronautics Board; or

21 (3) is guilty of misconduct in the presence of the Board or so
22 near the same as to obstruct or interrupt the hearing or session or any
23 proceedings before the Board and/or the Administrator or any
24 representative duly authorized by them; or shall conduct himself in a
25 rude or disorderly manner before the Administrator or his duly
26 authorized representative or any member of the Board engaged in the
27 discharge of official duty; or shall orally or in writing disrespectfully
28 offend or insult any of the above-named bodies or persons on the
29 occasion of or in the performance of their official duty or during any
30 hearing, session, or investigation held by either the Board or
31 Administrator or their duly designated representative; or

32 (4) refuses to be sworn in as a witness or to answer as such
33 when lawfully required to do so: Provided, That the Board or the
34 Administrator or their duly authorized representative shall, if necessary,

1 be entitled to the assistance of the municipal police for the execution of
2 any order to compel a witness to be present or to testify; or

3 (5) without lawful justification or excuse, hinders obstructs, or
4 delays the Civil Aeronautics Board, the Administrator or their duly
5 designated representative in the inspection or examination of the books
6 and/or accounts of an air carrier for the purpose of ascertaining the
7 correctness in any material particular of any report, papers, documents,
8 books, contracts, agreements and/or other documents submitted by such
9 air carrier, or for any other purpose deemed by the Board and/or the Civil
10 Aeronautics Administration to be in accordance with the public interest;
11 or

12 (6) neglects or refuses to attend and/or testify and/or to answer
13 any lawful inquiry or to produce books, papers, or documents, if in his
14 power to do so, in obedience to the subpoena or lawful requirement of
15 the Civil Aeronautics Board or the Civil Aeronautics Administration; or

16 (7) testifies falsely or makes false affidavits or both before the
17 Board or Civil Aeronautics Administration or any duly designated
18 representative of either.

19
20 [(M)] (L) No person shall interfere with air navigation. A fine [not
21 exceeding five thousand pesos, or imprisonment for not more than one
22 year, or both, in the discretion of the court,] **OF FIFTEEN**
23 **THOUSAND PESOS, WITHOUT PREJUDICE TO**
24 **IMPRISONMENT OF FIVE (5) YEARS WHICH** shall be imposed
25 upon any person who:

26 (1) with intent to interfere with air navigation within the
27 Philippines, exhibits within the Philippines any light or signal at such
28 place or in such manner that it is likely to be mistaken for a true light or
29 signal established pursuant to this Act or for a true light or signal in
30 connection with an airport or other air navigation facility; or

31 (2) after due warning by the Administrator, continues to
32 maintain any misleading light or signal; or

33 (3) knowingly removes, extinguishes, or interferes with the
34 operation of any true light or signal.

1
2 [(N)] (M) Any person who shall knowingly and willfully forge,
3 counterfeit, alter, or falsely make any certificate authorized to be issued
4 under this Act or knowingly use or attempt to use any fraudulent
5 certificate shall be punished by a fine [not exceeding five thousand
6 pesos or imprisonment for not more than one year, or both, in the
7 discretion of the court.] **OF FIFTEEN THOUSAND PESOS,**
8 **WITHOUT PREJUDICE TO IMPRISONMENT OF FIVE (5)**
9 **YEARS UPON NATURAL PERSONS FOUND GUILTY OF**
10 **VIOLATING THIS PROVISION.**

11
12 [(O)] (N) For the purpose of carrying out the provisions of this section,
13 the manager, or general manager or business manager, or person in
14 charge of the business of the firm or corporation committing an unlawful
15 act shall be held [personally liable] **PERSONALLY AND**
16 **SOLIDARILY LIABLE WITH HIS OR HER FELLOW**
17 **OFFICIALS AND WITH THE CORPORATION OR FIRM.**

18
19 [(P)] (O) The Administrator may file the necessary complaints for the
20 imposition of the penalties provided by this Act.

21 **(P) FOR PURPOSES OF THIS SECTION, WHEN THE**
22 **VIOLATION DIRECTLY AFFECTS A PASSENGER, THE FINE**
23 **SHALL BE MULTIPLIED BY THE NUMBER OF PASSENGERS**
24 **AFFECTED.**

25
26
27 **SECTION 2.** Section 43 of the same Act is hereby amended as follows:

28
29 **“Sec. 43. General penalty. —** Any violation of the provisions of this Act, or
30 any order, rule or regulation issued thereunder, or any term, condition or
31 limitation of any certificate or permit issued under this Act for which no penalty
32 is expressly provided shall be punished by a fine not exceeding [five hundred
33 pesos] **FIVE THOUSAND PESOS** for each violation, **SUBJECT TO**
34 **SECTION 42 (P) HEREOF.”**

1 **SECTION 3.** Section 44 of the same Act is hereby amended as follows:

2
3 “Sec. 44. Compromise regarding penalty. — The Civil Aeronautics
4 Board may enter into compromise with respect to any penalty or fine
5 imposed by virtue of the provisions of this Act [.], **SUBJECT TO**
6 **APPROVAL BY THE PRESIDENT OF THE REPUBLIC OF THE**
7 **PHILIPPINES.**

8
9 **AFTER SUCH APPROVAL BY THE PRESIDENT OF**
10 **THE COMPROMISE AGREEMENT, [F]** failure to comply with the
11 order or decision [of the Board] respecting such compromise shall be
12 deemed good and sufficient reason for the suspension of the permit or
13 any certificate until compliance is made. Compliance may also be
14 enforced by appropriate action brought in a court of competent
15 jurisdiction.”

16
17 **SECTION 4. *Repealing Clause*** – All laws, decrees, executive orders, rules and
18 regulations and other issuances or part thereof, which are inconsistent with this Act, are hereby
19 repealed, amended, or modified accordingly.

20
21 **SECTION 5. *Effectivity*** – This Act shall take fifteen (15) days after its publication in
22 two (2) newspapers of general circulation.

23
24 Approved