

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
First Regular Session

HOUSE BILL NO. **3712**



Introduced by Representative JOEY SARTE SALCEDA

AN ACT

DECLARING THE EXISTENCE OF A TRAFFIC AND CONGESTION CRISIS AND GRANTING PRESIDENT RODRIGO ROA DUTERTE, EMERGENCY POWERS TO ADDRESS ITS CAUSES AND CONSEQUENCES, ADOPTING A NATIONAL POLICY AND A DECONGESTION AND TRANSPORTATION REFORM PLAN IN CONNECTION THEREWITH AND AUTHORIZING HIM, WITHIN A PERIOD OF THREE YEARS AND SUBJECT TO RESTRICTIONS, TO IMPLEMENT RULES AND REGULATIONS NECESSARY AND PROPER TO CARRY OUT SUCH POWERS.

EXPLANATORY NOTE

*"Flashfloods trigger Metro Manila Carmageddon
I left the office on September 8; I got home on September 9"*

"One commuter spent the first few hours of his birthday with strangers on a passenger bus, rather than with his loved ones at home, staying on the road from Sept. 8 to Sept. 9."

- Philippine Daily Inquirer, 10 September 2015

The sad part is, this is not an isolated story. Even without the aggravations of climate change impacts, this is repeated every day in hundreds and hundreds of narratives of hapless and weary travelers and commuters, braving the traffic jungle that is Metro Manila. This is the stuff that Metro Manila traffic nightmares are made of.

We are not lacking in data and literature on Metro Manila's traffic nightmare. The Japan International Cooperation Agency (JICA) published a report stating that land and air traffic congestion is costing the Republic a daily loss of P 2.4 Billion per day in potential income. The National Economic Development Authority (NEDA) advised that this daily loss will balloon to P 6 Billion by 2030 if no intervention is undertaken. JICA also reported that more cars on the road is causing a rise in greenhouse emissions from 4.7 million tons per year in 2012 to 5.72 million tons by 2030, causing a staggering cost in human health and climate change. The Civil Aviation Authority of the Philippines (CAAP) has reported that airport

congestion is causing the airlines at least P 7 Billion per year in fuel and engine maintenance costs. To top it off, Waze, an international traffic software application, said in 2015 that Metro Manila has “the worst traffic in the world.” Metro Manila residents spend 1,000 hours in traffic per year while metropolitan areas in other countries spend only 300 hours.

Studies clearly establish that the massive and horrendous traffic congestion in the country has assumed the nature and magnitude of a national emergency, which requires immediate, decisive and comprehensive solutions.

We also do not lack of daily reminders of how pervasive the traffic crisis has become. Traffic congestion is the perennial topic in TV, radio, and print news. Traffic complaints and tirades are constantly trending in social media. And we hear personal stories of friends and family members missing out on their personal and professional lives, because they spend literally half of their day in cars, jeepneys, buses, and planes, wallowing in traffic.

What we lack, however, is a solution – an innovative, effective, swift, and never before seen solution that will stop the crisis from escalating and spreading to other urban hubs such as Cebu and Davao, alleviate the situation, and prevent its recurrence. Indeed, the traffic crisis has become so prevalent that conventional remedies have proven to be futile and ineffective. It has reached a point where the government is forced to think out of the box and to come up with a novel course of action.

Thus, the proposed passage of this bill granting emergency powers to the President for the purpose of addressing the traffic crisis.

Merriam Webster defines “*emergency*” as a state that calls for immediate action. Hence, without compromising transparency and accountability, the importance of the immediate passage of this bill cannot be sufficiently underscored. Let us remember that the time to act has long passed by. We need to catch up lest the crisis escalates to a bigger and wider scale causing even more financial, political, and personal losses. It is high time that we wake up from this nightmare.

This bill essentially proposes the following:

1. Declare the existence of traffic and congestion crisis.
2. Declare the state policy to address the crisis – its causes and consequences- in consonance with the constitutional directive of Article II, Section 10 to promote social justice in all phases of national development.
3. Pursuant to Article VI, Section 23 (2) of the Constitution, authorize the President to exercise emergency powers for three years necessary and proper to effectively respond to multiple problems caused by the worsening and debilitating land and air traffic crisis in the country.
4. Mandate the formulation of a Decongestion and Transportation Network Development Reform Plan for four sectors- Land-based, Rail Transport and Toll Roads, Air-based and Seaports.
5. Designate a Traffic Crisis Manager – the Department of Transportation.

6. Authorize special modes of procurement.
7. Install safeguards through the implementation of EO on Freedom of Information and creation of Congressional Oversight Committee.
8. Provide an initial P20bn for the initial implementation to be sourced from the current year's budget of the agencies implementing this act and from savings of the National Government.

In light of the foregoing, the passage of this bill is most earnestly sought



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

SECTION 1. *Short Title.* This Act shall be known as the "Traffic and Congestion Crisis Act of 2016."

SECTION 2. *Declaration of the Existence of Traffic and Congestion Crisis.* The traffic and congestion crisis in Greater Metro Manila and other highly urbanized cities and areas in the country have assumed the nature and magnitude of a national emergency. With the increasing volume of motor vehicles plying inadequate roads and highways in the metro and in other growing cities, increasing air passenger traffic beyond the capacity of the country's existing terminals, and heavy congestion of ports, Philippine transportation infrastructure at present has become unable to keep up with the demands of a rising economy and growing population. These result in severe disruption of the normal Filipino family life, the nation's economic productivity, and the competitiveness and efficiency of businesses, thereby resulting in billion-peso losses in terms of over-all productivity, health risks and social costs. Thus, the existence of a traffic and congestion crisis in Greater Metro Manila and in other highly urbanized cities and other areas in the country is hereby declared.

SECTION 3. *Declaration of Policy.* It is hereby declared a State policy to adopt adequate and effective measures that will immediately address the crisis brought about by land, air, and sea traffic congestion and mass transportation shortage in Greater Metro Manila and other highly urbanized cities and other areas around the country.

Consistent with the Constitutional mandate to promote the general welfare and social justice in

all phases of national development, the State shall promote a shift towards safe, secure, efficient, viable, competitive, dependable, integrated, environmentally sustainable, people-oriented, seamless, and inclusive transportation system for the benefit of all citizens, the economy, and society.

Towards this end, the State shall adopt a strong system of accountability and transparency in the pursuit of its objectives; as well as rationalize and strengthen existing institutions and adopt responsive measures to address the traffic and congestion crisis. The State shall also properly plan infrastructure projects that will respond to this paradigm shift in the transportation system, increase mobility options of the general public, and promote the use of alternative modes of transportation to address the crisis, increase economic productivity and tourism appeal.

The extraordinary remedy of granting emergency powers to the President/Executive Branch is for the purpose of addressing this national emergency and is limited to the period specified in this Act. In line with this, the State shall, after the period of the emergency, adopt short-term, mid-term, and long-term development plans for the efficient and cheaper transport of people and delivery of goods and services, as well as a comprehensive long-term national transport policy, in order to sustain the significant gains and to meaningfully reduce the risk of a traffic and congestion crisis from happening again in the future.

SECTION 4. *Definition of Terms.* The following terms shall mean:

- a. "Emergency Powers" shall refer to the authority granted to the President of the Republic of the Philippines under Section 23 (2), Article VI of the 1987 Philippine Constitution by the Congress for a limited period and subject to such restrictions as it may prescribe to exercise powers necessary and proper to carry out a declared policy.
- b. "Traffic and Congestion Crisis" shall refer to the current traffic situation, both land and air-based, with the nature and magnitude of a national emergency.
- c. "Greater Metro Manila" shall refer to the National Capital Region (NCR) of the Philippines, the seat of government and the most populous region of the country, composed of the cities of Manila, Quezon City, Caloocan, Las Pinas, Makati, Malabon, Mandaluyong, Marikina, Muntinlupa, Navotas, Paranaque, Pasay, Pasig, San Juan, Taguig, and Valenzuela and the Municipality of Pateros, as well as the provinces of Rizal, Bulacan, Cavite, Laguna and Batangas;
- d. "Other Highly Urbanized Cities" shall refer to identified cities in the Philippines, such as but not limited to Metro Cebu and Metro Davao, which are on the threshold of full urbanization and motorization, with the carrying capacities of the road network in urban centers, notably at the city centers or Central Business Districts (CBDs), on the verge of being unable to cope with the increasing volume of vehicles using the network;
- e. "Other Areas" shall refer to other areas all over the Philippines not part of the Greater Metro Manila and Other Highly Urbanized Cities, which are also experiencing a high level of congestion and traffic, or where traffic and/or congestion is already imminent, which shall be necessarily covered by the emergency measures to be undertaken by the Executive Branch.
- f. "Transportation Project" shall refer to construction, repair, rehabilitation, improvement, operation, or maintenance of all modes of public transportation to ensure

the safety and convenience of the commuting public, including all projects aimed at reducing traffic congestion in Metro Manila and other urbanized cities and areas.

SECTION 5. *Grant of Emergency Powers to the President/Executive Branch.* The President is hereby authorized to exercise all powers necessary and proper to carry out the above-declared national policy. As such, the President, along with the heads of the departments and agencies under the Executive Branch involved in transportation and traffic management projects and issues, are hereby granted Emergency Powers to urgently utilize all necessary government resources, exercise police power, and employ executive actions and measures to ensure the effective implementation, reconfiguration, and harmonization of national and local government projects intended to address the traffic and congestion crisis, unhampered by existing laws, agreements, regulations, court orders, and procedures that would cause delay in addressing the crisis.

SECTION 6. *Creation, Reorganization and Abolition of offices.* The President may reorganize and rationalize the existing structure of the Department of Transportation (DOTr), Land Transportation Office (LTO), Land Transportation Franchising and Regulatory Board (LTFRB), Civil Aviation Authority of the Philippines (CAAP), Civil Aeronautics Board (CAB), Metro Manila Development Authority (MMDA), PNP-Highway Patrol Group, and all other agencies in the transportation sector.

To this end, the President may abolish, merge or create agencies, offices and positions; split, group, or merge positions; adopt a rationalization plan, transfer functions, equipment, properties, records and personnel; institute drastic cost-cutting measures; and take such other related actions necessary to carry out the declared State policy. As far as practicable, and to ensure the effective implementation of the programs pursuant to this Act, the reorganization and rationalization of these departments and agencies must be implemented within six (6) months from the passage of this Act.

Nothing in this Section shall result in the diminution of the present salaries and benefits of the personnel of all affected agencies. Provided, That any official or employee of the concerned agencies which are phased out and his or her employment terminated by reason of the reorganization or rationalization here authorized shall be entitled to such benefits as may be determined by the Office of the President, in coordination with the Commission on Audit (COA), and the Civil Service Commission (CSC).

For this purpose, the President may realign funds to carry out the creation, merger, and/or reorganization of offices.

SECTION 7. *Formulation of the Decongestion and Transportation Network Reform Plan.* The Executive Branch shall adopt a comprehensive, integrated and sustainable Decongestion and Transportation Network Reform Plan (hereinafter the "Plan").

The Plan shall provide a roadmap and list of projects for the national and local intermodal transport system in order to decongest Greater Metro Manila and other highly urbanized cities and areas, with the end in view of spurring development in all regions in the country, providing sufficient transport infrastructure and linkages, and ensuring transport safety and security.

SECTION 8. *Appointment of a Traffic Crisis Manager.* The Secretary of the DOTr is designated as the Traffic Crisis Manager, and shall exercise overall traffic management and

control, as well as oversee the implementation of the Plan. He/She shall sufficiently and purposely exercise all powers and authority delegated by the President in order to mobilize resources of the different national government agencies and to expeditiously and effectively implement measures to alleviate land, air, and maritime traffic congestion. He/She shall coordinate with other relevant national government agencies, government-owned and -controlled corporations, government financial institutions, and private stakeholders in the exercise of his/her functions.

For the period of the emergency under this Act and pending reorganization of the pertinent government offices under the succeeding Section, the powers, authority and functions over land traffic management of the Metro Manila Development Authority (MMDA) under Section 3 (b), Section 5 (e) and (f) and other related provisions of Republic Act No. 7924, Local Government Units under Sec 447 (5) (vi) and Sec 458 (5) (v) of the Local Government Code of 1991, Land Transportation Office (LTO), Land Transportation Franchising and Regulatory Board (LTFRB), Philippine National Police (PNP), Toll Regulatory Board (TRB); powers, authority and functions over air route and airway facilities, air traffic service and air navigation of the Civil Aviation Authority of the Philippines (CAAP), Civil Aeronautics Board (CAB), Manila International Airport Authority (MIAA) and other pertinent Departments or government institutions; and the powers, authority and functions over seaports of the Philippine Ports Authority (PPA) shall be vested in the Traffic Crisis Manager.

SECTION 9. *Powers of the Traffic Crisis Manager.* The powers of the Traffic Crisis Manager shall be as follows:

A. Land-based transportation. The Traffic Crisis Manager shall have the power to modify, amend, or expand the functions of the MMDA, LTO, LTFRB, PNP and TRB, override their permits and licenses, including traffic ordinances of affected Local Government Units, as well as the relevant and existing procedures, and implement such other measures as exigencies shall require. These include, but are not limited to, the following:

- a. integration of different transportation modes to the public transport infrastructure network;
- b. operation and takeover of public transport systems and infrastructures;
- c. rationalization of public transport routes, intermodal terminals, and rail alignments;
- d. transfer and relocation of transport terminals;
- e. modernization and standardization of common carriers' specifications;
- f. adoption of regulatory policies on car ownership in relation to proof of parking and air pollution;
- g. imposition of parking regulations for vehicles;
- h. issuance and revocation of driver's licenses;
- i. construction of structures or implementation of roadworks that would improve

traffic flow;

- j. rapid response to road safety and traffic-blocking accidents and incidents;
- k. implementation of the number coding scheme and other traffic reduction schemes;
- l. implementation of emission testing for the motorists free of charge;
- m. opening up of private roads, whether or not with the imposition of toll fees, as additional access points for motorists;
- n. implementation of staggered work hours in government offices; and
- o. mandating of ride-sharing and other transportation demand management programs, with the establishment of carpool lanes in main thoroughfares.

B. Rail Transportation and Toll Roads. The Traffic Crisis Manager shall have the power to override LRTA, PNR, TRB, and other pertinent government agencies or instrumentalities, with respect to regulations, permits, and licenses issued by them, as well as other relevant rules and procedures, and implement such other measures as exigencies shall require. These include, but are not limited to, the following:

- a. When necessary for the development in the subsurface or subterranean portion of any private or government lands of such infrastructure projects as subway and any other transport conveyances, the Traffic Crisis Manager, through the LRTA or the PNR, or his/her authorized representative, shall not be prevented from entering into, using perpetually, and exercising other necessary rights, free of charge, such subsurface or subterranean portions, if such portions are located fifteen (15) meters or more from the surface;
- b. The Traffic Crisis Manager, through the PNR, or his/her authorized representative, shall have the authority to reclaim and eject the current occupant, free of charge, but subject to applicable resettlement laws and policies, of all properties owned by or forming part of the right of way of PNR, which are currently being occupied by third parties without any valid written contract with the PNR that is supported by sufficient consideration, provided, that the current occupier may continue using the concerned PNR property if such occupier delivers to PNR ownership or perpetual usufruct over equivalent land, and/or enter into a written agreement with PNR for its continued use of the concerned property, supported by sufficient consideration;
- c. The Traffic Crisis Manager and the LRTA shall have the authority to procure rail system spare parts which are of limited availability (due to being Original Equipment Manufacturer (OEM) parts, or due to a very limited supply chain, or due to suppliers' unwillingness to supply in small quantities) in numbers or volumes that exceed the relevant rail system's inventory requirements for one year, pursuant to the determination by the Traffic Crisis Manager, or the LRTA, of the type of spare parts that may be covered by this authority, and the reasonable number or volume of such spare parts that may be procured, consistent with international best practices and/or as the exigencies of public service may require;

- d. The Traffic Crisis Manager, through the LRTA or PNR, or his/her authorized representative shall have the authority to acquire any land or property for the purpose of developing future rail projects, in order to minimize cost of acquisition, and maximize value capture opportunities for government.

C. Air-based Transportation. The Traffic Crisis Manager shall have the power to override regulations, permits, and licenses, as well as relevant and existing procedures, and implement such other measures as exigencies shall require. These include, but are not limited to, the following:

- a. comprehensive evaluation of the airport's current airspace, runway, and terminal capacities, air traffic and surface operation, and runway access points;
- b. optimization of existing airports and transfer to alternative airports;
- c. development of new airports;
- d. augmentation of the air- and land-side facilities;
- e. relocation of general aviation activities;
- f. exemption from travel tax and excise tax on aviation fuel for Clark International Airport and other identified airports to increase utilization thereof; and
- g. hastening of ground servicing of aircrafts and adjustment on passenger loading times.

D. Seaports. The Traffic Crisis Manager shall have the power to modify, amend, or expand the functions of Philippine Ports Authority (PPA) and Maritime Industry Authority (MARINA), and override their permits and licenses, as well as relevant and existing procedures, and implement such other measures as exigencies shall require. These include, but are not limited to, the following:

- a. expansion of the capacity of the Port of Manila to receive cargo;
- b. shifting of international container traffic to Batangas and Subic ports;
- c. staffing of Batangas and Subic ports with sufficient Bureau of Customs (BOC) and PPA personnel;
- d. provision of cargo handling equipment, berth capacity, and container yard capacity that are commensurate to the volume of cargo and transaction that are targeted to be diverted from the Port of Manila;
- e. construction of a new and large deep-sea port at a location outside Manila to be identified under the Plan; and
- f. adoption of a rationalization plan for future port development and investment programs for ports in the National Capital Region (NCR) and the neighboring Central Luzon and Southern Tagalog Region.

SECTION 10. *Power of Eminent Domain.* All concerned government agencies shall coordinate and jointly work with the Traffic Crisis Manager for the immediate resolution of issues and bottlenecks in transport and traffic infrastructure. This shall include the exercise of the power of eminent domain for right-of-way acquisition necessary for infrastructure projects or public convenience.

The definition of "national government projects" under Republic Act No. 10752 shall be deemed to include projects for the resettlement of informal settlers or other persons or families affected by any national government infrastructure project implemented pursuant to Republic Act No. 6957, as amended by Republic Act No. 7718;

SECTION 11. *Special Modes of Procurement for Transportation Projects.* The Traffic Crisis Manager, is hereby authorized to adopt the following modes of procurement for goods, infrastructure, and consulting services for the construction, repair, rehabilitation, improvement or maintenance of transportation projects aimed at the reduction of traffic congestion in Metro Manila and other urbanized cities and areas:

1. **Direct Contracting** involves directly requesting a contractor, supplier or consultant, who meets the financial, technical and legal qualifications as set by the Procuring Entity, to submit a price quotation or a pro-forma invoice together with the contractual terms and conditions.
2. **Repeat Order** involves a direct procurement of goods from a previous supplier whenever there is a need to replenish goods as needed and determined by the Procuring Entity.
3. **Direct Negotiation of Contracts** involves directly negotiating with a project proponent who complies with all the pre-qualification requirements as set forth under R.A. No. 7718 otherwise known as the Build-Operate-Transfer Law.

Exemption shall be granted from all taxes and fees due on the transfer of assets, whether nominally or beneficially, from the government to a private sector concessionaire of a rail PPP project, and from the private sector concessionaire back to the government at the end of the concession period, provided that this exemption shall only apply to rail PPP projects signed and executed after the date of this Act.

SECTION 12. *Prohibition on the Issuance of Temporary Restraining Orders and Preliminary Injunctions.* In the implementation of this Act, no court, except the Supreme Court, may issue any temporary restraining order or preliminary injunction against the government or any of its subdivisions, official or any person or entity, whether public or private acting under the government direction, to restrain, prohibit or compel the following acts:

1. Acquisition, clearance and development of the right-of-way and/or site or location of any transportation project identified by the Traffic Crisis Manager;
2. Procurement of transportation projects, including infrastructure projects, goods, and consulting services;
3. Commencement, prosecution, execution, implementation, operation of any

transportation project;

4. Termination or rescission of any Transportation Project; and
5. The undertaking or authorization of any other lawful activity necessary for any Transportation Project.

SECTION 13. *Right to Information.* Upon perfection of each contract entered into by the Government pursuant to Section 11 hereof, the terms and conditions of the same, with the name and qualification of the contractor, together with the description, the budgetary estimates involved and other salient features, shall be published in a website created for this purpose.

SECTION 14. *Duration of Powers.* The authority granted to the Executive Branch under this Act shall subsist and be valid and effective for a period of three (3) years from the effectivity of this Act, unless sooner withdrawn by a joint resolution of Congress, without prejudice to rights and benefits that may have been vested and culpabilities and liabilities that may have been incurred under its provisions.

SECTION 15. *Oversight Committees.* There is hereby created an Oversight Committee in each House of Congress to be composed of five (5) members each to be respectively designated by the Senate President and the Speaker of the House of Representatives, which committees shall be tasked with monitoring the implementation of this Act and the exercise of the authority granted hereunder.

The Oversight Committees shall submit periodic reports, evaluations and recommendations to the Senate and the House of Representatives.

SECTION 16. *Report to Congress.* The Executive Branch shall submit a quarterly report to Congress on the implementation of this Act.

SECTION 17. *Private Legal Assistance and indemnification.* The Traffic Crisis Manager as well as his subordinates may engage the legal services of private lawyers whenever criminal or civil cases are filed against them in connection with the lawful functions of their duty and be indemnified of all the costs and expenses incurred in connection with the cases filed against them.

SECTION 18. *Funding.* The amount of P20bn or amounts necessary to implement the initial implementation of this Act shall be charged against the current year's appropriations of the concerned Departments/Agencies/Offices and from available savings of the National Government. Thereafter, such amount as maybe necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

SECTION 19. *Transitory Provision.* As far as practicable, the provisions of this Act shall apply to all ongoing procurements which have already commenced but with no Notice of Award.

SECTION 20. *Separability Clause.* In the event that any provision of this Act is declared unconstitutional, invalid, or illegal, the constitutionality, validity, or legality of the remainder of the provisions of this Act shall not be affected thereby.

SECTION 21. *Repealing Clause.* All laws, presidential decrees, letters of instructions, executive orders, rules, regulations, and other issuances or parts thereof which are contrary to or inconsistent with the provisions of -this Act are hereby revoked, repealed, amended or modified accordingly.

SECTION 22. *Effectivity.* This Act shall take effect fifteen (15) days following the completion of its publication in two (2) newspapers of general circulation.

Approved.