

EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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Senate
Office of the Secretary

SENATE
S. No. 125

19 JUL -2 A8:59

Introduced by Senator Grace Poe

RECEIVED BY

**AN ACT
TO ESTABLISH THE NATIONAL TRANSPORTATION SAFETY BOARD,
PRESCRIBING ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES**

*Explanatory Note*¹

Car chases are a staple of 80's *pinoy* action movies. One can recall scenes of action-star *bidas* being chased by goons through the streets of old Manila. Usually, the *bida* would escape by making a sharp turn. This would cause the goons to crash into a conveniently located stack of crates or into a proverbial fruit stand.

Road accidents in real life are neither as high-octane nor as glamorous. And the costs, in human and financial terms, are often worse. According to a 2005 study by the UP National Center for Transportation Studies, a single road accident costs up to 3.47 million pesos. In Metro Manila alone, road accidents claimed the lives of 317 individuals, and injured 11,378 others in 2017. Maritime accidents claimed the lives of 1,540 individuals in the same year.

In fact, accidents are the fifth leading cause of death, just behind pneumonia, malignant neoplasm, vascular diseases, and diseases of the heart. Yet road accidents are the most predictable and preventable of these causes of death. Better drivers, stronger enforcement of transport-related laws, and more responsive emergency care are a few simple steps which can -and should- be taken in this direction.

Institutional change is an important part of eliminating road accidents from the country. Currently, our transport sector is governed by a scattered hodgepodge of regulators, bureaus, and agencies. Transport safety is part of their respective mandates, but it is neither their primary focus nor their core specialization. Thus, this representation submits that we need a single dedicated agency which will not only investigate accidents but also look at predicting, reducing and preventing them.

¹ This measure is also inspired by the efforts of road safety advocate Ms. Elvira Medina of the National Commuter Safety and Protection. Portions of this explanatory note were previously published in *Transport Asia* magazine.

The present measure proposes to establish an independent and non-regulatory National Transportation Safety Board (NTSB) which shall be mandated to investigate transportation related accidents on land, sea and air including railway and pipeline systems. Among the functions of the proposed NTSB include conducting safety inspections on land, sea and air transportation and appraising or assessing existing practices and policies regarding the transportation sector.

However, the NTSB will not merely be a reactive government body, limited only to investigating accidents. It can also undertake and publish studies on making transportation as safe and free from risk of injury as possible. In this sense, the Board performs a proactive function, looking into the causes and determinants of transport accidents and helping to prevent them. After all, prevention is always better than investigation.

This measure is filed in the hope that, one day, we may reach a point where the only transport accidents that occur are those onscreen- when the *bida* makes a sharp turn and the goons crash into a nearby stack of crates, an out-dated legacy of a bygone, more hazardous era.

As such, approval of this measure is earnestly sought.



GRACE POE

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19 JUL -2 A9:00

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REF ID: DBW

A handwritten signature in blue ink, appearing to read "Grace Poe".

**AN ACT
TO ESTABLISH THE NATIONAL TRANSPORTATION SAFETY BOARD,
PRESCRIBING ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES**

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

1 Section 1. *Short Title.* – This Act shall be known as the "National
2 Transportation Safety Board Act of 2019."

3 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to
4 promote safety in the transportation of people and goods through cost-effective
5 measures that either prevent, remedy, or mitigate accidents involving any mode of
6 transport, including pipelines and conveyors. Towards this end, the Government
7 shall:

- 8 a) Conduct independent accident investigations;
- 9 b) Support safety programs based on continuing and objective reviews of
10 causes or reasons for unsafety acts and conditions; and
- 11 c) Appraise and assess operating practices and regulations of government
12 agencies involved in the transportation sector, insofar as they affect
13 safety, and where appropriate, shall initiate, coordinate, formulate or
14 promulgate safety improvement standards for the observance and
15 implementation by the concerned government agencies and/or private
16 entities.

1 Sec. 3. *Creation of the National Transportation Safety Board.* – There is
2 hereby created a National Transportation Safety Board, hereinafter referred to as the
3 “Board” which shall be attached to the Office of the President.

4 Sec. 4. *Composition and Organization.* –

- 5 a) The Board shall be composed of seven (7) full-time Members, headed by a
6 Chairman, who shall be appointed by the President of the Philippines. A
7 Member of the Board must be a natural born citizen at the time of his/her
8 appointment, and must have at least three (3) years of actual experience
9 in the administration, operation and management of a transport utility firm
10 or regulatory agency in either air, land, sea and rail transportation and
11 knowledgeable in accident reconstruction, safety engineering or
12 transportation and traffic safety: *Provided*, that three (3) of the full-time
13 members must come from the commuting public including a
14 representative from the organizations advocating for road safety.
- 15 b) The Chairman shall have a term of five (5) years but may be renewed for
16 a non- extendible period of one (1) year. Provided, that the term of the
17 initial appointees shall be staggered such that the Chairman shall hold
18 office for a term of five (5) years; the next three (3) members for three
19 (3) years and the other three (3) members for two (2) years.
- 20 c) Upon the expiration of their respective terms, they shall continue to serve
21 until their successor shall have been appointed and qualified. In case a
22 member fails to complete his term, his successor shall only serve the
23 unexpired portion of the term of his predecessor.
- 24 d) A member may be removed from office by the President for cause in
25 accordance with the Civil Service rules and regulations.
- 26 e) The Chairman shall be the Chief Executive Officer of the Board. He shall
27 exercise all the powers and discharge all functions of the Board. He shall
28 control over all personnel employed by the Board, including, the following:
29 1. The appointment and supervision of personnel employed by the Board;
30 2. The distribution of business among such personnel and among any
31 administrative units of the Board; *and*

- 1 3. The use and expenditure of its funds.
- 2 f) The Board shall establish and maintain distinct appropriately staffed
3 bureaus, division, or offices, to investigate and report on accidents
4 involving each of the following modes of transportation:
- 5 1. Aviation;
- 6 2. Highway and motor vehicle;
- 7 3. Pipeline, railroad, and tracked vehicle; *and*
- 8 4. Marine transport carriers
- 9 g) The Board shall, in addition, establish and maintain such capabilities as
10 may be needed to investigate and report on the safe transportation of
11 hazardous and toxic materials.

12 *Sec. 5. The Executive Director. –*

- 13 a) The Board shall have an Executive Director who shall be appointed by the
14 Chairman.
- 15 b) No person shall be appointed Executive Director unless he is at least thirty
16 five (35) years of age at the time of his appointment, a Member of the
17 Philippine bar, and who has practiced his profession for at least ten (10)
18 years prior to the date of his appointment. He must not have been a
19 candidate for any elective position in the elections immediately preceding
20 his appointment.
- 21 c) The Executive Director shall;
- 22 1. Record and officially report on the proceedings of the Board and shall
23 have authority to administer oaths in all matters falling within the
24 jurisdiction of the Board.
- 25 2. Be responsible for running the day to day operation of the Board;
- 26 3. Act as the custodian of the records, maps, profiles, reports, and other
27 documents and papers filed in connection with any case or proceedings
28 before the Board;
- 29 4. Be responsible for the effective implementation of the policies, rules,
30 and directives promulgated by the Board; and

1 5. Coordinate and supervise the activities of the different operating units
2 of the Board and shall perform such other functions as may be
3 assigned to him by the Chairman and/or the Board.

4 *Sec. 6. Compensation. –*

- 5 a) The Chairman and the Members of the Board shall have the rank of a
6 Department Secretary and Undersecretary, respectively. They shall receive
7 the compensation and other emoluments corresponding to those of a
8 Department Secretary and Undersecretary, respectively.
9 b) The Executive Director shall have the rank of Assistant Secretary and shall
10 be entitled to compensation and other emoluments corresponding to those
11 of an Assistant Secretary.
12 c) The Chairman. The Members of the Board, and the Executive Director
13 shall be entitled to commutable representation and transportation
14 allowances per month in the amount not exceeding the monthly salary of
15 the lowest-paid regular employee of the Board.
16 d) The Board shall determine the schedule of salaries of the employees
17 subject to the compliance with the existing compensation law; Provided,
18 that the Board shall determine and fix the compensation and fringe
19 benefits of employees holding technical positions that are not common to
20 the agencies of the government which shall be specified in the
21 implementing Rules and Regulations.

22 *Sec. 7. Duties and Functions of the Board. –* The Board shall:

- 23 a) Investigate or cause to be investigated ad determine the facts, conditions,
24 and circumstances and the cause of any of the following:
25 1. Aircraft accidents, in accordance with ANNEX 13 of the ICAO
26 regulations. The result of the investigation shall be made available to
27 the public by the Board within sixty (60) days from its completion.
28 2. Highway accidents, including railroad grade crossing accidents in
29 coordination with the Local Government Unit (LGU) where the accident
30 occurred.

3. Railroad accidents in which there is fatality, substantial property damage, or which involved a passenger train.
 4. Pipelines accidents, in which there is fatality or substantial property damage;
 5. Major marine accident, except those involving military vessels, occurring on the navigable waters or territorial seas of the Philippines. The result of the investigation shall be made available to the public by the Board within sixty (60) days from its completion.
 6. Other accidents involving transportation of people and property, which, in the judgement of the Board, are catastrophic and of a recurring character.
- b) Report in writing to Congress and the President on the facts, conditions, and circumstances of each accident investigated pursuant to Section 7 (a) of this Act, and cause such report to be made available to the public by the Board within sixty (60) days from the completion of its investigation.
- c) Issue periodic reports to Congress, the President, and to make it available to government agencies and instrumentalities, and non-government organizations concerned with transportation safety upon request, including owners of public transportation carriers who may be concerned with the findings of the Board and to interested persons. Such reports shall contain proposals for corrective measures to make the transportation of persons as safe and free from the risk of injury as possible, including steps to minimize human injuries from transportation accident: Provided, the said reports shall be made public within sixty (60) days from its submission to the Congress or to the president, as the case may be;
- d) Initiate and conduct special studies and investigation on matters pertaining to safety in transportation and avoiding injury to persons and damage to property;
- e) Gather, analyse, maintain, and publish from time to time data and statistics on transportation accidents;

- 1 f) Carry out special studies and investigations relative to transportation
2 safety;
- 3 g) Prescribe requirement for persons reporting accidents and aviation
4 incidents that:
- 5 1. May be investigated by the Board pursuant to this Act; or
- 6 2. Involve public aircraft, except aircraft of the Armed Forces of the
7 Philippines.
- 8 h) Perform such other functions as may be necessary to effectively
9 implement the objectives and provisions of this Act.

10 Sec. 8. *Powers of the Board.* –

- 11 a) The Board or any member so designated may conduct hearings,
12 administer oaths, and require the attendance and testimony of witnesses
13 as well as the production of papers, contracts, agreements and all other
14 relevant documents deemed necessary in any inquiry or investigation
15 pending before the Board.
- 16 b) Any representative authorized by the Board, upon presenting appropriate
17 credentials, may enter any property wherein a transportation accident has
18 occurred or wreckage from such accident is located in order to undertake
19 the appropriate investigation thereof. The representative may inspect at
20 reasonable times, records, files processes, controls, and facilities relevant
21 to the investigation of such accidents. Each inspection shall be
22 commenced and completed with reasonable promptness;
- 23 c) In investigating the aircraft accident pursuant to this Section, the Board
24 may inspect and test, to the extent necessary, any civil aircraft engine,
25 equipment, propeller, appliance, or property on an aircraft involved in an
26 accident in air commerce: Provided, however, That any civil aircraft
27 engine, equipment, propeller, appliance, or property on an aircraft
28 involved in air commerce shall preserved, and may be moved, only as
29 prescribed by regulations promulgated by the Board;

1 d) An officer or employee of the Board may examine or test any motor
2 vehicle, vessel, rolling stock, track, or pipeline component. Such
3 examination or test shall be conducted in a manner that;

- 4 1. Does not unnecessarily, interfere with the transportation services
5 provided by the owner or operator of the motor vehicle, vessel, rolling
6 stock, or pipeline component; and
7 2. To the maximum extent feasible, preserves evidence related to the
8 accident, consistent with the needs of the investigation and with the
9 cooperation of that owner or operator.

10 e) The Board shall have the sole discretion to:

- 11 1. Decide the manner by which the testing will be undertaken pursuant to
12 this Act;
13 2. The person who will conduct the test;
14 3. The type of test to be conducted; and
15 4. Any individual or individuals who will witness the test;

16 *Provided*, that an inspection, examination, or test conducted pursuant to this
17 Act by an officer or employee of the Board shall be started and completed
18 promptly: *Provided, further*, that the results and findings of such inspection,
19 examination, or test shall made public within thirty (30) days upon completion
20 thereof.

21 f) The Board may require and shall be furnished a copy of the autopsy
22 reports by the official concerned on any person who dies as a result of
23 having been involved in a transportation accident. The Board may order, if
24 necessary, the autopsy, or require other tests of such persons as may be
25 needed for the investigation of the accident;

26 g) The Board may enter into such contract, leases, agreements and other
27 transactions as may be necessary in the conduct of its functions and
28 duties;

29 h) The Board may call assistance of, and use any available services,
30 equipment, facilities, of the DOJ, DOTC, PCG, Department of National
31 Defense (DND), Department of Public Works and Highways (DPWH),

1 Philippine National Police (PNP), and other agencies and instrumentalities
2 of the government;

- 3 i) The Board may create advisory committees composed of qualified private
4 citizens and government officials with whom the Board may consult in the
5 implementation of its functions and duties. And to pay honoraria of these
6 persons for meetings actually attended. Whenever necessary, the Board
7 may likewise appoint or retain the services of recognized experts as
8 consultants on the accidents under investigation. Such consultants shall be
9 paid compensation as fixed by the Board: Provided, That not more than
10 three (3) consultants shall be appointed for each accident being
11 investigated: Provided, further, That no officer, external auditor, or legal
12 counsel of any investigated: Provided, further, That no officer, External
13 auditor, or legal counsel of any private company or enterprise primarily
14 engaged in the transportation industry shall be eligible for appointment as
15 a consultant of the Board within three (3) years from his retirement,
16 resignation, or separation therefrom;
- 17 j) Appoint advisory committees composed of qualified private citizens and
18 officials of the national government and LGUs as appropriate;
- 19 k) Any law to the contrary notwithstanding, accept voluntary and
20 uncompensated services;
- 21 l) Accept donations and gifts of money and other property;
- 22 m) Enter into contacts with non-profit entities to carry out studies related to
23 the duties and powers of the Board for its operating expenses;
- 24 n) Require that departments, agencies, and instrumentalities of the
25 government, including LGUs and government of foreign countries, provide
26 appropriate consideration for the reasonable costs of goods and services
27 supplied by the Board; Provided. That such amounts shall accrue
28 exclusively to the Board for its operating expenses;
- 29 o) The Chairman of the Board may determine the number of committees that
30 are appropriate to maintain effective liaison with other departments,
31 agencies and instrumentalities of the national government and LGUs, non-

1 government organizations, and independent standard-setting authorities
2 that carry out program and activities related to transportation safety. The
3 Board shall designate representative to serve in the committees;

- 4 p) The Board or any officer, or employee designated by the Chairman, may
5 conduct an inquiry to obtain information related to transportation
6 safety; and
- 7 q) The Board, or its designated officer or employee, may require by order, a
8 department, agency, or instrumentality of the national government, LGU,
9 or a person, natural or juridical, which transports persons or goods, to
10 submit to the Board a written report and answers to request and
11 questions pursuant to the powers of the Board under this Act. The Board
12 shall prescribe the time within which the reports and the answers thereto
13 must be submitted to its designated officer or employee. Copies of the
14 report and the answers thereto shall be made public within sixty (60) days
15 from submission to the Board.

16 Sec. 9. *Relationship with Other Government Agencies.* –

- 17 a) Nothing in this Act shall deprive other government agencies from
18 performing their intrinsic functions, including the investigation of accidents
19 or making inquiries thereon, when those functions exist prior to the
20 effectivity of this Act: Provided, however, That the Board, at its discretion,
21 may require the submission of the records, findings, and
22 recommendations of the investigation or inquiry;
- 23 b) The PNP or any other law enforcement agency shall continue to
24 investigate and record accidents involving motor vehicles and/or
25 pedestrians. For this purpose, the Board shall prescribe a uniform and
26 standard operating system for investigation of such accidents, which shall
27 be mandatory on the part of the investigating body or person;
- 28 c) The Board power shall take precedence over those of other government
29 agencies tasked with investigating air and marine accidents which, in the
30 Board's judgement, requires its inquiry or attention;

- 1 d) For the preservation, proper handling, conservation, and protection of
2 evidence, records, files, and/or specimens related to any accident over
3 which it assumes or has jurisdiction, the Board may assume control or
4 possession of the evidence, records, files, and/or specimens;
- 5 e) The Board may require the submission of the records, findings, and/or
6 recommendations of previous accidents and/or investigations of such
7 accidents, from any government agency. For this purpose, the agency
8 concerned shall transmit to the Board, within fifteen (15) days from
9 receipt thereof, said records, findings, and/or recommendations;
- 10 f) In the exercise of its powers, the Board shall take into consideration the
11 provisions of any treaty entered into by the Republic of the Philippines
12 with other countries relative to the investigation of accidents over which
13 the Board assumed jurisdiction.

14 Sec. 10. *Disclosure, Availability, and Use of Information.* –

- 15 a) Except as provided in this section, any copy of record, information or
16 report of investigation submitted to the Board shall be made available to
17 the public upon request and at reasonable cost;
- 18 b) The Board shall not make the records available for purpose other than
19 accident or incident investigation, unless the appropriate authority for the
20 administration of justice determines that their disclosure outweighs the
21 adverse domestic and international impact;
- 22 c) The Board shall not disclose any information related to a trade secret
23 except:
- 24 1. To another department, agency, or instrumentality of the national
25 government, when requested for official use;
- 26 2. To a committee of Congress having jurisdiction over the subject matter
27 to which the investigation is related, when requested by that
28 committee;
- 29 3. In a judicial proceeding under a court order that preserves the
30 confidentiality of the information without impairing the proceeding; and

- 1 4. To the public: Provided, that such disclosure shall be for the protection
2 of public health and safety. Provided, further, that the information so
3 disclosed will not be detrimental to public health and safety: Provided
4 finally, that the disclosure shall be made in a manner designed to
5 protect and preserve its confidentiality:
- 6 d) The Board shall not publicly disclose any part of a cockpit voice recording
7 or transcript of oral communications by and between flight crew Members
8 and ground station related to an accident or incident investigated by the
9 Board: Provided, however, That the Board shall make public any part of
10 transcript the Board decides is relevant to the said accident or incident:
11 1. When the Board holds a public hearing on the accident or incident; or
12 2. When the Board makes public its findings relative to the said accident
13 or incident
- 14 e) Any law to the contrary notwithstanding, the head of the concerned
15 agency shall, upon order or written request by the Board, provide the
16 following information to the board:
17 1. Any report or a confirmed positive toxicological test, verified as positive
18 by the medico-legal officer of the National Bureau of Investigation
19 (NBI), conducted on an officer or employee of the concerned agency
20 under post-accident, unsafe practice, or reasonable toxicological
21 requirements of the concerned with the circumstances of an accident
22 or incident under the investigative jurisdiction of the Board; and
23 2. Any laboratory record documenting that the test is confirmed as
24 positive.
- 25 f) Expert as provided in Section 10 (b) of this Act, the Board shall maintain
26 the confidentiality of, and exempt from disclosure:
27 1. Laboratory records provided to the board shall maintain the
28 confidentiality of, and exempt from disclosure; and
29 2. Medical information related to the test or a review of the test
30 voluntarily provided to the Board by the tested officer or employee.

- 1 g) The Board may use a laboratory record made available to it under this Act
2 to develop an evidentiary record in its investigation of an accident or
3 incident if:
4 1. The fitness of the tested officer or employee is at issue in the
5 investigation; and
6 2. The use of that record is necessary to develop the evidentiary record.

7 Sec. 11. *Testimony.* –

- 8 a) Any party to an administrative proceeding may, at any time, make an offer
9 to the Board, conditionally or otherwise for a consented decree, voluntary
10 compliance or desistance and other settlement of the case.
11 b) Testimony, of the offer thereof, and any or all of the ultimate facts upon
12 which the offer is based, shall be considered for settlement purpose only
13 and cannot be used as evidence against any party for any other purposes
14 and shall not constitute an admission by the party making the offer of any
15 violation of this Act, and the rules, regulations, orders, and resolutions
16 promulgated by the Board.

17 Sec. 12. *Transportation Safety Fund.* –

- 18 a) There is hereby created a Transportation Safety Fund, hereinafter known
19 as the "Fund" to be deposited in a special trust fund to be administered
20 by the Board. The Fund shall be funded from:
21 1. Savings from the Board's annual operating expenses; and
22 2. Monetary donations and gifts received by the Board under Section 8
23 (1) of this act.
24 b) Subject to the usual accounting and auditing rules and regulations, the
25 Fund shall be used exclusively for the following purposes:
26 1. Operational expenses in investigating major accidents;
27 2. Initiate studies and research in the causes and possible prevention of
28 accidents and other disasters, as provided in this act;
29 3. Reimbursement of extraordinary expenditures and expenses of
30 government and private agencies and/or persons mobilized by the
31 Board in investigating major accidents; and

1 4. Training and related conferences to further and enhance the expertise
2 of the officers and employees of the Board under the provisions of this
3 Act.

4 Sec. 13. *Appropriations*. – The sum of Fifty Million Pesos (P 50,000,000.00) is
5 hereby appropriated out of any funds in the National Treasury not otherwise
6 appropriated, for the initial organization and operations of the Board. Thereafter,
7 such sums, as may be necessary for the operations of the Board, shall be included in
8 the annual General Appropriations Act.

9 Sec. 14. *Annual Report*. – The Board shall submit to the President and
10 Congress an annual report at the end of every calendar year containing, among
11 others:

- 12 a) Statistical and analytical information of accident or incident investigations
13 conducted and reviewed by the Board during the preceding year;
- 14 b) survey and summary of the recommendations made by the Board to
15 reduce the likelihood of the recurrence of those accidents, together with
16 the observed response to each recommendation;
- 17 c) A detailed appraisal of each accident investigation and accident prevention
18 activity of other departments, agencies, other instrumentalities of the
19 national government and the LGUs; and
- 20 d) The uses of, disbursement from, and receipt to the Fund created in
21 accordance with this Act.

22 Sec. 15. *Implementing Rules and Regulations*. – The Board, in consultation
23 with the DOJ, DOTC, PCG, DND, DPWH, PNP, and NBI, shall within sixty (60) days
24 from the effectivity of this Act, promulgate the implementing Rules and Regulations
25 (IRR) for the effective implementation of this Act. The IRR shall provide procedures
26 geared towards streamlined processes and swift justice by observing timeline or
27 deadline in rendering decisions and issuances, plain writing or easy-to-understand
28 instructions, and over-all improvement of the industry.

29 Sec. 16. *Separability Clause*. – If, for any reason, any provision of this Act is
30 declared invalid or unconstitutional, the other part or parts thereof which are not
31 affected thereby shall continue to be in full force and effect.

1 Sec. 17. *Repealing Clause.* – All laws, decrees, executive orders, issuances, or
2 rules and regulations, or portions thereof, that are inconsistent with this Act or any
3 provision or provisions, thereof, are repealed or modified accordingly.

4 Sec. 18. *Effectivity.* – This Act shall take effect fifteen (15) days after its
5 publication in two (2) newspapers of general circulation.

Approved,