

CONGRESS OF THE PHILIPPINES  
EIGHTEENTH CONGRESS  
*First Regular Session*

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## SENATE

S. No. 1077

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PREPARED BY THE COMMITTEES ON PUBLIC SERVICES; CIVIL SERVICE, GOVERNMENT REORGANIZATION AND PROFESSIONAL REGULATION; AND FINANCE WITH SENATORS POE, REVILLA JR. AND ANGARA AS AUTHORS THEREOF

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AN ACT CREATING A NATIONAL TRANSPORTATION SAFETY BOARD, PRESCRIBING ITS POWERS AND FUNCTIONS, AND APPROPRIATING FUNDS THEREOF

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

- 1 SECTION 1. *Title.* – This Act shall be known as the
- 2 “National Transportation Safety Board Act”.
- 3 SEC. 2. *Declaration of Policy.* – It is hereby declared
- 4 the policy of the State to promote safety in the
- 5 transportation of people and goods through cost-effective
- 6 measures that either prevent, remedy or mitigate crashes,
- 7 accidents and serious incidents involving any mode of

1      transport, including pipelines and conveyors. Towards this  
2      end, the Government shall:

3                (a) Conduct independent investigations on  
4      transportation accidents and incidents;

5                (b) Support safety programs based on continuing  
6      and objective reviews of causes or reasons for unsafe acts  
7      and conditions; and

8                (c) Appraise and assess operating practices and  
9      operational regulations of government agencies involved in  
10     the transportation sector, insofar as they relate to safety  
11     measures, and when appropriate, shall initiate, coordinate,  
12     formulate and adopt additional safety standards consistent  
13     with international best practices for the observance and  
14     implementation by the concerned government agencies  
15     and/or private entities.

16                *SEC. 3. Creation of the National Transportation*  
17                *Safety Board.* – There is hereby created a National  
18     Transportation Safety Board, hereinafter referred to as the  
19     “Board” which shall be attached to the Office of the  
20     President.

1           SEC. 4. *Composition and Organization.* –

2           (a) The Board shall be composed of seven (7) full-  
3         time Members, headed by a Chairman. The Chairman and  
4         all six (6) Members of the Board, shall be appointed by the  
5         President and must:

6           (1) Be a Filipino citizen at the time of his/her  
7         appointment;

8           (2) Have at least three (3) years of actual experience  
9         in the administration, operation and management of a  
10        transport utility firm or regulatory agency in  
11        transportation and traffic safety; and

12           (3) Be knowledgeable in crash and incident  
13         reconstruction, safety engineering or transportation and  
14         traffic safety.

15           *Provided*, That each transportation sector – land, rail,  
16         air, and sea – shall be represented by one Board Member  
17         each: *Provided, further*, That two (2) of the full-time  
18         Members must come from the commuting public, including  
19         organizations advocating for road safety.

1                   (b) The Chairman shall have a term of five (5) years  
2       but may be renewed for a non-extendible period of one (1)  
3       year: *Provided*, That the term of the initial appointees  
4       shall be staggered, such that three (3) Members shall hold  
5       office for three (3) years and the other three (3) Members  
6       for two (2) years.

7                   (c) Upon the expiration of their respective terms, the  
8       Members shall continue to serve until their successor is  
9       appointed and qualified. In case a Member fails to  
10      complete his term, his successor shall only serve the  
11      unexpired portion of the term of his predecessor.

12                  (d) A Member may be removed from office by the  
13      President for cause in accordance with the Civil Service  
14      rules and regulations.

15                  (e) The Chairman shall be the Chief Executive  
16      Officer of the Board. He shall exercise all the powers and  
17      discharge all functions of the Board. He shall exercise  
18      control over all personnel employed by the Board,  
19      including the following:

1           (1) The appointment and supervision of personnel  
2 employed by the Board;

3           (2) The distribution of business among such  
4 personnel and among any administrative units of the  
5 Board; and

6           (3) The use and expenditure of the funds of the  
7 Board.

8           (f) The Board shall establish and maintain distinct  
9 appropriately staffed bureaus, division, or offices, to  
10 conduct research, investigate and report on crashes,  
11 accidents, and serious incidents involving each of the  
12 following modes of transportation:

13           (1) Aviation;

14           (2) Motor vehicles;

15           (3) Railroads and tracked vehicles;

16           (4) Pipelines, and

17           (5) Marine transport carriers.

18           (g) The Board shall, in addition, establish and  
19 maintain such capabilities as may be needed to investigate

1 and report on the safe transportation of hazardous and  
2 toxic materials.

3 SEC. 5. *The Executive Director.* –

4 (a) The Board shall have an Executive Director, who  
5 shall be appointed by the Chairman.

6 (b) No person shall be appointed Executive Director  
7 unless he is at least thirty-five (35) years of age at the time  
8 of his appointment, a member of the Philippine bar, and  
9 who has practiced his profession for at least ten (10) years  
10 prior to the date of his appointment. He also must not have  
11 been a candidate for any elective position in the elections  
12 immediately preceding his appointment.

13 (c) The Executive Director shall:

14 (1) Record and officially report on the proceedings of  
15 the Board;

16 (2) Have authority to administer oaths in all matters  
17 falling within the jurisdiction of the Board;

18 (3) Be responsible for running the day to day  
19 operation of the Board;

- 1                 (4) Act as the custodian of the records, maps,  
2 profiles, reports, and other documents and papers filed in  
3 connection with any case or proceeding before the Board;
- 4                 (5) Be responsible for the effective implementation of  
5 the policies, rules, and directives promulgated by the  
6 Board;
- 7                 (6) Coordinate and supervise the activities of the  
8 different operating units of the Board; and
- 9                 (7) Perform such other functions as may be assigned  
10 to him by the Chairman and/or the Board.

11                 SEC. 6. *Compensation.* –

12                 (a) The Chairman and the Members of the Board  
13 shall have the rank of a Department Secretary and  
14 Undersecretary, respectively. They shall receive the  
15 compensation and other emoluments corresponding to  
16 those of a Department Secretary and Undersecretary,  
17 respectively.

18                 (b) The Executive Director shall have the rank of  
19 Assistant Secretary and shall be entitled to compensation

1 and other emoluments corresponding to those of an  
2 Assistant Secretary.

3 (c) The Chairman, the Members of the Board, and  
4 the Executive Director shall be entitled to commutable  
5 representation and transportation allowances per month in  
6 the amount not exceeding the monthly salary of the lowest-  
7 paid regular employee of the Board.

8 (d) The Board shall determine the schedule of  
9 salaries of the employees subject to the compliance with  
10 the existing compensation law: *Provided*, That the Board  
11 shall determine and fix the compensation and fringe  
12 benefits of employees holding technical positions that are  
13 not common to the agencies of the government which shall  
14 be specified in the Implementing Rules and Regulations.

15 SEC. 7. *Duties and Functions of the Board.* – The  
16 Board shall:

17 (a) Investigate or cause to be investigated and  
18 determine the facts, conditions, circumstances, and cause  
19 of any of the following:

- 1                 (1) Aircraft accidents and serious incidents, except  
2         those involving State aircrafts, in accordance with ANNEX  
3         13 of the International Civil Aviation Organization  
4         regulations;
- 5                 (2) Motor vehicle crashes, including railroad grade  
6         crossing incidents;
- 7                 (3) Railroad incidents and accidents, including those  
8         involving passenger trains, which resulted to death, injury,  
9         or substantial damage to property;
- 10                (4) Pipeline incident, in which there is fatality or  
11         substantial property damage;
- 12                (5) Major maritime transportation and aerial  
13         accidents or incidents occurring within Philippine  
14         maritime jurisdiction, except those involving domestic and  
15         foreign military vessels and ships, occurring within the  
16         national territory of the Philippines: *Provided*, That the  
17         Board may aid in any investigation concerning such  
18         exempted vehicles if it has secured prior consent from the  
19         proper government agency; and

1           (6) Other serious incidents involving the  
2 transportation of people and property, which, in the  
3 judgement of the Board, are catastrophic and of a recurring  
4 character.

5           (b) Report in writing to Congress and the President  
6 on the facts, conditions, and circumstances of each incident  
7 investigated pursuant to Section 7 (a) of this Act, and  
8 make such report available to the public within sixty (60)  
9 days from the completion of the Board's investigation,  
10 except in certain cases enumerated in Section 12 of this  
11 Act;

12           (c) Initiate and conduct special studies and  
13 investigation on matters pertaining to safety in  
14 transportation and avoiding injury to persons and damage  
15 to property;

16           (d) Gather, analyze, maintain, and publish from  
17 time to time data and statistics on transportation crashes,  
18 accidents and incidents;

19           (e) Prescribe requirements for persons or agencies  
20 reporting transportation incidents, in accordance with

1        their own mandates, except those which involve military  
2        vessels or aircrafts; and

3                (f) Perform such other functions as may be  
4        necessary to effectively implement the objectives and  
5        provisions of this Act.

6                SEC. 8. *Powers of the Board.* –

7                (a) The Board or any Member so designated may  
8        conduct hearings, administer oaths, and require the  
9        attendance and testimony of witnesses and the production  
10      of papers, contracts, agreements and all other relevant  
11      documents deemed necessary in any inquiry or  
12      investigation pending before the Board.

13                (b) Any representative authorized by the Board,  
14        upon presenting appropriate credentials, may enter any  
15        property wherein a transportation incident has occurred or  
16        wreckage from such incident is located in order to  
17        investigate such incident. The representative may inspect  
18        at reasonable times, records, files processes, controls, and  
19        facilities relevant to the investigation of such incidents.

1    Each inspection shall be commenced and completed with  
2    reasonable promptness.

3                 (c) In investigating aircraft accidents or serious  
4    incidents, the Board may inspect and test, to the extent  
5    necessary, any civil aircraft engine, equipment, propeller,  
6    appliance, or property on an aircraft involved in an  
7    accident or serious incident in air commerce: *Provided,*  
8    *however,* That any civil aircraft engine, equipment,  
9    propeller, appliance, or property on an aircraft involved in  
10   air commerce shall be preserved, and may be moved, only  
11   as prescribed by regulations promulgated by the Board.

12                (d) An officer or employee of the Board may examine  
13   or test any motor vehicle, vessel, rolling stock, track, or  
14   pipeline component involved in an accident or incident.  
15   Such examination or test shall be conducted in a manner  
16   that:

17                (1) Does not unnecessarily interfere with the  
18   transportation services provided by the owner or operator  
19   of the motor vehicle, vessel, rolling stock, or pipeline  
20   component; and

1               (2) To the maximum extent feasible, preserves  
2 evidence related to the accident, consistent with the needs  
3 of the investigation.

4               (e) The Board shall have the sole discretion to:  
5               (1) Decide the manner of inspection and examination  
6 of evidence pursuant to this Act;  
7               (2) Identify the person or persons who or entity that  
8 will conduct the inspection, examination or test; and  
9               (3) Identify the type of examination or test to be  
10 conducted.

11               *Provided*, That a representative from concerned  
12 government agencies shall be present during the  
13 inspection, examination, or test conducted pursuant to this  
14 Act: *Provided, further*, That all examinations and tests  
15 shall be properly documented by photographs and videos.

16               (f) The Board may use a laboratory record made  
17 available to it under this Act to develop an evidentiary  
18 record in its investigation of an accident or incident if:  
19               (1) The fitness of the tested officer or employee is at  
20 issue in the investigation; and

1               (2) The use of that record is necessary to develop the  
2 evidentiary record.

3               (g) The Board may require and shall be furnished a  
4 copy of the autopsy reports by the official concerned on any  
5 person who died as a result of having been involved in a  
6 transportation accident. The Board may order, if  
7 necessary, the autopsy of such other deceased, or require  
8 tests on such other person or persons as may be needed for  
9 the investigation of the accident.

10             (h) The Board may enter into such contracts, leases,  
11 agreements and other transactions as may be necessary in  
12 the conduct of its functions and duties.

13             (i) The Board may call the assistance, and use any  
14 available services, equipment, and facilities of the  
15 Department of Justice (DOJ), Department of  
16 Transportation (DOTr), Philippine Coast Guard (PCG),  
17 Department of National Defense (DND), Department of  
18 Health (DOH), Metropolitan Manila Development  
19 Authority (MMDA), Department of Public Works and  
20 Highways (DPWH), Philippine National Police (PNP),

1      National Bureau of Investigation (NBI), Local Government  
2      Units (LGUs), and other agencies and instrumentalities of  
3      the government.

4                (j) The Board may create advisory committees  
5      composed of qualified private citizens and government  
6      officials with whom the Board may consult in the  
7      implementation of its functions and duties and to pay  
8      honoraria of these persons for meetings actually attended.

9      Whenever necessary, the Board may likewise appoint or  
10     retain the services of recognized experts as consultants on  
11     the incidents under investigation. Such consultants shall  
12     be paid compensation as fixed by the Board: *Provided*,  
13     That not more than three (3) consultants shall be  
14     appointed for each incident being investigated: *Provided*,  
15     *further*, That no officer, external auditor, or legal counsel of  
16     any private company or enterprise primarily engaged in  
17     the transportation industry shall be eligible for  
18     appointment as a consultant of the Board.

19                (k) Any law to the contrary notwithstanding, the  
20     Board may accept voluntary and uncompensated services;

1           (l) The Chairman of the Board may determine the  
2 number of committees that are appropriate to maintain  
3 effective liaison with other departments, agencies and  
4 instrumentalities of the national government and LGUs,  
5 non-government organizations, and independent standard-  
6 setting authorities that carry out programs and activities  
7 related to transportation safety. The Board shall designate  
8 representatives to serve in the committees.

9           (m) The Board or any officer or employee designated  
10 by the Chairman, may conduct an inquiry to obtain  
11 information related to transportation safety;

12           (n) The Board may require the submission of  
13 records, findings, and/or recommendations of previous  
14 incidents and/or investigations of such incidents, from any  
15 government agency. For this purpose, the agency  
16 concerned shall transmit to the Board, within fifteen (15)  
17 days from receipt thereof, said records, findings, and/or  
18 recommendations.

19           (o) The Board, or its designated officer or employee,  
20 may issue Orders requiring a department; agency or

1 instrumentality of the national government; LGU; or a  
2 person, natural or juridical, which transports persons or  
3 goods; to submit to the Board written answers or reports  
4 pertaining to questions the Board may propound in line  
5 with its current investigations. The Board shall prescribe a  
6 reasonable time within which the reports and the answers  
7 thereto must be submitted to its designated officer or  
8 employee.

9         SEC. 9. *Consideration of International Law.* – In the  
10 exercise of its powers, the Board shall take into  
11 consideration and abide by the provisions of any treaty  
12 entered into by the Republic of the Philippines with other  
13 countries relative to the investigation of accidents over  
14 which the Board assumes jurisdiction.

15         SEC. 10. *Use of Reports as Evidence.* – No part of any  
16 report or reports of the Board relating to any accident or  
17 incident, or investigation thereof, shall be admitted as  
18 evidence or used in any suit or action for damages arising  
19 out of any matter mentioned in such report or reports,

1      except when the criminal aspect of the accident or incident  
2      is put into issue.

3            SEC. 11. *Relationship with Other Government*  
4      *Agencies.* –

5            (a) The Board shall have original jurisdiction over  
6      incidents enumerated in Section 7(a) of this Act; however,  
7      nothing in this Act shall deprive other government  
8      agencies from performing their intrinsic and mandated  
9      functions, including the investigation of accidents or  
10     making inquiries thereon, when those functions exist prior  
11     to the effectivity of this Act: *Provided, however,* That the  
12     Board, at its discretion, may require the submission of the  
13     records, findings, and recommendations of the  
14     investigation or inquiry, pursuant to its power under  
15     Section 8 of this Act;

16            (b) The PNP and other law enforcement agencies  
17     shall continue to investigate and record incidents involving  
18     motor vehicles and/or pedestrians in accordance with their  
19     operational procedures or protocols; and

1                   (c) Any law to the contrary notwithstanding, the  
2 head of the concerned agency shall, upon order or written  
3 request by the Board, provide the following information to  
4 the Board:

- 5                   (1) Any report or a confirmed positive toxicological  
6 test, verified as positive by the medico-legal officer of the  
7 PNP or the NBI, conducted on an officer or employee of the  
8 concerned agency under post-accident, unsafe practice, or  
9 reasonable toxicological requirements of the concerned  
10 with the circumstances of an accident or incident under the  
11 investigative jurisdiction of the Board; and
- 12                   (2) Any laboratory record documenting that the test  
13 is confirmed positive.

14                 SEC. 12. *Disclosure, Availability, and Use of*  
15 *Information.* –

- 16                   (a) Except as provided in this Section, any record,  
17 information or investigative report submitted to the Board  
18 shall be made available to the public upon request and at  
19 reasonable cost, unless the Board or the Department of

1 Justice prohibits such disclosure due its possible adverse  
2 domestic or international impact;

3 (b) The Board shall not disclose any information  
4 related to a trade secret except:

5 (1) To another department, agency, or  
6 instrumentality of the national government, when  
7 requested for official use;

8 (2) To a committee of Congress having jurisdiction  
9 over the subject matter to which the investigation is  
10 related, when requested by that committee; and

11 (3) To the public: *Provided*, That such disclosure  
12 shall be for the protection of public health and safety:  
*Provided, further*, That the information disclosed will not  
13 be detrimental to public health and safety: *Provided*  
14 finally, That the disclosure shall be made in a manner  
15 designed to protect and preserve its confidentiality.

17 (c) The Board shall not publicly disclose any part of  
18 a CCTV footage or voice recording or transcript of oral  
19 communications relating to an incident being investigated

1 by the Board: *Provided, however,* That this provision shall  
2 not apply:

3 (1) When the Board holds a public hearing on the  
4 accident or incident; or

5 (2) When the Board makes public its findings  
6 relative to the said accident or incident.

7 (d) Except as provided in Section 12 (b) of this Act,  
8 the Board shall maintain the confidentiality of, and exempt  
9 from disclosure:

10 (1) Military secrets and findings used in the report,  
11 unless authorized by the DND to do so;

12 (2) Laboratory records provided to the Board;

13 (3) Medical information related to the test or a  
14 review of the test voluntarily provided to the Board by the  
15 tested officer or employee.

16 SEC. 13. *Immunity from Suits.* –

17 The members of the board and its employees shall  
18 have immunity from suit arising from the performance of  
19 their functions conducted in good faith, without fault and  
20 negligence, and without violation of any existing laws,

1      rules and regulations during the pendency of its  
2      investigation of a transportation-related accident under its  
3      jurisdiction as provided under this Act.

4            *SEC. 14. Transportation Safety Fund. –*

5                (a) There is hereby created a Transportation Safety  
6      Fund (“Fund”) from the Board’s savings from its annual  
7      operating expense, which shall be deposited in a special  
8      trust fund administered by the Board.

9                (b) Subject to the usual accounting and auditing  
10     rules and regulations, the Fund shall be used exclusively  
11     for the following purposes:

12                (1) Operational expenses in investigating major  
13     accidents;

14                (2) Studies and research in the causes and possible  
15     prevention of accidents and other disasters, as provided in  
16     this act;

17                (3) Reimbursement of extraordinary expenditures  
18     and expenses of government and private agencies and/or  
19     persons mobilized by the Board in investigating major  
20     accidents; and

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

4                 SEC. 15. *Annual Report.* – The Board shall submit to  
5 the President and Congress an annual report at the end of  
6 every calendar year containing, among others:

7                   (a) Statistical and analytical information of accident  
8 or incident investigations conducted and reviewed by the  
9 Board during the preceding year;

10                  (b) A survey and summary of the recommendations  
11 made by the Board to reduce the likelihood of the  
12 recurrence of those accidents, together with the observed  
13 response to each recommendation; and

14                  (c) A detailed appraisal of each accident  
15 investigation and accident prevention activity of other  
16 departments, agencies, other instrumentalities of the  
17 national government and the LGUs.

18                 SEC. 16. *Appropriations.* – The sum of Fifty million  
19 pesos (P50,000,000.00) is hereby appropriated out of any  
20 funds in the National Treasury not otherwise

1 appropriated, for the initial organization and operations of  
2 the Board. Thereafter, such sums, as may be necessary for  
3 the operations of the Board, shall be included in the annual  
4 General Appropriations Act.

5        *SEC. 17. Implementing Rules and Regulations. –*  
6 Within sixty (60) days from the effectivity of this Act, the  
7 Board, in consultation with the DOJ, DOTr, Philippine  
8 Coast Guard, DND, DOH, MMDA, Civil Aviation Authority  
9 of the Philippines, Maritime Industry Authority, DPWH,  
10 PNP, and NBI, shall promulgate the implementing rules  
11 and regulations (IRR) for the effective implementation of  
12 this Act. The IRR shall provide procedures geared towards  
13 streamlined processes and swift justice by observing  
14 timelines or deadlines in rendering decisions and  
15 issuances, plain writing or easy-to-understand  
16 instructions, and over-all improvement of the industry.

17        *SEC. 18. Separability Clause. –* If any part or  
18 provision of this Act is declared invalid or unconstitutional,  
19 the other parts not affected thereby shall remain valid.

1           SEC. 19. *Repealing Clause.* – All laws, decrees,  
2   executive orders, issuances, or rules and regulations, or  
3   portions thereof, that are inconsistent with this Act or any  
4   provision or provisions, thereof, are repealed or modified  
5   accordingly.

6           SEC. 20. *Effectivity.* – This Act shall take effect fifteen  
7   (15) days after its publication in two (2) newspapers of  
8   general circulation.

Approved,