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SENATE

S. No. 888

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Introduced by Senator FRANCIS G. ESCUDERO

AN ACT
INCREASING THE PENALTY FOR CRIMINAL NEGLIGENCE COMMITTED BY
COMMON CARRIERS, FURTHER AMENDING ARTICLE 365 OF ACT NO.
3815, AS AMENDED, OR THE REVISED PENAL CODE

EXPLANATORY NOTE

As early as 2003, the Department of Health Road Safety Program statistics already showed that road accidents ranked as the fourth leading cause of deaths among Filipinos and first in terms of injury which is at 20%.

Consequently, legislation must provide a corrective policy by increasing the penalty for criminal negligence committed by common carriers.

Statutorily, common carriers are required "*to carry their passengers safely as far as human care and foresight can provide, using utmost diligence of very cautious persons, with due regard for all the circumstances*"¹ (underscoring supplied). Unfortunately, this provision of law merely covers civil liability of common carriers to their passengers and excludes criminal liability.

The criminal liability of common carriers is found in Article 365 of the Revised Penal Code, Criminal Negligence, which provides imprisonment of *arresto mayor* to *prision correccional* in its medium period, or from one (1) month to four (4) years and two (2) months, depending on the gravity of the resultant crime or felony.

The penalty for criminal negligence may no longer be applicable considering the way common carriers, especially buses, have lightly treated their obligation under existing laws. Thus, that utmost diligence required of them must be made stringent by an increase in criminal sanction.

This bill aims to penalize criminal negligence committed by common carriers with imprisonment ranging from *arresto mayor* in its maximum period to *prision mayor*, or from four (4) months one (1) day to six (6) months to twelve (12) years, in case of injury, depending on the extent or gravity of the injury as provided for under

¹ Article 1755, Civil Code of the Philippines.

Title Eight, Chapter 2, on Physical Injuries, of this Act. And *reclusion temporal*, or twelve (12) years to twenty (20) years, in case of death.

It is submitted that with this increase in penalty for criminal negligence committed by common carriers, especially buses, road safety will be improved and may put an end to reckless and irresponsible driving.



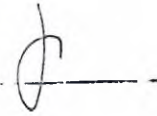
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AN ACT
INCREASING THE PENALTY FOR CRIMINAL NEGLIGENCE
COMMITTED BY COMMON CARRIERS, FURTHER AMENDING ARTICLE
365 OF ACT NO. 3815, AS AMENDED, OR THE REVISED PENAL CODE

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

1 Section 1. Article 365 of Act No. 3815, as amended, is hereby
2 further amended to read as follows:

3
4 "Art. 365. *Imprudence and negligence.* — Any person who,
5 by reckless imprudence, shall commit any act which, had it
6 been intentional, would constitute a grave felony, shall suffer
7 the penalty of *arresto mayor* in its maximum period to *prision*
8 *correccional* in its medium period; if it would have constituted
9 a less grave felony, the penalty of *arresto mayor* in its
10 minimum and medium periods shall be imposed; if it would
11 have constituted a light felony, the penalty of *arresto menor*
12 in its maximum period shall be imposed.

13 Any person who, by simple imprudence or negligence, shall
14 commit an act which would otherwise constitute a grave
15 felony, shall suffer the penalty of *arresto mayor* in its medium
16 and maximum periods; if it would have constituted a less
17 serious felony, the penalty of *arresto mayor* in its minimum
18 period shall be imposed.

19 When the execution of the act covered by this article shall
20 have only resulted in damage to the property of another, the
21 offender shall be punished by a fine ranging from an amount
22 equal to the value of said damages to three times such value,
23 but which shall in no case be less than twenty-five pesos.

1 A fine not exceeding two hundred pesos and censure shall be
2 imposed upon any person who, by simple imprudence or
3 negligence, shall cause some wrong which, if done
4 maliciously, would have constituted a light felony.

5 In the imposition of these penalties, the court shall exercise
6 their sound discretion, without regard to the rules prescribed
7 in Article sixty-four.

8 The provisions contained in this article shall not be applicable:

9 1. When the penalty provided for the offense is equal to or
10 lower than those provided in the first two paragraphs of this
11 article, in which case the court shall impose the penalty next
12 lower in degree than that which should be imposed in the
13 period which they may deem proper to apply.

14 2. When, by imprudence or negligence and with violation of
15 the Automobile Law, the death of a person shall be caused, in
16 which case the defendant shall be punished by *prision*
17 *correccional* in its medium and maximum periods.

18 **3. WHEN BY IMPRUDENCE OR NEGLIGENCE OF A**
19 **COMMON CARRIER EITHER THROUGH ITS SHIP**
20 **CAPTAIN, AIRPLANE CHIEF, DRIVER, EMPLOYEE,**
21 **AGENT, OPERATOR OR OWNER, THE DEATH OR**
22 **INJURY OF A PERSON SHALL BE CAUSED, IN WHICH**
23 **CASE THE DEFENDANT SHALL SUFFER THE PENALTY**
24 **OF *RECLUSION TEMPORAL*, IN CASE OF DEATH, AND**
25 ***ARRESTO MAYOR* IN ITS MAXIMUM PERIOD TO**
26 ***PRISION MAYOR*, IN CASE OF INJURY, DEPENDING**
27 **ON THE EXTENT OR GRAVITY OF THE INJURY AS**
28 **PROVIDED FOR UNDER TITLE EIGHT, CHAPTER 2, ON**
29 **PHYSICAL INJURIES, OF THIS ACT.**

30 Reckless imprudence consists in voluntary, but without
31 malice, doing or failing to do an act from which material
32 damage results by reason of inexcusable lack of precaution
33 on the part of the person performing or failing to perform
34 such act, taking into consideration his employment or
35 occupation, degree of intelligence, physical condition and
36 other circumstances regarding persons, time and place.

37 Simple imprudence consists in the lack of precaution
38 displayed in these cases in which the damage impending to
39 be caused is not immediate nor the danger clearly manifest.

1 The penalty next higher in degree to those provided for in
2 this article shall be imposed upon the offender who fails to
3 lend on the spot to the injured parties such help as may be in
4 this hand to give. (*As amended by R.A. 1790, approved June*
5 *21, 1957*)."

6 Sec. 2. *Separability Clause.* If any provision or part hereof is held
7 invalid or unconstitutional, the remainder of the law or the provision not
8 otherwise affected shall remain valid and subsisting.

9
10 Sec. 3. *Repealing Clause.* All laws, presidential decrees, executive
11 orders, proclamations and/or administrative regulations which are inconsistent
12 with the provisions of this Act are hereby amended, modified, superseded or
13 repealed accordingly.

14
15 Sec. 4. *Effectivity Clause.* This Act shall take effect fifteen (15) days
16 from its publication in at least three (3) newspapers of national circulation.

17
18 *Approved,*