

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 4678



Introduced by HON. MARIO VITTORIO A. MARIÑO

EXPLANATORY NOTE

The Constitution provides that "The State shall protect consumers from trade malpractice and from substandard or hazardous product." To this end, various consumer protection laws have been enacted so as to realize this constitutionally protected right.

In the case of the air transportation industry, this right is encapsulated in the contract of carriage between the airline and the passenger. The passenger is obligated to follow airline policies and other measures related to safe air transport while it is the obligation of the airline as a common carrier to "carry the passengers safely as far as human care and foresight can provide, using the utmost diligence of very cautious persons, with a due regard for all the circumstances" as stated in Article 1755 of the Civil Code. Despite the protection our laws provide, airline passengers continue to experience various problems such as long queues in check-in counters, delayed or cancelled flights, lost or misplaced baggage, reservation snafus, additional fees and charges and generally poor service.

The Department of Transportation and Communication and Department of Trade and Industry issued a joint administrative order which provides for the "Bill of Rights of Air Passengers and Airline Obligations". This administrative order is supposed to protect consumers from poor airline services and deceptive practices. However, airline passengers continue to face the same problems as before. Furthermore, it is argued that said administrative order has insufficient penalties and sanctions to airline companies who violate the bill of rights of airline passengers.

It has become clear that legislation is urgently needed for a permanent and more comprehensive "bill of rights" for airline passengers.

In view of the foregoing, approval of this bill earnestly requested.


MARIO VITTORIO A. MARIÑO

Every passenger shall likewise have the right to adequate food and beverage in cases of tarmac delay of at least two (2) hours after ETD, reckoned from the closing of the aircraft doors or when the aircraft is still at the gate with the doors still open but the passengers are not allowed to deplane. In case the delay exceeds five (5) hours the Passenger may request disembarkation.

In the case of a multi-sector journey where the air carrier is at fault, in addition to the rights and entitlements stated under this Section, a passenger shall be entitled to an additional compensation at a rate which is equivalent to at least the value of the sector cancelled by reason of the delay. Provided, that, in case of connecting flights with another air carrier, the passenger has allotted sufficient connecting time of at least three (3) hours for international flights and two (2) hours for domestic flights. Provided, further that the passenger shall not be entitled to the compensation of the value of the sector deemed cancelled, if the passenger is endorsed to another air carrier and the passenger is able to complete his journey.

Sec. 28. Rights of a Passenger for Cancelled Flights or Flights Deemed Cancelled. – Every passenger has a right to compensation in cases of flight cancellation subject to the following rules:

- (a) If a flight is cancelled due to a cause attributable to air carrier, a passenger shall have the right to:
 1. Be notified beforehand or as soon as possible of the situation via public announcement, written/published notice and flight status update service either thru text or email;
 2. Be provided a minimum level of care immediately, on the spot at terminals/stations;
 3. Be offered free of charge:
 - i. sufficient meals and refreshments in a reasonable relation to the waiting time;
 - ii. hotel accommodation near the airport in cases where a stay of one or more nights becomes necessary, or where a stay additional to that intended by the passenger becomes necessary; and
 - iii. transportation service between the airport and place of accommodation. In addition, passengers shall be offered free of charge telephone calls, text or fax messages, or e-mails and first aid, if necessary. In applying this provision, the air carrier shall pay particular attention to the needs of persons with reduced mobility and any persons accompanying them, as well as to the needs of unaccompanied children; and
 4. Be entitled to any of the following:
 - i. Refund the fare the passenger paid for the ticket. If the payment is made in cash, the passenger shall be reimbursed within five days, either by cash, by electronic bank transfer, bank orders or bank cheques or with the signed agreement of the passenger, in travel vouchers and/or other services. If payment is made through credit card, the reimbursement should be credited back to the payor's credit card account within a reasonable period based on the internationally accepted credit

- card crediting system without additional cost to the passenger. The passenger shall be reimbursed of the full cost of the ticket at the price at which it was bought, subject to provisions of Section 10 and Section 18 hereof; or
- ii. Be endorsed to another air carrier without paying any fare difference, at the option of the Passenger, and provided that space and other circumstances permit such re-accommodation; or
 - iii. Rebook the ticket without any additional charge. In the case of a multi-sector journey, in addition to the rights and entitlements stated under this Section, a passenger shall be entitled to an additional compensation at a rate which is equivalent to at least the value of the sector cancelled. Provided, that, in case of connecting flights with another air carrier, the passenger has allotted sufficient connecting time of at least three (3) hours for international flights and two (2) hours for domestic flights. Provided, further that the passenger shall not be entitled to the compensation of the value of the sector deemed cancelled, if the passenger is endorsed to another air carrier and the passenger is able to complete his journey.
- (b) In case the air carrier cancels the flight due to i) infrastructure limitation as certified by CAAP; ii) safety reasons due to a technical limitation; iii) security reasons; or iv) during the occurrence of a fortuitous event, a passenger shall have the right to:
1. Rebook to a future flight, subject to the payment of the fare difference, if any, and reasonable administrative costs approved by CAB; or
 2. Reimbursement of the value of the fare, subject to the payment of reasonable administrative costs approved by CAB; or
 3. Endorsement to another air carrier upon payment of any fare difference and be provided space and other circumstances that the accommodation permits, at the option of the passenger.

Sec. 29. *Rights of Passengers Denied Boarding.* A passenger who has checked-in for a particular flight cannot be denied from boarding the aircraft except for legal or other valid causes such as, but not limited to, immigration issues, safety, security, and health concerns.

In a case where a passenger is denied boarding because the number of volunteers is not met on occasion of overbooking, government requisition of space, downgrading of an aircraft or legal orders, the flight in respect to the affected passenger shall be deemed cancelled and the compensation shall be governed by the following rules:

a) If the denial of boarding the aircraft is by reason of overbooking or aircraft downgrading, the passenger concerned shall be compensated in accordance with the provisions of Section 28 (a);

b) If the denial of boarding the aircraft is for some legal or justifiable reason relating to the security, or safety of other passengers, or applicable regulations as sanctioned by CAAP, or legal order of other authorities, the passenger concerned shall be entitled to refund, rebooking or endorsement to another air carrier subject to payment of fare difference or any administrative charges as approved by CAB;

For compensation purposes, a passenger's baggage is presumed to have been permanently and totally lost, if within a period of seven (7) days, counted from the time the passenger should have received the same, the baggage is not delivered to the passenger or consignee.

Sec. 32. *Compensation for Death and Bodily Injuries.* –

a) In the case of international flights, the rules of the relevant convention shall apply as to compensation for death or bodily injuries sustained by a passenger in the contract of carriage.

b) For domestic flights, the passenger shall be entitled to the compensation under the contract of carriage or the provision of applicable convention, in its Philippine currency equivalent, whichever is higher.

**CHAPTER IV
RIGHTS, DUTIES AND OBLIGATIONS OF THE AIR CARRIERS**

Sec. 33. *Prevention of Harm to Passengers and Maintenance of Aircraft.* – The air carrier shall prevent harm and hazards to passengers by ensuring that it follows all regulations on the airworthiness of the aircraft, complies with rules on hazardous materials, protects the passengers from unreasonable harm, and actively responds to harm caused by the aircraft structure, materials, and chemicals.

Sec. 34. *Designation of an "All-Flight" or "Per Route" Counters.* – Air carriers may operate all-flight counters which will serve passengers without regard to destination. As far as practicable, the air carrier shall, in addition to all-flight counters, open a separate counter dedicated for a flight nearing check-in deadline to facilitate the checking-in of passengers at least an hour before the published ETD.

Sec. 35. *Special Accommodation of PWDs, Persons with Special Needs, Senior Citizens, Pregnant Women and Unaccompanied Children.* – To ensure that the full enjoyment of the rights enumerated under this Act, the provisions of the following laws and their implementing rules and regulations, whenever applicable, shall form part of this Act as far as the passengers in this Section are concerned:

a) Republic Act No. 7277 or the Magna Carta for Disabled Persons as amended by Republic Act No. 9442 and its implementing rules and regulations;

b) Batas Pambansa Bilang 344 or the Accessibility Law;

c) Republic Act No. 7432 as amended by Republic Act No. 9257 and Republic Act No. 9994 or the Expanded Senior Citizens Act of 2010 and its implementing rules and regulations.

The contract of air carriage shall clearly enumerate the necessary terms and conditions affecting the rights of PWDs, senior citizens, persons requiring special needs, pregnant women and unaccompanied children.

Air carriers and its agents, in coordination with the agencies charged with protecting the rights and welfare of the abovementioned passengers, shall implement a system allowing this group of person enough and convenient opportunity to comply with aviation requirements and their special needs, facilities and assistance by reason of their individual circumstances throughout the flight.

For this purpose, when airport facilities allow, air carriers shall designate at least one (1) check-in counter dedicated to persons with disabilities (PWDs), senior

citizens, persons requiring special assistance, pregnant women, and unaccompanied children between 7 and 15 years old.

Sec. 36. Responsibility of the Air Carrier when the Number of Passengers is Beyond the Capacity of the Aircraft. - If a certain flight has more ticketed passengers than the allowed capacity of the aircraft by reason of overbooking, government requisition of space, as well as the downgrading of the aircraft for safety or unforeseen operational reasons, the air carrier shall perform the following:

a) Determine the number of passengers in excess of the actual seat capacity of the aircraft;

b) Announce that the flight is overbooked, and that it is looking for volunteers willing to give up their seats in exchange for compensation;

c) Provide the interested passengers or volunteers the options under Section 29 hereof, which shall always include priority booking in the next flight with available space and/or cash incentive.

No flight shall be delayed pursuant to the settlement of the air carrier's obligation under this Section.

Sec. 37. Duty of the Air Carrier in the Event of Flight Deviation. - Flight deviation happens when there is a change in the airport of origin or destination. If such is the case, the air carrier shall provide the necessary transportation for ferrying the passenger from the originally-designated airport of departure to the actual airport of departure or from the airport of actual destination to the airport of the originally-designated destination, as the case may be.

If by reason of the deviation certain a right of a passenger has been violated, the applicable provisions of this Act shall govern the rules on remedies and compensation.

Sec. 38. Provision of Assistance Desk. - Air carriers shall provide Customer Service Representatives (CSR) who can address common problems on the spot which includes arranging for meals, hotel rooms and accommodation for stranded passengers, arrange luggage resolutions, and settle other routine claims or complaints.

Sec. 39. Operational Spare. - An air carrier shall, in adopting its flight schedules, exert all efforts to manage the disposition of its aircraft in such a way as to be able to reallocate aircraft to take the place of another aircraft in case the latter cannot carry the passengers due to operational requirement, aircraft maintenance, and other similar situations.

CHAPTER V OBLIGATION OF THE CAAP, CAB AND AIRPORT OPERATORS

Sec. 40. Availability of Check-in Counters. - The CAAP, airport authorities or airport operators, as the case may be, shall provide adequate number of check-in counters for every air carrier operating in a particular airport.

They shall ensure that the number of check-in counters of an air carrier in a particular airport shall be proportionate to the volume of passengers who are checking-in for a particular flight.

Sec. 41. *Assignment of Technical Personnel in Airports.* – The CAAP shall ensure that every commercial airport is manned by technical personnel capable of verifying and certifying reports of technical or infrastructure problems or other reasons leading to delays and cancellations. The technical personnel concerned shall submit a periodic report of all delays and cancellations and the corresponding reasons thereof to the CAAP Central Office.

Sec. 42. *Complaints Desk.* – The CAB shall provide the necessary personnel to cater the unresolved complaints of passenger in every commercial airport. It shall be the duty of the assigned personnel to report all complaints to the CAB at the earliest time possible taking into account the nature of the relief sought by the passenger.

CHAPTER VI REMEDIES AND GRIEVANCE PROCEDURES

Sec. 43. *Amicable Settlement.* – The passenger and air carrier shall exhaust all efforts toward settling their disputes amicably in accordance to the provisions set forth in this Act. If no amicable settlement reached, the government, through the CAB, may take cognizance of the case.

CHAPTER VI PENAL PROVISIONS

Sec. 44. *Penalties.* – Any violation of this Act shall be penalized in accordance with the pertinent provisions of Republic Act No. 776 or the Civil Aeronautics Act of the Philippines, Republic Act no. 7394 or the Consumer Act of the Philippines, Republic Act No. 9442, Batas Pambansa Bilang 344 and Republic Act No. 9994, as the case may be. Failure on the part of the air carrier to comply with any of the obligations stated in this Act shall, after due hearing, be a ground for suspension of its license to operate.

Grave and repetitive violations after the lifting of the suspension license to operate shall be a ground for revocation of such license to operate.

Sec. 45. *Review of Penalties.* – The Department of Transportation, Department of Trade and Industry (DTI), CAAP and the CAB shall, after three (3) years from the effectivity of this Act and every three (3) years thereafter, review the applicability and enforcement of the provision of this Act and shall initiate amendment as may be necessary.

CHAPTER VII FINAL PROVISIONS

Sec. 46. *Implementing Rules and Regulations.* – Within 90 days from the effectivity of this Act, the DOTC, DTI, CAAP and the CAB, in consultation with accredited passenger organizations shall, promulgate the necessary rules and regulations to effectively implement the provisions of this Act.

Sec. 47. *Congressional Oversight Committee.* - A Congressional Oversight Committee, hereinafter referred to as the "Committee", is hereby constituted. The

Committee shall be composed of the Chairman of the Senate Committee on Public Services and Chairman of the House Committee on Transportation and four (4) additional members from each House to be designated by the Senate President and the Speaker of the House of Representatives, respectively. The Committee shall monitor and ensure the implementation of this Act. The Committee is also empowered to require DOT, DTI, CAAP and CAB, to submit all pertinent information including, but not limited to, complaints filed by the passengers and the complaints resolved by the air carriers and the CAB.

The Congressional Oversight Committee shall be in existence for a period of five (5) years, and thereafter, its oversight functions shall be exercised by the Senate Committee on Public Services and the House Committee on Transportation.

Sec. 48. Appropriations. - The Secretary of Transportation shall immediately include in the Department's program the needed operational requirement in upholding of the enumerated rights in this Act, the initial funding of which shall be charged against the current appropriations for the CAB. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

Sec.49. Separability Clause. - If for any reason any provision of this Act is declared unconstitutional or invalid, such parts or portions not affected thereby shall remain in full force and effect.

Sec. 50. Repealing Clause. - All laws, executive orders, presidential decrees, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 51. Effectivity. - This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.