EXPLANATORY NOTE

Air travel is a common method of transportation in the country. Filipinos have utilized this method of transportation both domestically and internationally. Noteworthy is the fact that in recent times, the emergence of promotional fares came into play which significantly increased the volume of passengers of air carriers.

Considering the great number of air passengers it is only necessary that they are granted rights upon entering a contract of air carriage. It cannot be denied that passengers experience different unexpected situations in their respective contracts of air carriage. From flight delays to cancellations, overbooking, baggage problems and even untoward experiences from air carriers’ crew.

It must be emphasized that common carriers which include air crafts are mandated by law to exercise extraordinary diligence. A common carrier is bound to carry the passengers safely as far as human care and foresight can provide using the utmost diligence of very cautious persons with due regard for all circumstances. This extraordinary diligence required of common carriers is calculated to protect the passengers from the tragic
This Bill is intended to promote the rights of passengers in order for each passenger to have a satisfactory experience in dealing with air carriers. Likewise, it is also one of the objectives of this Bill to improve overall the services rendered by each airline industry. It is about time to have passengers share good stories about their air transport experiences rather than the usual and repetitive unsatisfactory narratives that is usually heard around.

In view of the foregoing, the passage of this Bill is earnestly sought.

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Republic of the Philippines  
House of Representatives  
Quezon City

EIGHTEENTH CONGRESS  
Second Regular Session

House Bill No. 9620

Introduced by REPRESENTATIVE ERIC L. OLIVAREZ

“AN ACT PROVIDING FOR THE PROTECTION OF THE RIGHTS OF AIRLINE PASSENGERS AND PENALIZING VIOLATIONS THEREOF”

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 “Air Passengers’ Rights Protection Act of 2021”.

SECTION 2. Declaration of Policy. – It shall be the policy of the State to promote human rights and to provide for compensation to victims of violations of these rights, or their families. Towards this end, the State shall create measures to ensure that human rights of air passengers are respected and not violated by providing a Bill of Rights for air passengers and penalties for violations thereto.

SECTION 3. Definition of Terms. –

a. Contract of Carriage is defined as one whereby a certain person or association of persons obligate themselves to transport persons, things, or news from one place to another for a fixed price.
b. **Extraordinary diligence** is defined as the rendition of service with the greatest skill and utmost foresight.

c. **Passenger** – A passenger shall mean any person except the members of the crew, carried or to be carried, on a civil aircraft pursuant to a ticket.

d. **Tarmac Delay** – A tarmac delay occurs when an airplane on the ground is either awaiting takeoff or has just landed and passengers do not have the opportunity to get off the plane.

e. **Airworthiness** – Airworthiness means that an aircraft, its engines, propellers, and other components and accessories are of proper design and construction and are safe for air navigation purposes such design and construction being consistent with accepted engineering practice and in accordance with aerodynamic laws and aircraft science.

**SECTION 4. Scope.** – This Act shall apply to contracts of carriage by air operating to or from the territory of the Philippines whether operated by Philippine air carriers or foreign carriers.

**SECTION 5. Perfection of the Contract of Air Carriage.** – The contract of air carriage is perfected from the moment the air carrier and the passenger give their respective consent to the agreement.

There is consent when the air carrier issues a confirmation of airline ticket in favor of the passenger who accepts and holds it in his possession with the corresponding full payment of the fare by the passenger.

**SECTION 6. Extraordinary Diligence of Air Carriers.** – An air carrier is bound to carry the passengers safely as far as human care and foresight can provide using the utmost diligence of very cautious persons with due regard to all circumstances.

**RIGHTS AND OBLIGATIONS OF THE PASSENGERS**

**SECTION 7. Right to Full Disclosure of Information regarding the Contract of Carriage.** – Every passenger shall have the right to the full disclosure of the information on the terms and conditions of any ticket for a contract of carriage to be purchased by an air passenger. The information shall include, but shall not be limited to, the fare and ancillary charges, travel restrictions, baggage limitations, check-in and boarding details, responsibilities of the air carrier, procedure for claims against the air carrier, services and amenities provided by the air carrier and other pertinent conditions included in the contract of carriage.
The abovementioned disclosure of information shall be printed on or attached to
the passenger ticket or be incorporated by reference. For bookings made through a
ticketing office, the disclosures shall be provided by the agent in said office. For bookings
made online, the air carrier must establish a system wherein the purchaser is fully
apprised of the disclosures under this Section prior to the final submission of the
passenger’s offer to purchase.

Advertisements of fares shall be clear, truthful and shall not be misleading.
Advertisements of fares shall be required to include the conditions and restrictions
attached to the fare type, refund and rebooking policies, government taxes and fuel
surcharges, other fees and charges, contact details of the air carrier, the number of seats
offered on a per sector basis in case of promotional fares, and other information
necessary to apprise the passenger of the conditions and full price of the ticket being
advertised.

SECTION 8. Right to Receive the Full Value of the Service Purchases. –
Passengers shall have the right to utilize the full value of the services that they have
purchased. Air carriers are prohibited from denying or diminishing any service that has
been purchased by the passenger.

SECTION 9. Right to Rebook. – The right to rebook a flight shall be available to
any passenger who has purchased a rebookable ticket in accordance with the terms and
conditions set forth in the rebooking policy of the air carrier.

SECTION 10. Right to Refund. – The right to refund shall be available to any
passenger who has purchased a refundable ticket. Subject to the proper refunding
procedure as provided for by the air carrier concerned, passengers shall have the right to
refund any unused ticket within a reasonable amount of time.

SECTION 11. Right to Cancel a Flight. – The right to cancel a flight shall be
available to passengers subject to the following conditions:

For passengers who have purchased a refundable ticket, the passenger shall be
reimbursed by the air carrier for an amount equivalent to seventy-five (75) percent of the
fare, provided that the cancellation was made twenty-four (24) hours or more before the
date of departure. In the event that the passenger cancels a flight less than twenty-four
(24) hours before the time of departure or there be a non-appearance on the part of the
passenger, the ticket shall be considered flown with the fare deemed forfeited unless the
refund policy of the air carrier provides otherwise.

SECTION 12. Right to be Processed for Check-in. – Any passenger holding a
confirmed ticket and complete documentary requirements shall be processed accordingly
at the check-in counter within the period of time as provided for by the air carrier. A
uniform schedule of the opening of check-in counters and check-in deadlines for both local and international flights shall be provided for by the Civil Aeronautics Board (CAB) in order to provide the passengers a reasonable amount of time to be processed for check-in.

It shall be the responsibility of the air carrier to ensure that all its passengers for a particular flight have already checked-in before accepting its passengers from previously delayed or cancelled flights followed by the chance passengers in that order should there be available seats.

SECTION 13. Right to Board Aircraft for the Purpose of Flight. – A passenger who has checked-in for a particular flight shall have the right to board the aircraft for the purpose of the flight except for legal and/or valid causes.

SECTION 14. Right Against Any Act of Discrimination and Vexation. – Every passenger shall have the right to be respected at all times by the air carrier who is represented by its crew and its employees. The air carrier must serve its passengers with utmost respect and courtesy regardless of race, sex, gender, education, income, social status, language, physical and mental characteristics, religion, marital status, political belief, and other circumstances.

SECTION 15. Right to Safety. – The right to safety shall be available to all passengers. This right shall entail the right to access and to use emergency and safety devices, medical assistance, and proper application of first aid procedures during emergency situations or when his or her health requires.

Furthermore, the air carrier is liable for damage sustained in the event of the death or wounding of a passenger or any injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

SECTION 16. Right to Redress and Compensation. – The right to take action against the air carrier shall be available to any passenger who has suffered any wrong or injury by reason of the contract of carriage. Coupled with the right to redress is the passengers’ right to be compensated promptly and expeditiously in case of any wrong or injury.

SECTION 17. Right of Passengers for Delayed Flights. – The right to compensation for flights not flown within a reasonable time from the scheduled time of departure shall be available to all concerned passengers. This Section shall provide the claims available for affected passengers but shall not prohibit any air carrier from granting more favorable conditions at it may deem appropriate.
a) Terminal Delay – In case the flight is delayed for at least three (3) hours and such is attributable to the air carrier, a passenger shall have the right to:

i. Be informed of the reason for the delay and the estimated time of departure as soon as the information is available;

ii. Be offered sufficient meals and refreshments, access to communication systems free of charge

iii. Ask for a refund or rebooking in accordance with the terms and conditions of the contract of carriage;

iv. Ask for endorsement to another air carrier subject to payment of administrative charges

In case the flight is delayed for at least six (6) hours for causes attributable to the air carrier, the flight shall be deemed cancelled and the affected passengers shall be entitled to the remedies provided for in this Act.

b) Tarmac Delay – Every passenger shall likewise have the right to adequate food and beverage in cases of tarmac delay of at least two (2) hours after the supposed time of departure, reckoned from the closing of the aircraft doors or when the aircraft is still at the gate with the doors still open. In case the delay exceeds five (5) hours, the passenger may request disembarkation.

In cases of a multi-sector journey where the air carrier is at fault, a passenger shall also 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.

SECTION 18. Right of a Passenger for Cancelled Flights or Flights Deemed Cancelled. – The right to compensation shall be available to affected passengers in cases of flight cancellation subject to the following rules:

a) If a flight is cancelled for causes attributable to the air carrier, affected passengers shall have the right to:

i. Be notified immediately personally and via public announcement of the situation and the flight status update;

ii. Avail sufficient meals and refreshments free of charge;
iii. Avail hotel accommodation including the necessary transportation service in cases where a stay additional to that intended by the passenger becomes necessary, free of charge;

iv. Be entitled to refund the fare the passenger paid for the ticket within a reasonable amount of time and in a manner most convenient to both the air carrier and the passenger. The passenger shall be reimbursed the full cost of the ticket at the price at which it was bought;

v. Be endorsed to another air carrier without paying any fare difference at the option of the passenger;

vi. 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) If a flight is cancelled due to circumstances not attributable to the air carrier such as infrastructure limitations, safety reasons due to technical limitations, security reasons or any other fortuitous event, affected passengers shall have the right to:

i. Rebook the flight, subject to the payment of the fare difference, if any, and reasonable administrative costs as approved by the CAB; or

ii. Reimbursement of the value of the fare, subject to the payment of reasonable administrative costs approved by the CAB;

iii. Endorsement to another air carrier upon payment of any fare difference, at the option of the passenger.

SECTION 19. Rights of Passengers Denied Boarding. – Passengers denied boarding by reason of overbooking, government requisition of space, downgrading of aircraft or legal orders, the affected passengers shall have the following rights:

a) If the denial is by reason of overbooking or aircraft downgrading, the affected passenger shall be compensated in accordance with the provisions of Section 18 (a) and shall have the right to damages, in accordance with the pertinent provisions of the Civil Code of the Philippines; and

b) If the denial is by reason for a justifiable reason relating to the security, or safety of other passengers, or applicable regulations as sanctioned by the Civil Aviation
Authority of the Philippines (CAAP), or legal order of proper authorities, the passenger affected shall be entitled to refund, rebooking, or endorsement to another air carrier, subject to payment of fare difference and/or any administrative charges as approved by CAB.

SECTION 20. Right to Compensation for Delayed, Lost and Damaged Luggage. – The air carrier shall be liable for any damage sustained in the event of any destruction or loss of, or damage to, any registered luggage or any goods, if the occurrence which caused the damage so sustained took place during the carriage by air.

The carriage by air within the meaning of the preceding paragraph comprises the period during which the luggage or goods are in charge of the carrier, whether in an airport or on board an aircraft, or, in the case of a landing outside an airport, in any place whatsoever.

In case a checked-in baggage has been off-loaded for operational, safety, or security reasons, the air carrier shall inform the passenger at the soonest practicable time. The air carrier shall carry the off-loaded baggage in the next flight with available space, and deliver the same to the passenger either personally, or at his/her residence, at the option of the passenger.

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.

DUTIES AND OBLIGATIONS OF THE AIR CARRIERS

SECTION 21. Prevention of Harm to Passengers and Maintenance of Aircraft. – The air carrier shall see to it that all regulations of airworthiness of the aircraft have been complied with in order to ensure the safety of its passengers.

SECTION 22. Designation of “All-Flight” and “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 time of departure.

SECTION 23. Responsibility of the Air Carrier when the Number of Passengers is Beyond Capacity of the Aircraft. – If for any reason such as overbooking, government requisition of space, downgrading of the aircraft or any unforeseen operational reason a certain flight has more ticketed passengers than the actual capacity of the aircraft, the air carrier concerned shall:
a) Determine the excess number of passengers;

b) Announce that the flight is overbooked in order for all passengers to be fully apprised of the situation;

c) Determine whether there are passengers who are willing to give up their seats in exchange of compensation and be subject to the rights set forth in this Act; and

d) Should there be no volunteers, priority shall be given to those who purchased tickets earlier.

SECTION 24. Duty of the Air Carrier in the Event of a Flight Deviation. – In the event that there will be a flight deviation, the air carrier shall be responsible in providing 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.

SECTION 25. Duty to Provide Assistance Desks. – Air carriers shall provide assistance desks which shall include customer service representatives who can address concerns of passengers immediately such as arranging for meals, hotel rooms, arranging luggage issues and settling other complaints.

OBLIGATIONS OF THE CAAP, CAB, AND AIRPORT OPERATORS

SECTION 27. Availability of Check-in Counters. – The CAAP, airport authorities, and airport authorities shall provide an adequate number of check-in counters for every air carrier in proportion to the volume of passengers for every air carrier.

SECTION 28. 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 infrastructural problems.

The technical personnel concerned shall submit a periodic report of all delays and cancellations and the corresponding reasons thereof to the CAAP Central Office.

SECTION 29. Complaints Desk. – The CAB shall provide the necessary personnel to cater the unresolved complaints of passengers 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.
SECTION 30. Penalty for Violations. – Any violation of this Act shall be penalized in accordance with the pertinent provisions of the Civil Aeronautics Act of the Philippines and the Consumer Act of the Philippines. Furthermore, failure on the part of the air carrier to comply with any of its obligations shall be a ground for suspension of its license to operate. Finally, grave and repetitive violations after the lifting of the suspension to operate shall be a ground for revocation of license to operate.

SECTION 32. Implementing Rules and Regulations. – Within ninety (90) days from the effectivity of this Act, the Department of Transportation and Communications (DOTC), Department of Trade and Industry (DTI), CAAP and the CAB, in consultation with the appropriate passenger organizations, shall promulgate the necessary rules and regulations for the effective implementation of this Act.

SECTION 33. Congressional Oversight Committee. – A Congressional Oversight 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. The Congressional Oversight committee shall be in existence for a period of five (5) years. Thereafter, its oversight functions shall be exercised by the Senate Committee on Public Services and House Committee on Transportation.

SECTION 34. Appropriations. – The Secretary of Transportation shall immediately include in the Department’s program the needed operational requirement to effectively implement the provisions of this Act which shall be charged against the current appropriations of the CAB. Thereafter, such sums as may be necessary for the continues implementation of this Act shall be included in the annual General Appropriations Act.

SECTION 35. Separability Clause. – If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

SECTION 36. Repealing Clause. – All acts, executive orders, memorandum circulars/guidelines and other issuances or parts thereof, which are inconsistent with this Act, are hereby repealed or modified accordingly.

SECTION 37. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved.