

29 October 2019

**REPRESENTATIVE EDGAR MARY S. SARMIENTO**

Chairperson  
Committee on Transportation  
House of Representatives  
Batasan Complex, Batasan Hills  
Quezon City

Dear **Representative Sarmiento**:

We are pleased to submit the Department's position on House Bill No. 2131, entitled:

**“An Act Providing for the Protection of the Rights of Airline Passengers and Penalizing Acts in Violation Thereof”**

This is without prejudice to the Department's submission of additional inputs.

With my best regards.

Very truly yours,

  
**RAMON M. LOPEZ**  
Secretary



**OFFICE OF THE SECRETARY**

DTI Position on

**House Bill No. 2131**

**An Act Providing for the Protection of the Rights of Airline Passengers and Penalizing Acts in Violation Thereof**

The Department supports the passage of the bill as it will provide protection to airline passengers through the institutionalization and expansion of the existing Joint Administrative Order (JAO) No. 01, Series of 2012, between the Department of Transportation and Communications (DOTC)<sup>1</sup> and Department of Trade and Industry (DTI). The JAO provides for a Bill of Rights for Air Passengers and Carrier Obligations in order to infuse balance, fairness, and reasonableness between the welfare of passengers vis-a-vis the interest of businesses, especially in a liberalized and highly competitive aviation environment.

The intentions of the proposed bills are in line with the provisions of Republic Act (RA) No. 7394 or the Consumer Act of the Philippines in protecting the consumers against deceptive, unfair and unconscionable sales acts or practices, and from misleading advertisements and fraudulent sales promotions. In line with this, the Department recommends the following to be considered or adopted in the proposed bill, to wit:

• **Sec. 3. Definition of Terms.**

- For Sec. 3(j), the definition of the term “Denied Check-in” should also consider the situation wherein a flight check-in was done online, or through check-in kiosks located inside the airport;
- The term “senior citizen” should be defined in the bill, adopting the same from the JAO definition; and
- The term “student” should be defined in the bill, to clearly determine the scope of the benefits allowed by the bill.

• **Sec. 15. Advertisement.**

- As the JAO mandates, it is deemed important to continue mandating air carriers to provide DTI with a copy of their promotional materials for post-audit not later than the publication, release, or launch date, whichever is earlier. This is to ensure that all sales promotion campaigns and activities of air carriers are carried out with truthfulness, transparency, and fairness.

• **Sec. 32. Loss, Damage, and Delay of Baggage.**

- The Department suggests for airline companies to reimburse actual costs incurred by passenger/s during the period when baggage was delayed or lost due to the air carrier’s fault. During this instance, the passenger will incur expenses on clothing, personal items, and other everyday essentials. The air carrier, being at fault for these additional expenses, should reimburse the actual cost incurred by the passenger without the need for passengers to avail of travel insurance, specifically for lost/damaged/delayed baggage. This should be on top of the airline’s liability to replace or refund the cost of the baggage. However,

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<sup>1</sup> Department of Transportation (DoTr) as of 30 June 2016

there should be a maximum amount allowed per passenger in order to prevent abuse/exploitation of resources. This provision should be included in the contract of carriage, to be enforced under the Montreal Convention;<sup>2</sup> and

- The scope of this provision should also include compensation for the loss of one (1) or more items in a baggage, with the burden of proof resting on the passenger.

- **Sec. 41. Remedies of the Passengers.**

- While this provision provides for mechanisms for redress of grievance in cases of violations, these mechanisms should also include a mechanism for online or digital forms of redress of grievances given that the process for offline redress is somewhat tedious involving six (6) steps.

The DOTC-DTI JAO No. 01, Series of 2012 which provides for a Bill of Rights for Airline Passengers also provides guidelines or remedies against unsound business policies and practices of air carriers. This regulation applies to all aspects of contracts of carriage for flights or portions of a flight into, from, and within the territory of the Philippines operated by Philippine air carriers, and flights or portions of a flight from the territory of the Philippines operated by foreign air carriers. We are, therefore, supportive of any measure/s that will be proposed to address these issues.

Notwithstanding the abovementioned comments, the Department defers to the knowledge and expertise of the Civil Aeronautics Board (CAB), an attached agency of the Department of Transportation (DoTr), as it is the government agency mandated to regulate the economic aspect of air transportation, and exercise general supervision, control and jurisdiction over air carriers, general sales agents, cargo sales agents, and air freight forwarders.

  
**Bureau of Trade and Industrial Policy Research**

**29 October 2019**

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<sup>2</sup> Art. 17, para. 3, Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention 1999)