

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 JUN 30 P1:08

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SENATE

S. B. No. **110**

Introduced by Senator LUISA "LOI" P. EJERCITO ESTRADA

EXPLANATORY NOTE

The Constitution, Article II, Section 16, provides that the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

Our shores have been increasingly polluted making it harmful for human contact and causing a decline in species diversity in marine life. One major cause of the pollution of our shores is the indiscriminate unloading of municipal and commercial waste from shipping vessels.

In accordance with the constitutional mandate, this bill provides regulatory measures with regard to shipping vessels for the protection of Philippine shores as well as penalties for violations of its provisions.

Hence, immediate approval of this proposed measure is earnestly sought.


LUISA "LOI" P. EJERCITO ESTRADA
Senator

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AN ACT
REGULATING SHIPPING VESSELS COASTING PHILIPPINE WATERS FOR
THE PROTECTION OF SHORES

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

SECTION 1. *Short Title.* - This Act may be cited as the "Shore Protection Act."

SECTION 2. *Definition of Terms.* - For purposes of this Act the terms:

(1) "coastal waters" means –

- (A) the territorial sea of the Philippines;
- (B) the lakes and their connecting waters;
- (C) the marine and estuarine waters of the Philippines to the head of tidal influence; and
- (D) the Exclusive Economic Zone as established by existing laws.

(2) "municipal or commercial waste" means

- (A) solid waste;
- (B) waste generated by the vessels during normal operations;
- (C) debris solely from construction activities;
- (D) sewage sludge; and
- (E) dredged or fill material subject.

- (3) "person" means an individual, trust, firm, joint stock company, corporation, including government owned and controlled corporation, partnership, association, and political subdivision of the government;
- (4) "receiving facility" means a facility or operation where municipal or commercial waste is unloaded from a vessel;
- (5) "waste source" means a facility or vessels from which municipal or commercial waste is loaded unto vessels, including any rolling stock or motor vehicles from which that waste is directly loaded.

SECTION 3. *Vessels Permits and Numbers.* - (a) In General. - A vessel may not transport municipal or commercial waste in coastal waters without (1) a permit for that vessels from the Secretary of Environment and Natural Resources; and (2) displaying a number or other markings on the vessels as prescribed by the Secretary of Transportation and Communications.

(b) Permit Applications. - Application for a permit required by

this Act shall be made by the vessels owner or operator and include-

- (1) the name, address, and telephone number of the vessel owner and operator;
- (2) the vessel's name and identification number;
- (3) the vessel's area of operation;
- (4) the vessel's transport capacity;
- (5) a short history of the types of cargo transported by that vessel during the previous year, including identification of the type of municipal or commercial waste transported as -
 - (A) municipal waste;
 - (B) commercial waste;

(C) medical waste; or

(D) waste of another character.

(6) any other information the Secretary may require; and

(7) an acknowledgment.

- (c) **Effective Date of Permits.** – A permit issued under this Section. –
- (1) is effective thirty (30) days after the date on which it was issued;
 - (2) may be issued only for a period of not more than five (5) years after the effective date of permit;
 - (3) may be renewed for periods of not more than 5 years only by the vessels' owner or operator that applied for the original permit; and
 - (4) is terminated when the vessel is sold.
- (d) **Denial of Permits.** – The Secretary of Transportation and Communications may, or at the request of the Secretary of Environment and Natural Resources, deny the issuance of a permit for any vessel if the owner or operator of the vessel has a record of a pattern of serious violations of this Act and other related environmental laws, rules and regulations.
- (e) **Permit Decision.** - The Secretary of Transportation and Communications after consultation with the Secretary of Environment and Natural Resources, shall issue or deny a vessel permit under this section within thirty (30) days after receiving a complete application. On denying the issuance of the permit for a vessel, the Secretary of Transportation and Communications shall:
- (1) notify the applicant of the denial and reasons for the denial; and
 - (2) provide an opportunity for a hearing on the denial.

(f) Maintaining Permit. -

(1) In General. - The permit issued for a vessel under this title shall be maintained in a manner prescribed by the Secretary of Transportation and Communications.

(2) Endorsements. - If a vessel is a documented vessel, the Secretary of Transportation and Communications may endorse a permit on the vessel's certificate of documentation.

SECTION 4. *Waste Handling Practices.* - (A) In General. - (1) Loading. - The owner or operator of the waste source shall take all reasonable steps to assure that all municipal or commercial waste is loaded into a vessel in a manner that assures that waste deposited in coastal waters is minimized.

(2) Securing. - The owner or operator of a vessel shall assure that all municipal or commercial waste will not be deposited into coastal waters during transport.

(3) Offloading. - The owner or operator of the receiving facility shall take all reasonable steps to assure that any municipal or commercial waste is offloaded from a vessel in a manner that assures that waste deposited into coastal waters is minimized.

(4) Cleaning. - The Secretary of Environment and Natural Resources in consultation with the Secretary of Transportation and Communications, shall prescribe regulations:

- (i) requiring that waste sources, receiving facilities, and vessels are provided with means and facilities to assure that the waste will not be deposited into coastal waters during loading and offloading;
- (ii) requiring, as appropriate, the submission and adoption by each, responsible party of an operation and maintenance manual identifying procedures to be used to prevent, report and clean up any deposit of municipal or commercial waste into coastal waters, including record keeping requirements; and

- (iii) determining tracking systems required to assure adequate enforcement of laws preventing the deposit of municipal or commercial waste into coastal waters requiring installation of the appropriate systems.

SECTION 5. *Suspension, Revocation and Injunctions.* - (a) Suspension and Revocation. – After notice and opportunity for a hearing, the Secretary of Department of Transportation and Communications may suspend or revoke a permit issued to a vessel under this title for a violation of this Act or a regulation prescribed under this Act.

(b) Injunctions. – The Secretary of Transportation and Communications or the Secretary of Environment and Natural Resources may bring, a civil action to enjoin any operation in violation of this Act or a regulation prescribed under this Act before the appropriate court in whose jurisdiction the violation occurred.

SECTION 6. *Enforcement.* –

(a) Periodic Examinations. – The Secretary of Transportation and Communications shall conduct periodic examinations of vessels transporting municipal or commercial waste to determine that each of these vessels has a permit issued under this Act.

(b) Denial of Entry and Detention. – If a vessel does not comply with this Act, the Secretary of Transportation and Communications may-

- (1) deny entry to any place in the Philippines; and
- (2) detain at the place in the Philippines from which it is about to depart.

(c) Persistent Violators. – The Secretary of Environment and Natural Resources shall conduct an investigation of the owner or operator of a vessel or facility if the owner has five (5) or more separate violations during a six (6) month period.

SECTION 7. *Subpoena Authority.* – In an investigation under this Act, the attendance and testimony of witnesses, including parties in interest, and the production of any evidence may be compelled by subpoena. The subpoena authority granted by this Section is coextensive with that of a Regional Trial Court, in civil matters, for the place in which the investigation is conducted.

(b) Subpoena Authority. – An official designated by the Secretary of Transportation and Communications or Secretary of Environment and Natural Resources to conduct an investigation under this Act may issue subpoenas as provided in this section and administer oaths to witnesses.

(c) Failure to Comply. – When a person fails to obey a subpoena issued under this section, the appropriate court in whose jurisdiction the investigation is conducted or in which the person failing to obey is found shall, on proper application issue an order directing that person to comply with the subpoena. The court may punish as contempt any disobedience of its order.

(d) Witness Fees. – A witness complying with a subpoena issued under this section may be paid for actual travel and attendance at the rate which is to be determined by the Secretary of Transportation and Communications and the Secretary of Environment and Natural Resources.

SECTION 8. *Fees.* – The Secretary of Transportation and Communications may collect a fee of not more than Thirty Thousand Pesos (P30,000.00) from each person to whom a permit is issued under this Act for a permitting system and to maintain an information system.

SECTION 9. *Imposition of Fine.*– (a) General Procedures. – After notice and an opportunity for a hearing, a person found by the Secretary of Transportation and Communications to have violated this Act shall be liable for the payment of a fine in an

amount to be assessed and determined by the Secretary of Transportation and Communications by written notice. In determining the amount of the fine, the Secretary of Transportation and Communications shall consider the nature, circumstances, and extent of the prohibited acts committed and, with respect to the violator, degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(b) **Compromise.** - The Secretary of Transportation and Communications may compromise, modify, or remit, with or without consideration a fine under this Act until the matter is referred to the Solicitor General.

(c) **Referral to the Solicitor General.** - If a person fails to pay the fine as determined by the Secretary of Transportation and Communication and after it has become final, the Secretary of Transportation and Communications may refer the matter to the Solicitor General for the collection in an appropriate court of the Philippines.

(d) **Refund of Penalty.** - The Secretary of Transportation and Communications may refund or remit the fine collected under this Act if:

(1) application has been made for refund or remission of the fine within one year from the date of payment; and

(2) the Secretary of Transportation and Communications finds that the fine was unlawfully, improperly, or excessively imposed.

SECTION 10. Penalties. - (a) **Amount of Fine.** - Except as provided in Section 9 of this Act, a person violating any provision of this Act shall be held liable to the government for a fine of not more than P 150,000.00. Each day of a continuing violation is a separate violation. A vessel involved in the violation also is liable in rem for the penalty.

(b) **Operating without a Permit.** - A person violating any provision of this Act shall be held liable to the government for a fine of not more that P 250,000.00. Each day of continuing violation is a separate violation. A vessels involved in the violation also is liable in rem for the penalty.

(c) **Criminal Liability.** - Any person that knowingly violates, or that knowingly aids, abets, authorizes, or instigates a violation of this Act shall be imprisoned for not more than six (6) years, or be fined, or both.

(d) **Rewards for Information.** - The Secretary of Transportation and Communications, or the Secretary of Environment and Natural Resources, as the case may be, may pay a reward of up to one-half of a fine or penalty to any person giving information leading to the assessment of the fine.

SECTION 11. *Study and Recommendation.* - (a) **Study.** - The Secretary of Environment and Natural Resources, in consultation with the Secretary of Transportation and Communication, shall conduct a study to determine the need for, and effectiveness of additional tracking systems for vessels to assure that municipal or commercial waste is not deposited in coastal waters. In conducting this study, the Secretary of Environment and Natural Resources shall use the data collected from its permitting and enforcement of tracking systems. The report shall include a recommendation whether additional tracking systems are needed. This study shall be submitted to Congress within twenty four (24) months after the date of effectivity of this Act.

(b) **Recommendations.** - The Secretary of Transportation and Communications shall provide recommendations to the Secretary of Environment and Natural Resources concerning the various tracking systems that might be applicable to vessels transporting municipal or commercial waste.

SECTION 12. *Separability Clause.* - If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 13. *Repealing Clause.* - Any law, presidential decree, or issuance, executive order, letter of instruction, administrative order, rule or regulation not contrary

to or inconsistent with, the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 14. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspaper of general circulation.

Approved,

GVL/slee billVIOLET/shore protection act