

THIRTEENTH CONGRESS OF THE)
Republic of the Philippines)
First Regular Session)

SENATE
OFFICE OF THE SECRETARY

'04 JUN 30 P1:31

SENATE

S.B. No. 137

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Introduced by Senator **Luisa "Loi" P. Ejercito Estrada**

EXPLANATORY NOTE

Oil spills pose a great danger and damage to the country's marine environment and the living organisms, which it supports. Over the years, such danger is heightened by the unprecedented increase in the size and number of oil tankers traversing waters within Philippine territorial jurisdiction.

The country's capability to handle oil spills is wanting in terms of the necessary equipment to contain, clean up or remove spilled oil. More alarmingly, it is wanting in terms of laws, rules or regulations which make the polluter or "oil-spiller" responsible or liable for the clean-up operation at his own expense and not at the expense of the Government or a government instrumentality like the Philippine Coast Guard.

In oil spills specifically, the current state of Philippine law remains exculpatory, i.e., it virtually exempts the owners or operators of vessels which discharge oil or oily mixture from the payment of clean-up costs. This "exculpatory" state of the law is evident in Sec. 7 of P.D. No. 600 (Prevention and Control of Marine Pollution). Sec. 7 states merely that "the owner or operator of a vessel or facility which discharged the oil or oily mixture may be liable to pay for any clean-up cost." While it is true that Section 20 of P.D. No. 1152 (Philippine Environmental Code) makes it the responsibility of the polluter to contain, remove and clean up water pollution incidents at his own expense, still there is no law that gives flesh to the spirit of the statute. What exists are mere administrative orders and memorandum circulars which, however fail to address the problem of making ships, oil tankers and oil barges directly and immediately responsible and liable for the clean-up costs of oil spill caused or occasioned by them.

To remedy this anomalous situation, early passage of this bill is earnestly sought.


LUISA "LOI" P. EJERCITO ESTRADA
Senator

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AN ACT
Creating the Oil Spill Liability Fund

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

Section 1. **Title.** - This Act shall be known as the "Oil Spill Liability Fund Act."

Sec. 2. **Statement of Policy.** - It is hereby declared a national policy to prevent, abate and control the pollution by oil and oily mixture of the seas within the territorial jurisdiction of the Philippines.

Sec. 3. **Definition of Terms.** - As used in this Act:

- (a) "DENR" means the Department of Environment and Natural Resources.
- (b) "Discharge" in relation to oil or to an oily mixture means any discharge or escape or spillage, however caused.
- (c) "Fund" means the Oil Spill Liability Fund.
- (d) "LGU" means Local Government Unit.
- (e) "MARINA" means Maritime Industry Authority
- (f) "Oil" means oil of any kind or in any form including but not limited to crude oil, fuel oil, heavy diesel oil and lubricating oil, oil refuse and sludge
- (g) "Seas" means the waters surrounding, between and around the islands comprising the Philippine Archipelago.

(h) "Vessel" means every description of watercraft, or other artificial contrivance used, or capable of being used, as a means of transportation on water except:

- (i) ships which are, or for the time being used as naval auxiliaries; and
- (ii) ships of under 500 tons gross tonnage;

Sec. 4. Creation of the Oil Spill Liability Fund; Manner of Constitution. -

There is hereby created an Oil Spill Liability Fund to be managed and administered as a Trust Fund by the Department of Environment and Natural Resources (DENR). The Fund shall be sourced from contributions of owners and operators of tankers and barges hauling oil and/or petroleum products in Philippine waterways and coast wise shipping routes. During its first year of existence, the Fund shall be constituted by an impost of 10 centavos per liter for every delivery or transshipment of oil made by tanker barges and tanker haulers. For the succeeding fiscal years, the amount of contribution shall be jointly determined by the DENR, other concerned government agencies, and representatives from the owners of tanker haulers, and ships hauling oil and/or petroleum products. In determining the amount of contribution, the purpose for which the Fund was set up shall always be closely considered.

Sec. 5. Purpose of the Fund. - Amounts in the Oil Spill Liability Fund shall be available for purposes of making expenditures for the payment of clean-up and/or removal costs and natural resources damage assessments and claims as determined by the Department of Environment and Natural Resources (DENR) and administrative expenses related to such costs, assessments and claims caused or occasioned by any ship, tanker vessel, tanker barge or any other watercraft as understood in this Act which accidentally or otherwise discharges oil or oily mixture on waters subject to the jurisdiction of the Philippines; Provided, however, that the assessment or claim made by the DENR of the natural resource damage caused by an oil spill shall be payable, without need of demand, to the Local Government Unit (LGU) within whose territorial jurisdiction are situation waters affected by the oil spill; Provided, finally, that, the Fund shall also be used to enable the Philippine Coast Guard to develop an adequate capability for containment, recovery and removal or clean-up of spilled oil or oily mixture in waters within the territorial jurisdiction of the Philippines.

Sec. 6. Limitations on Expenditures. - The maximum amount which may be paid from the Oil Spill Liability Fund with respect to –

- (i) removal costs resulting from a single incident shall not exceed P5,000,000.00; and
- (ii) natural resource damage assessments and claims in connection with any single incident shall not exceed P2,500,000.00.

Provided, however, that removal costs and natural resource damage assessments and claims in excess of the amount so fixed shall be chargeable to any oil/marine pollution cover which may have, or had, been required to be procured by them by the Marine Industry Authority (MARINA).

Sec. 7. Liability of Owners of Ships, Tanker Barges and Tanker Haulers for Oil Spill Limited to Contribution in the Fund. - The liability of owners of tanker barges and tanker haulers or of ships or watercraft as understood in this Act for any oil spill or natural resource damage however caused or occasioned shall be limited to their contribution to the Fund.

Sec. 8. Responsibility for Physical Removal and/or clean up of oil spills. - Without prejudice to the right of the DENR to engage the services of a private contractor, the Philippine Coast Guard, using available funds from the Oil Spill Liability Fund, shall be the agency primarily responsible for the physical removal and/or clean-up operations of oil spills.

Sec. 9. Repealing Clause. - All laws, rules and regulations inconsistent with this Act are hereby repealed or modified accordingly.

Sec. 10. Effectivity Clause. - This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation.

Approved,