

SENATE OF THE PHILIPPINES)
SIXTEENTH CONGRESS)
First Regular Session)

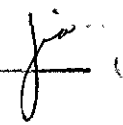


Senate
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SENATE

Senate Bill No. 1233

RECEIVED BY: 

Introduced by **SENATOR JOSEPH VICTOR G. EJERCITO**

EXPLANATORY NOTE

Pilotage service is one of the most important complementary services to vessels in port.

This proposed measure provides for the regulation and supervision of harbor pilotage services and the conduct of harbor pilots in the country. Correspondingly, it seeks to repeal Executive Order 1088 of 1986 otherwise known as "An Act Providing for Uniform and Modified Rates for Pilotage Services Rendered to Foreign and Coastwise Vessels in all Private or Public Philippine Ports."

Regulating harbor pilotage services and the conduct of harbor pilots will ensure not only the proper landing and setting of vessels but also the safe embarkation and disembarkation of both passengers and cargoes. It is about time that our antiquated laws in marine transportation be updated so as to fit the present conditions of the industry. Harbor pilots have long been fixtures in our ports. Without them, the safety of our ports, vessels, cargoes and the lives of millions of commuters depending on marine transportation may be placed in peril.

Under the proposed measure, all harbor pilots must get an accreditation from the Pilotage Committee before they can practice the profession. The pilotage committee shall accredit only a limited number of harbor pilots per district or port for efficiency purposes.

Once approved, this bill would certainly provide effective and efficient delivery of pilotage services to all ports in the country. Hence, passage of this measure is urgently requested.

JOSEPH VICTOR G. EJERCITO

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AN ACT REGULATING HARBOR PILOTAGE SERVICES AND THE CONDUCT OF HARBOR PILOTS IN ALL PORTS IN THE PHILIPPINES, REORGANIZING PORT AUTHORITIES AND FOR OTHER PURPOSES

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 “Pilotage Services Act of 2013”.

SECTION 2. Scope. – This Act shall apply to all harbor pilots and pilotage organizations providing pilotage services in all ports in the country, whether owned by the government or by private persons.

SECTION 3. Policy and Objectives. – It is hereby recognized by the State that pilotage service plays a vital and complementary role in the efficient operation of ports and the protection of marine environment. It is therefore the policy of the State to regulate, and supervise pilotage services and the conduct of pilots in all ports in the country to attain the following objectives:

(a) To ensure safety at all times of port facilities, vessels, passengers, cargoes and other port users;

(b) To ensure effective and efficient delivery of pilotage services through rationalization of pilotage fees and charges;

(c) To encourage a healthy and friendly competitive environment among entities engaged in pilotage services;

(d) To ensure the safety of life and property at sea, and protection of marine environment;

(e) To upgrade the skills and qualifications of harbor pilots and to promote and develop professionalism among their ranks; and

(f) To improve the traffic management system in ports.

SECTION 4. Definition of Terms. – For the purpose of this Act, the words and phrases used herein shall be defined as follows:

(a) *Accreditation* refers to an official recognition, approval or permission granted by the Authority to a harbor pilot or pilot organization to practice or provide harbor pilotage services in a particular area for a prescribed period.

(b) *Appointment* refers to a designation by the Pilotage Committee granted to a harbor pilot to exercise his profession and render pilotage service in a particular pilotage district.

(c) *Authority* refers to the Philippine Ports Authority (PPA) and other port authorities created under a special charter, including the ports within the economic zones and autonomous regions, having exclusive jurisdiction, supervision and control over port operation and management in a specific port in the Philippines.

(d) *Gross income* refers to the total gross billing assessed against the ship owner/agents for pilotage and related services rendered, whether collected or not.

(e) *Harbor pilot* refers to a duly licensed Master Mariner, who is not part of the regular complement of the vessel, taken on board at a particular place, and tasked to efficiently and effectively perform pilotage service within a specific pilotage district.

(f) *Nongovernmental organization (NGO)* refers to a non-stock, nonprofit private organizations with proven track record or experience in the conservation, management and protection of marine environment.

(g) *Permit-to-operate* refers to the authority granted by the Port Authority to any accredited pilot organizations to render pilotage service in a particular pilotage district.

(h) *Pilotage license* refers to the permit or license granted by the Pilotage Committee to a Master Mariner to exercise his profession and to render pilotage services in a particular pilotage district.

(i) *Pilotage organization* refers to an association of harbor pilots duly licensed and appointed by the Pilotage Committee for a particular harbor pilotage district as defined in this Act.

(j) *Pilotage service* refers to the act of conducting, navigating or maneuvering a vessel to/from berth or anchorage, along rivers, channels and estuaries, including all related activities thereof.

(k) *Reorganized Umbrella Organization of Harbor Pilots* refers to a national federation or association of harbor pilots, the membership of which comprises the majority of the duly licensed harbor pilots in the Philippines as certified by the Securities and Exchange Commission (SEC), the Cooperative Development Authority (CDA) or the concerned regulatory body.

(l) *Recognized Umbrella Organization of Ship agents* refers to a national federation or association of ship agents, the membership of which comprises the majority of the ship agents in the Philippines as certified by the SEC, the CDA or the concerned regulatory body.

SECTION 5. *The Pilotage Committee.* – Each Authority, under the supervision of the Secretary of the Department of Transportation and Communications (DOTC), is mandated to create a Pilotage Committee. Subject

to the approval of the Secretary of the DOTC, the Pilotage Committee shall define the nature and extent of harbor pilotage services, including the establishment of rates in ports under its jurisdiction.

SECTION 6. *Composition of the Pilotage Committee.* – The Pilotage Committee, which shall exercise jurisdiction over the regulation of pilotage profession and conduct of pilotage services outside the jurisdiction of chartered ports, autonomous regions and economic zones, shall be composed of six (6) members namely:

(a) The General Manager of the PPA;

(b) The Commandant of the Philippine Coast Guard (PCG);

(c) The incumbent President of the recognized umbrella organization of harbor pilots;

(d) The incumbent President of the recognized umbrella organization of ship agents;

(e) A representative from the recognized national association of Philippine ship-owners; and

(f) A representative of a recognized NGO herein defined: *Provided*, That the last two (2) members shall be appointed by the President of the Philippines for a term of two (2) years from among the list of recommendees submitted by the sector concerned.

The PPA General Manager shall act as Chairperson of the Pilotage Committee. In the case of Authority in chartered ports, the Pilotage Committee shall be composed of:

(1) General Manager of the Authority having jurisdiction over the chartered port concerned who shall also act as Committee Chairperson;

(2) Commander of the Coast Guard District where the Authority is located;

(3) A representative from the recognized umbrella organization of harbor pilots;

(4) A representative from the recognized umbrella organization of ship agents;

(5) A representative from the recognized national association of Philippine ship owners; and

(6) A representative of a recognized local NGO.

In the case of Authority of ports within the exclusive jurisdiction of the autonomous regions, the Pilotage Committee shall be composed of:

(1) General Manager of the Authority having exclusive jurisdiction over the ports of the autonomous region concerned who shall also act as Committee Chairperson;

(2) Commander of the Coast Guard District where the Authority is located;

(3) A representative from the recognized umbrella organization of harbor pilots;

(4) A representative from the recognized umbrella organization of ship agents;

(5) A representative from the recognized national association of Philippine ship owners; and

(6) A representative of a recognized local NGO.

The Pilotage Committee herein created shall be under the control and supervision of the Secretary of the DOTC. The presence of four (4) members of the Committee shall constitute a quorum for the exercise of its functions and the affirmative vote of the majority of the members present shall be a valid and binding act of the Committee.

In the absence of the Chairperson during any meeting, the members present shall elect a temporary presiding officer from among themselves. The Chairperson and members of the Committee shall receive *per diem* for every meeting actually attended at rates approved by the Department of Budget and Management (DBM) pursuant to existing laws and regulations.

The Committee shall hold regular meetings once a month and in no case shall it hold more than one (1) special meeting in any month. The *per diem* of the Chairperson and members of the Board shall be chargeable against the Pilotage Safety Development Trust Fund provided under this Act.

SECTION 7. Powers and Functions of the Pilotage Committee. – The Pilotage Committee shall have the following powers and functions:

(a) Establish, determine and adjust rates and fees for harbor pilotage services by taking into account the current rate structure, tonnage of vessels, peculiarity and intrinsic characteristic of each port and harbor and such other important factors: *Provided*, That no imposition or adjustment shall be made without prior consultation with the stakeholders in a public hearing called for the purpose: *Provided, further*, That the rates and adjustments thereof shall be subject to the approval of the Secretary of the DOTC and shall take effect only fifteen (15) days after its publication in two (2) newspapers of general circulation;

(b) Conduct regular consultative meetings with duly accredited pilotage organizations and duly licensed harbor pilots in relation to improvement of services, upgrading of pilot facilities, rate restructuring and such other related concerns;

(c) Determine and appoint the number of harbor pilots needed in a particular pilotage district in the case of PPA and in a particular port in the case of independent port authorities;

(d) Ensure the efficient and fair handling of accreditation of harbor pilots, cancel or suspend accreditation of harbor pilots for just cause, giving due notice to affected parties and after proper hearing;

(e) Grant and issue pilotage license to harbor pilots;

(f) Cancel or suspend the license of harbor pilots for any act in violation of the provisions of this Act;

(g) Accredite harbor pilot organizations;

(h) Cancel or suspend the accreditation of harbor pilot organizations for causes mentioned in Section 18 of this Act;

(i) Prescribe fines for other acts which penalties are not otherwise provided in this Act; and

(j) Determine and appoint such number of support personnel as may be necessary to carry out its administrative functions subject to the provisions of the civil service rules and regulations.

SECTION 8. *Establishment of Harbor Pilotage District.* – The Authority concerned, subject to the approval of the Secretary of the DOTC, may opt to adopt the existing port districts within its jurisdiction. However, it shall have the authority to establish additional pilotage districts or reorganize the existing ones under its jurisdiction as the need arises for purposes of public interest.

SECTION 9. *Provision of Pilotage Services.* – Pilotage service shall be provided either directly by the Authority or, on a non-exclusive basis, through accredited pilotage organizations in government-maintained or privately-managed ports in the country. Every vessel while navigating in any pilotage district or any part thereof shall be under pilotage and the owner, agent or master of the vessel shall comply with that requirement. A vessel while being moved within any area of the port that is or forms part of a pilotage district shall be deemed a vessel navigating in a pilotage district.

Pilotage services shall be compulsory in government and private wharves, berths, piers or anchorage except as otherwise provided in this paragraph. Every vessel engaged in foreign trade shall always be under compulsory pilotage.

Pilotage for vessels engaged in domestic trade shall be optional unless a port is declared under compulsory pilotage by the appropriate port authority. However, the Authority may, if it appears to be necessary, exempt any vessel or class of vessels engaged in domestic trade while navigating in any pilotage district, from being under pilotage service subject to such conditions as it may deem appropriate.

The Authority shall consider the following factors in determining the type of appropriate coverage for each port:

(a) Size and type of vessels;

(b) Physical and technical configuration of ports including mooring and berthing capabilities;

(c) Hydrographic situation of the harbor including its channels and passageways;

(d) Navigational capabilities of each port, safety and traffic devices and other related navigational aids;

(e) Volume of vessel traffic or average frequency of vessel arrivals and departures; and

(f) Such other factors which may affect the risk of vessel movements.

SECTION 10. *Qualifications of Harbor Pilots.* – A person shall be accredited as a harbor pilot if one possesses the following:

(a) Filipino citizenship;

(b) Sound physical and mental condition;

(c) Good moral character;

(d) Duly licensed by the Pilotage Committee to practice one's profession within a specified port or district;

(e) Not more than fifty-five (55) years old; and

(f) Must have been a Master Mariner on board sea going vessels of not less than five thousand (5,000) gross tons for at least five (5) years.

SECTION 11. *Compulsory Retirement of Pilots.* – Upon the effectivity of this Act, a harbor pilot shall be considered retired upon reaching the age of seventy (70): *Provided, however,* That all harbor pilots shall undergo annual medical and physical examinations as a requirement for the continued exercise of pilotage service profession.

SECTION. 12. *Accreditation of Harbor Pilots.* – All harbor pilots, before practicing the profession, must get an accreditation from the Pilotage Committee. The Pilotage Committee shall accredit only a limited number of harbor pilots per district or port for efficiency purposes. The accreditation will not result to an employer-employee relationship between the Authority and the harbor pilot-applicant. The Pilotage Committee may appoint a duly accredited harbor pilot for a particular port or district on a temporary basis in the absence of a qualified applicant for said area. The appointee must be in the list of duly licensed harbor pilots of the Pilotage Committee and familiar with the area concerned. The temporary appointments shall be valid while the exigency subsists and shall be automatically terminated upon the accreditation of a qualified harbor pilot.

SECTION 13. *Establishment and Accreditation of a Pilotage Organization.*

– The Pilotage Committee shall encourage harbor pilots to organize themselves into a corporation, partnership or cooperative. Said organizations must be duly registered with either the SEC or the CDA. The Pilotage Committee shall only issue accreditation certificates to qualified harbor pilot organizations. The permit to operate a particular pilotage district may only be granted upon proof of financial, technical and administrative capabilities of the applicant pilotage organization.

The Authority may appoint other duly accredited harbor pilotage organizations to temporarily take-over the services of a suspended pilotage organization in the event of the latter's failure or refusal to perform its

functions and render pilotage service within its service area. Such temporary appointment shall continue until upon the resumption of the pilotage services following the lifting of the suspension of the pilotage organization concerned.

SECTION 14. Record. – Harbor pilots or harbor pilot organizations shall keep a record of his or its operations and financial transactions and such other records or reports pertaining to pilotage service operations. Such records shall be made open to member-pilots and concerned government agencies for inspection and examination.

SECTION 15. Operating Capital, Equipment and Facilities. – To effectively and efficiently render pilotage services, individual pilot and pilot organizations shall make available such operating capital equipment or facilities as may be required by the Pilotage Committee.

SECTION 16. Pilotage Safety Development Trust Fund (PSDTF). – There is hereby established a Trust Fund to be known as the Pilotage Safety Development Trust Fund (PSDTF), to be administered by the Pilotage Committee concerned in accordance with existing government accounting and auditing rules and regulations.

An amount equivalent to five percent (5%) of the gross amount of pilotage fees paid to the harbor pilots for rendering pilotage services shall be collected to establish the PSDTF. The Trust Fund shall be deposited as trust receipts in the National Treasury and shall be disbursed and utilized for the following purposes:

- (a) Installation and/or upgrading of pilotage equipment and facilities to conform with international safety standards for navigation;
- (b) Developmental loans for the acquisition of capital equipment necessary to render pilotage services in the respective harbor pilotage districts;
- (c) Such other projects for the promotion and development of maritime safety involving pilotage services as well as for the protection of marine environment; and
- (d) Administrative expenses of the Pilotage Committee.

Except for the payment of *per diems*, the Trust Fund shall not be used to fund other personal services expenditures and acquisition of motor vehicles.

The pilotage committees shall render a quarterly report to the Secretary of the DOTC of the status of the PSDTF, including the detailed disbursements therefrom.

No disbursements from the PSDTF shall be made unless in accordance with the program of work and expenditures duly approved by the Pilotage Committee concerned.

Except as provided in the immediately succeeding section, no other charges or imposition by way of government share shall be levied on the gross income of harbor pilots derived from rendering pilotage services and in the exercise of their profession as harbor pilots.

SECTION 17. *Government Share in Pilotage Service.* – The Secretary of the DOTC, in consultation with the pilotage committees established under this Act, shall fix the rate of government share on the gross income of harbor pilots derived from rendering pilotage services. Such amount shall be levied by the Authority concerned on such terms and conditions as the Secretary may impose. The rate herein stated shall be reviewed once every five (5) years or earlier when economic circumstances require.

SECTION 18. *Grounds for Suspension or Cancellation of Accreditation.* – The Pilotage Committee may cancel or suspend the accreditation of harbor pilots and pilot organizations on the following grounds:

- (a) Refusal or failure to render effective and efficient pilotage service;
- (b) Failure or refusal to observe and comply with safety standards and port policies;
- (c) Gross incompetence, which resulted to loss of cargoes, loss of lives and destruction of vessel and harbor properties;
- (d) Implementation of rates and fees without the approval of the Committee;
- (e) Involvement or participation in illegal activities such as smuggling and trafficking passengers;
- (f) Refusal to cooperate and submit to an audit called for by the Authority or other government agency in relation to his or its pilotage operations, as the case may be;
- (g) Failure or refusal to post the required performance bond and other related fees;
- (h) Failure or refusal to remit the government share in the pilotage fees;
- (i) Failure to maintain the required capitalization requirement, equipment and facilities that may require in connection with its accreditation;
- (j) Failure to comply with the substantive requirements of the Pilotage Committee;
- (k) Failure or refusal to post the required indemnity insurance;
- (l) Intoxication and use of prohibited drugs during the performance of one's duties as a harbor pilot;
- (m) Use and submission of any false or forged documents for the purpose of obtaining the Harbor Pilot License or appointment;
- (n) Acts prejudicial to the Professional Code of Conduct for harbor pilots.
- (o) Physical or mental impediment to render pilotage services as may be determined by a physician accredited by the Department of Health; or
- (p) Failure to comply with any of the provisions of this Act and its implementing rules and regulations (IRR).

SECTION 19. Responsibility of the Owner, Agent or Master of a Vessel. – The owner, agent or master of a vessel shall only employ duly licensed and accredited harbor pilots to render pilotage services in a particular district or port. A person acting in violation of this section shall be fined in such amount as may be prescribed by the Pilotage Committee. For this purpose, the Pilotage Committee shall publish the list of accredited harbor pilots and their respective jurisdictions in such manner as to ensure that every owner, agent or master of a vessel is properly informed.

SECTION 20. Limitation of Pilot's Liability. – A harbor pilot licensed to act as such by the Pilotage Committee and authorized to provide pilotage services in the different harbor pilotage districts shall not be liable for damages in excess of the amount of Five hundred thousand pesos (P500,000.00) for damages or loss occasioned by a pilot's errors, omissions, fault or neglect in the performance of pilotage services, except as may arise by reason of one's willful misconduct or gross negligence.

Each harbor pilot shall post an indemnity insurance bond from the Government Service Insurance System (GSIS) or from such reputable insurance company acceptable to the Pilotage Committee, to cover the limit of the liability or for such amount as may be required by the Pilotage Committee. The harbor pilot shall be free from responsibility for damage, injury or death arising from the negligence of the master and crew of the vessel under pilotage, unseaworthiness of the vessel, breakdown of its machineries and equipment, *force majeure* or fortuitous event.

Upon actual boarding a vessel to provide pilotage services, that pilot becomes a servant of the vessel and its owner and operator. Nothing in this section exempts the vessel, its owner or its operator from liability for damage or loss occasioned by that ship to a person or property on the ground that:

(a) the ship was piloted by a duly licensed pilot; or

(b) the damage or loss was occasioned by the error, omission, fault or neglect of a pilot duly licensed by the Pilotage Committee. The harbor pilot on board a vessel under pilotage service shall serve as adviser of the master during and at the time of his engagement in the conduct and maneuver of the vessel. The master of the vessel, its owner and agents are not relieved of responsibility for any loss or damage caused by or to the vessel even while the vessel is under compulsory pilotage.

SECTION 21. Penal Provision. – A fine of not less than Twenty thousand pesos (P20,000.00) nor more than Two hundred thousand pesos (P200,000.00) or imprisonment for a period of not less than one (1) year nor more than six (6) years or both such fine and imprisonment, at the discretion of the court, shall be imposed upon:

(a) Any person who shall render pilotage services without license and appointment by the Pilotage Committee;

(b) Any person who represents one's self as a harbor pilot for a particular pilotage district without being a member of the pilotage organization for the said particular harbor pilotage district;

(c) Any person who shall give any false or forged documents for the purpose of obtaining the harbor pilot license or appointment;

(d) Any person who shall use an expired, revoked or suspended harbor pilot license or appointment to perform pilotage services; and

(e) Any person who shall assume, use or advertise the title of a harbor pilot under one's name, or any description to convey the impression that he is an active and duly licensed harbor pilot without holding a valid harbor pilot license and appointment issued by the Pilotage Committee.

SECTION 22. *Issuance of New Accreditation to Incumbent Harbor Pilots.* – Incumbent pilots in all pilotage districts shall be issued new accreditations in accordance with the provisions of this Act. In no case shall said new accreditations exceed the compulsory retirement age for harbor pilots as provided for in this Act.

SECTION 23. *Transitory Provisions.* – Harbor pilots duly authorized by the Authority to render pilotage services prior to the effectivity and implementation of this Act shall continue to exercise their profession and be given a period of two (2) years to comply with the qualification requirements under this Act. They shall be given preference over new applicants as long as they have substantially complied with the requirements stated in this Act. The prevailing rates upon the approval of this Act shall be charged for pilotage services until a new set of rates are imposed by the pilotage committees following the effectivity of this Act.

SECTION 24. *Implementing Rules and Regulations (IRR).* – The DOTC as lead agency, in coordination with the Maritime Industry Authority, the PPA, the port authorities of economic zones, the port authorities of autonomous regions and other chartered port authorities, shall promulgate the IRR of this Act within a period of three (3) months from the date of effectivity of this Act.

SECTION 25. *Separability Clause.* – If any part or provision of this Act is declared as unconstitutional or invalid by a court of competent authority, the remaining provisions which are not affected thereby shall continue to be in full force and effect.

SECTION 26. *Repealing Clause.* – Executive Order No. 1088 dated February 3, 1986 is hereby repealed. Other laws, decrees, issuances, rules and regulations or any part thereof which are inconsistent with or contrary to the provisions of this Act are hereby repealed or modified accordingly.

SECTION 27. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,