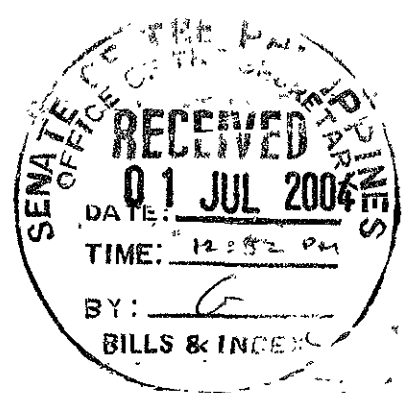


THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

SENATE
S. B. No. 1267



Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

A few years ago, an oil spill occurred off the coast of General Santos City in Mindanao. The incident sparked renewed interest, in government and among environmental groups alike, on how best to prevent oil spills in the future and how to make those responsible for oil spills truly liable for their misdeed.

Oil spills pose a great danger and damage to the country's marine environment and living organism 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.

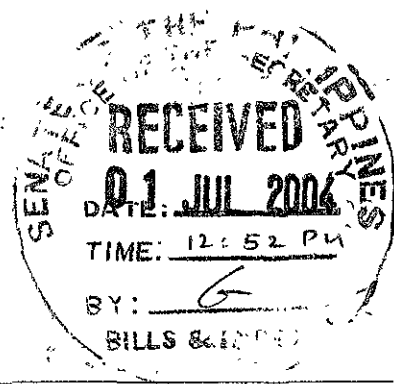
Country's capability to handle oil spills is wanting in terms of the necessary equipment to contain, clean up, or remove spilled oil. More alarmingly, it is wanting in terms of laws, rules, or regulations which make the polluter or "oil-spiller" responsible or liable for the clean-up operation at his 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 vessel which discharge oil or oily mixture from payment of clean-up cost. This "exculpatory" state of 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 any clean-up cost." While it is true that Sec. 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 exist 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 cost of oil spill caused or occasioned by them. To remedy this anomalous situation, early passage of this bill is earnestly sought.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
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SENATE
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AN ACT
CREATING THE OIL SPILL LIABILITY FUND

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

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

SECTION 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.

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

- (1) "Commission" means the National Pollution Control Commission.
- (2) "DENR" means the Department of Environment and Natural Resources.
- (3) "Discharge" in relation to oil or to an oily mixture means any discharge or escape or spillage, however caused.
- (4) "Fund" means the Oil Liability Fund.
- (5) "LGU" means Local Government Unit
- (6) "Marina" means the Marine Industry Authority.
- (7) "NPCC" means the National Pollution Control Commission.
- (8) "Oil" means crude oil, fuel oil, heavy diesel oil, and lubricating oil and oily mixture shall be construed accordingly.
- (9) "Seas" means the waters surrounding, between, and around the islands comprising the Philippine archipelago.
- (10) "Vessel" means every description of watercraft, or other artificial contrivance used, as a means of transportation on water except:

A. ships which are, or for the time being used as, naval auxiliaries; and

B. ships of under five hundred (500) tons gross tonnage.

SECTION 4. *Creation of Oil Spill Liability Fund; Manner of Constitution.*- There is hereby created an Oil Spill Liability Fund to be managed and administered as a trust liability by the National Pollution Control Commission (NPCC). The Fund shall be funded 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 ten centavos (10c) 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 NPCC, other concerned government agencies, and representatives from the owners of tankers barges, tankers haulers, and ship hauling oil and/or petroleum products. In determining the amount of contribution, the purposes for which the fund was set up shall always be considered.

SECTION 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 cost and natural resources damage assessment and claims as determined by the Department of Environment and Natural Resources (DENR) and administrative expenses related to such cost, 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 discharge 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 resources damage caused by an oil spill shall be payable, without need of demand, to the Local Government Unit (LGU) within whose territorial jurisdiction are situated the 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 spilled or oily mixture in waters within the territorial jurisdiction of the Philippines.

SECTION 6. *Limitations on Expenditures.*- The maximum amount which may be paid from the Oil Spill Liability fund with respect to -

(1) removal cost resulting from a single incident shall not exceed Five Million Pesos (P5,000,000.00); and

(2) natural resources damage assessment and claims in connection with any single incident shall not exceed Two Million Five Hundred Thousand Pesos (P2,500,000.00).

Provided, however, that removal cost and natural resources damage assessment 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).

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

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

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

SECTION 10. *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 11. *Effectivity.*- This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspaper of general circulation.

Approved,