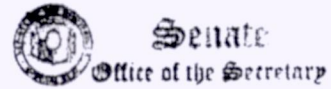


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



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SENATE

S. No. 916

RECEIVED BY: J

Introduced by SENATOR RAMON BONG REVILLA, JR.

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

EXPLANATORY NOTE

Being an archipelago, the Philippines heavily relies on shipping as well as seaborne and river transport as one of the main driving forces in the country's economic development. Hence, the need to set up an adequate and responsive regulatory structure to ensure safe navigation and the protection of the marine environment. Such is more than pressing now in the area of country's pilotage practices and the conduct of Harbor Pilots in order to avoid the injurious consequences of a maritime disaster and accident.

The history and practice of pilotage demonstrate that it is one of the best measures to guarantee and maintain safety of life at sea, property and the protection of the environment, especially in ports, anchorages and their sea or river approaches. Harbor Pilots are intimately familiar with the local waters and port conditions. Safe and efficient pilotage practices prevent traffic congestion and accidents which could impede navigation in and out of the country's ports. They ensure the safety of lives and cargo, affect the cost and time expended in port calls, as well as the attractiveness of a particular ports due to the competence of the pilotage service thereat.

With the creation of several Port Authorities like the Subic Bay Metropolitan Authority (SBMA), Cebu Port Authority (CPA), Autonomous Region in Muslim Mindanao (ARMM) and the establishment of various Special Economic Zones like the Cagayan Economic Zone Authority (CEZA) exercising regulatory controls on port management within their respective jurisdiction, Presidential Decree 857 which granted the Philippine Ports Authority (PPA) regulatory powers over Pilotage has already become unresponsive to the declared national policy of uniformity on the regulatory control of pilotage matters.

This proposed Bill provides for an integrated and comprehensive legislation on pilotage in accordance with the generally accepted international principles of pilotage, and which is highly responsive to changing needs and requirements affecting the Harbor Pilots and their pilotage services.

Among others, this measure seeks to institutionalize the regulatory and institutional framework as well as practices in pilotage since the Commonwealth until today in that pilotage services is an essential public service in port operation and management; that port state policy dictates that pilotage service is a highly regulated activity to be rendered by a single pilotage organization in a given pilotage district or port area; that Pilotage is an exercise of a profession; that a safe and efficient pilotage practice requires that harbor pilots must exercise their professional judgment in an independent manner freed from any third party intervention of commercial origins, which is not possible in the highly discredited open competition pilotage system.

The proposed Bill also seeks to define the legal responsibility and liability of Harbor Pilots in the event of damage to property or death and injury to persons caused by a vessel under pilotage in line with the generally and international prevailing rules in other maritime jurisdiction on Harbor Pilot's liability.

In view of the foregoing, approval of the Bill is earnestly requested.


RAMON BONG REVILLA, JR.

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PURPOSES

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

1 Section 1. *Short Title.* — This Act shall be known as the "Pilotage Act of 2019"

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

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

10 (a) To ensure safety at all times of properties, port facilities, vessels,
11 cargoes and other port users:

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

1 (c) To encourage healthy and friendly environment among active
2 harbor Pilots;

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

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

7 Sec. 4. *Definition of Terms.* — For the purpose of this Act, the words and
8 phrases used herein shall be defined as follows:

9 (a) **Appointment** refers to a designation by the Port Authority granted to a
10 harbor pilot to exercise his profession and render pilotage service in a
11 particular harbor pilotage district;

12 (b) **Administration** refers to the Maritime Industry Authority (MARINA)
13 which issues the Pilotage License after examination for a particular Pilotage
14 district.

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

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

1 (e) **Harbor Pilotage District** refers to the territorial area including all inland
2 waters, channels, waterways, anchorages, navigable tributaries as well as
3 port, wharves, pier, jetties delineated by latitude and longitude.

4 (f) **Pilotage License** refers to the license granted by the Administration to a
5 Master Mariner to exercise his profession and to render pilotage services in
6 that particular pilotage district;

7 (g) **Pilotage Organization** refers to an association of Harbor Pilots duly
8 established for a particular Harbor Pilotage District as defined in this act;

9 (h) **Pilotage Service** refers to the act of conducting, navigating or
10 maneuvering a vessel to/from berth or anchorage, along rivers, channels and
11 estuaries, including all related activities thereof;

12 (i) **Recognized Umbrella Organization of Harbor Pilots** refers to a
13 national federation or association of harbor pilots, the membership of which
14 comprises the majority of the duly licensed harbor pilots in the Philippines
15 duly registered with the Securities and Exchange Commission, Cooperative
16 Development Authority or the concerned regulatory body.

17 (j) **Recognized Umbrella Organization of Ship Agents** refers to a
18 national federation or association of ship agents the membership of which
19 comprises the majority of the ship agents in the Philippines duly registered
20 with the Securities and Exchange Commission, Cooperative Development
21 Authority or the concerned regulatory body.

22 *Sec. 5. Powers and Functions of the Port Authority.* — The Port Authority shall
23 have the following powers and functions:

24
25 (a) Exercise administrative control, regulation and supervision on pilotage and
26 conduct of pilots in port districts under its jurisdiction;

- 1 (b) Establish, determine and adjust rates and fees for harbor pilotage services
2 by taking into account the current rate structure, tonnage of vessels,
3 peculiarity and intrinsic characteristic of each port and harbor and such other
4 important factors: Provided, That no imposition or adjustment shall be made
5 without prior consultation with the Harbor Pilots and concerned Shipowners in
6 a public hearing called for the purpose.
- 7 (c) Conduct regular consultative meetings with duly established pilotage
8 organizations and duly appointed harbor pilots in relation to improvement of
9 services, upgrading of pilot facilities, rate restructuring and such other related
10 concerns;
- 11 (d) Determine and appoint the number of harbor pilots needed in a particular
12 pilotage district in the case of PPA and in a particular port in the case of
13 independent port authorities upon due consultation with the concerned
14 pilotage district;
- 15 (e) Ensure the efficient and fair handling of appointment of harbor pilots;
16 suspend or cancel the appointment of harbor pilots for just cause, giving due
17 notice to affected parties and after proper hearing;
- 18 (f) Grant and issue pilotage appointment to harbor pilots;
- 19 (g) Cancel or suspend the license of harbor pilots for any act in violation of
20 the provisions of this Act;
- 21 (h) Establish a comprehensive training program for pilot applicants before
22 their final appointment as Harbor Pilots in their respective Pilotage District,
23 and such additional and continuing pilotage education developed in
24 cooperation with the national and local pilotage associations.

1 (i) Adopt rules and regulations necessary for the enforcement and
2 administration of pilotage operations and conduct of pilots;

3 Sec. 6. *Establishment of Harbor Pilotage District.* — Pilotage Districts shall be
4 established throughout the Philippines to be known by the name of the principal port
5 embraced within its limits.

6 The Port Authority shall determine the number of pilots in a given pilotage
7 district, and may increase or decrease the same when necessary or expedient for
8 the purpose of providing an adequate and efficient pilotage service, economic
9 viability and upon prior consultation with the Harbor Pilots of the concerned Pilotage
10 District.

11 The Philippine Ports Authority shall exercise general jurisdiction over all
12 Pilotage Districts, except when a specific port or anchorage is under the jurisdiction
13 of another Port Authority by Special Charter or is otherwise located in a declared
14 autonomous region.

15 Sec. 7. *Provision of Pilotage Services.* — Pilotage service shall be provided
16 either directly by the Port Authority or through an established pilotage organization
17 in government-maintained or privately-managed ports in the country.

18 Every vessel while navigating in any pilotage district or any part thereof shall
19 be under pilotage and the owner, agent or master of the vessel shall comply with
20 that requirement. A vessel while being moved within any area of the port that is, or
21 forms part of a pilotage district shall be deemed a vessel navigating a pilotage
22 district.

23 Sec. 8. *Compulsory Pilotage.* - Pilotage services shall be compulsory in all
24 government and private wharves, berths, piers, jetties, or anchorage except as
25 otherwise provided in this paragraph. Every vessel engaged in foreign trade shall
26 always be under compulsory pilotage.

1 Pilotage for vessels engaged in domestic trade shall likewise be compulsory
2 unless exemption is secured by the domestic vessel as provided in this Act.
3 Chemical/Gas/Oil Tanker vessels or any other vessels carrying hazardous cargoes
4 shall always be under compulsory pilotage.

5 The Port Authority shall consider the following factors in determining the grant of
6 exemption to domestic vessels from compulsory pilotage coverage for each port:

- 7 (a) Size and type of vessels;
- 8 (b) Physical and technical configuration of ports including mooring and
9 berthing capabilities;
- 10 (c) Hydrographic situation of the harbor including its channels and
11 passageways;
- 12 (d) Navigational capabilities of each port, safety and traffic devices and other
13 related navigational aids;
- 14 (e) Volume of vessel traffic or average frequency of vessel arrivals and
15 departures; and
- 16 (f) Such other factors which may affect the risk of vessel movements.
- 17 (g) The Master of the vessel, which is granted exemption, holds a valid
18 Pilotage Exemption Certificate issued by the Port Authority.

19 The Port Authority may issue a Pilotage Exemption Certificate to the Master of
20 the vessel granted exemption under this Act, provided that the Master has
21 completed 60 inbound and outbound trips to and from the port where the vessel
22 makes its regular port calls.

23 *Sec. 9. Qualifications of Harbor Pilots.* — A person shall be appointed as a
24 harbor pilot if one possesses the following:

- 1 (a) Filipino citizenship;
- 2 (b) Sound physical and mental condition;
- 3 (c) Good moral character;
- 4 (d) Duly licensed by the Administration to practice one's profession within a
- 5 specified port or district;
- 6 (e) Not more than fifty-five (55) years old at the time of his appointment by
- 7 the Port Authority; and
- 8 (f) Must have been a Master Mariner on board sea going vessels of not less
- 9 than five hundred (500) gross tons for at least five (5) years;

10 Sec. 10. *Compulsory Retirement of Pilots.* — Upon the effectivity of this Act, a
11 harbor pilot shall be considered retired upon reaching the age of seventy (70):
12 Provided, However, that all harbor pilots shall undergo annual medical and physical
13 examinations as a requirement for the continued exercise of pilotage service
14 profession.

15 Sec. 11. *Appointment of Harbor Pilots.* — All harbor pilots, before practicing
16 the profession, must get an appointment from the Port Authority. The Port Authority
17 shall appoint only a limited number of harbor pilots per district or port for efficiency
18 purposes. The appointment will not result to an employer-employee relationship
19 between the Port Authority and the harbor pilot-applicant.

20 Sec. 12. *Establishment of a Pilotage Organization.* —The appointed harbor
21 pilots in each Harbor Pilotage District shall organize themselves into a corporation,
22 partnership or cooperative. Said organization must be duly registered with either the
23 Securities and Exchange Commission or Cooperative Development Authority.

1 The Port Authority shall allow only one pilotage organization in every Harbor
2 Pilotage District, and to which all the Harbor Pilots for the said District shall all
3 belong and be members thereof.

4 Sec. 13. *Record.* — Harbor pilots organizations shall keep a record of his or its
5 operations and financial transactions and such other records or reports pertaining to
6 pilotage services operations. Such records shall be made open to member-pilots and
7 concerned government agencies for inspection and examination. The inspection and
8 examination of records under this Act shall be limited purely to pilotage matters and
9 operations.

10 Sec. 14. *Operating Capital, Equipment and Facilities.* — To effectively and
11 efficiently render pilotage services, individual pilots and pilots organizations shall
12 make available such operating capital equipment or facilities as may be required by
13 the Port Authority.

14 Sec. 15. *Pilotage Fees as Maritime Lien.* Pilotage Fees for pilotage services
15 actually rendered on a vessel shall constitute a maritime lien on the vessel
16 concerned as in unpaid crew wages of the vessel, which may be enforced by a suit
17 in rem in the Philippines or otherwise in any foreign country in which the vessel may
18 be found.

19 No vessel shall be granted departure clearance unless the Pilotage Fees are
20 paid in full or that satisfactory arrangements are agreed upon for the payment of
21 Pilotage fees.

22 Pilotage Fees paid and earned by Harbor Pilots in the exercise of their
23 profession shall not be subjected to any port government share or fees by the Port
24 Authority.

1 Sec. 16. *Grounds for Suspension or Cancellation of Appointment.* — The Port
2 Authority may cancel or suspend the appointment of harbor pilots on the following
3 grounds:

4 (a) Refusal or failure to render effective and efficient pilotage service without
5 justifiable cause;

6 (b) Failure or refusal to observe and comply with safety standards and port
7 policies;

8 (c) Gross incompetence or negligence which resulted in the loss of cargoes,
9 loss of lives and destruction of vessel and harbor properties;

10 (d) Implementation of rates and fees not agreed by the parties or duly
11 authorized by the Port Authority;

12 (e) Involvement or participation in illegal activities such as smuggling and
13 trafficking passengers;

14 (f) Failure or refusal to post the required performance bond and other related
15 fees;

16 (g) Failure to comply with the substantive requirements of the Port Authority;

17 (h) Failure or refusal to post the required indemnity insurance;

18 (i) Intoxication and use of prohibited drugs during the performance of duties
19 as a harbor pilot;

20 (j) Fraudulent misrepresentation, including the use and submission of any
21 false or forged documents, in obtaining the Harbor Pilot License or
22 appointment;

23 (k) Acts prejudicial to the Professional Code of Conduct for harbor pilots;

1 (l) Physical or mental impediment to render pilotage services as may be
2 determined by a physician accredited by the Department of Health; or

3 (m) Failure to comply with any of the provisions of this Act and its
4 implementing rules and regulations.

5 *Sec. 17. Responsibility of Owner, Agent or Master of a Vessel.* — The owner,
6 agent or master of a vessel shall only employ duly licensed and appointed harbor
7 pilots to render pilotage services in a particular district or port. A person acting in
8 violation of this Section shall be fined in such amount as may be prescribed by the
9 Port Authority. For this purpose, the Port Authority shall publish the list of appointed
10 harbor pilots and their respective jurisdictions in such manner as to ensure that
11 every owner, agent or master of a vessel is properly informed.

12 *Sec. 18. Limitation of Pilot's Liability.* — A harbor pilot licensed to act as such
13 by the Port Authority and authorized to provide pilotage services in the different
14 harbor pilotage districts shall serve as adviser of the master during and at the time
15 of his engagement in the conduct and maneuver of the vessel. The master of the
16 vessel, its owners and agents are not relieved of their responsibility for any loss or
17 damage caused by or to the vessel even while the vessel is under compulsory
18 pilotage. Under this act the master retains his overriding authority and the
19 responsibility to make decisions with respect to the safety of his crew, passengers
20 and/or cargoes, and the environment.

21 A harbor pilot licensed to act as such by the Port Authority and authorized to
22 provide pilotage services in the different harbor pilotage districts shall not be liable
23 for damages in excess of the amount of Five Hundred Thousand Pesos
24 (P500,000.00) for damages or loss occasioned by a pilot's errors, omissions, fault, or
25 neglect in the performance of pilotage services, except as may arise by reason of
26 one's willful misconduct or gross negligence.

1 Each harbor pilot shall post an indemnity insurance bond from the
2 Government Service Insurance System (GSIS) or from such reputable insurance
3 company acceptable to the Port Authority, to cover the limit of the liability.

4 The harbor pilot shall be free from responsibility for damage, injury or death
5 arising from the negligence of the master and crew of the vessel under pilotage,
6 unseaworthiness of the vessel, breakdown of its machineries and equipment, force
7 majeure or fortuitous event.

8 Upon actual boarding a vessel to provide pilotage services, that pilot becomes
9 a servant of the vessel and its owner and operator. Nothing in this Section exempts
10 the vessel, its owner, or its operator from liability for damage or loss occasioned by
11 that ship to a person or property on the ground that (a) the ship was piloted by a
12 duly licensed pilot, or (b) the damage or loss was occasioned by the error, omission,
13 fault, or neglect of a pilot duly appointed by the Port Authority.

14 Sec. 19. *Penal Provisions.* — A fine of not less than Twenty Thousand Pesos
15 (P20,000.00) nor more than Two Hundred Thousand Pesos (P200,000.00) or
16 imprisonment for a period of not less than one (1) year nor more than ten (10)
17 years or both such fine and imprisonment, at the discretion of the court, shall be
18 imposed upon to:

19 a) Any person who shall render pilotage services without a valid license for
20 that particular district issued by the Administration and without a valid
21 appointment by Port Authority;

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

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

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

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

7 *Sec. 20. Issuance of New Appointment to Incumbent Harbor Pilots. —*
8 Incumbent pilots in all pilotage districts shall be issued new appointments in
9 accordance with the provisions of this Act. In no case shall said new appointment
10 exceed the compulsory retirement age for harbor pilots as provided for in this Act.

11 *Sec. 21. Transitory Provisions. —* Harbor pilots with existing Harbor Pilots
12 License and Appointment issued by the PPA and other independent port Authorities
13 prior to the effectivity and implementation of this Act shall continue to exercise their
14 profession in their respective Pilotage Districts, and the Administration/Port Authority
15 shall issue the equivalent Harbor Pilot License and Appointment to them as having
16 complied with the provisions of this Act.

17 *Sec. 22. Implementing Rules and Regulations. —* The Department of
18 Transportation (DOTr) as lead agency, in coordination with the Maritime Industry
19 Authority, the Philippine Port Authority (PPA), the port authorities of economic
20 zones, the port authorities of autonomous regions and other chartered port
21 authorities as well as a representative of the Pilot Sector and the Shipowner Sector,
22 shall promulgate the implementing rules and regulations of this Act within a period
23 of three (3) months from the date of effectivity of this Act.

24 *Sec. 23. Separability Clause. —*If any part or provision of this Act is declared
25 as unconstitutional or invalid by a court of competent authority, the remaining
26 provisions which are not affected thereby shall continue to be in full force and effect.

1 Sec. 24. *Repealing Clause.* — All other laws, decrees, orders, rules and
2 regulations or parts thereof inconsistent with or contrary to the provisions of this Act
3 are hereby repealed or modified accordingly.

4 Sec. 25. *Effectivity Clause.* — This Act shall take effect fifteen (15) days after
5 its complete publication in the Official Gazette or in two (2) newspapers of general
6 circulation.

7

8 *Approved,*