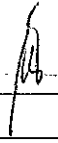


FOURTEENTH CONGRESS OF THE)
 REPUBLIC OF THE PHILIPPINES)
 Second Regular Session)

9 JAN 29 P5:56

SENATE

S. NO. 3029RECEIVED BY 

 Introduced by Senator Antonio "Sonny" F. Trillanes IV

EXPLANATORY NOTE

Various factors can provide explanation why accidents at sea are common in the Philippines. Apart from storms and typhoons, negligence and unsafe state of passenger vessels play crucial role in these accidents.

According to government records, the country has a maritime safety record with an average of more than 200 accidents every year. Sea accidents in the past have been blamed specifically on overloaded and poor maintenance of ships or ferries, lack of warning about bad weather and ship's crew incompetence.¹

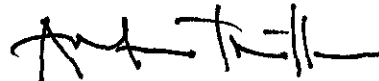
A government development agency – Japan International Cooperation Agency – made a study in 2007 which stated that insufficient navigational aids and lack of navigational marks contribute to sea accidents in the Philippines.

In the country, under Republic Act No. 5173, the Philippine Coast Guard (PCG) was created and *mandated particularly to inspect and approve vessels for operation, and enforce provisions for the safety of life and property on vessels.* The Domestic Shipping Development Act of 2004 (R.A. 9295) however, provided for the complete transfer of these functions to Maritime Industry Authority (MARINA).

At present, the MARINA, having the power to inspect vessels and all equipment on board, works in cooperation with the PCG to ensure compliance with ship safety standards. In 2005, these two agencies entered into a memorandum of agreement authorizing the PCG to perform, among others, ship safety inspection services in behalf of the MARINA.

This bill puts the maritime safety administration in the right perspective by giving the responsibility of ship safety inspection to the PCG, with the end in view of preventing the loss of thousands of lives and property caused by sea accidents every year, and putting the blaming game among government agencies into an end.

In view of the foregoing, approval of this bill is highly recommended.



ANTONIO "SONNY" F. TRILLANES IV
 Senator


¹ Asia-Pacific Features. *Ferry sinking highlights spotty safety in Philippines.* Jun 23, 2008. Data retrieved at <http://www.monstersandcritics.com/news/asiapacific/features> on 5 January 2008

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AN ACT

TO RESTORE THE PHILIPPINE COAST GUARD (PCG) OF ITS AUTHORITY AND RESPONSIBILITY TO PERFORM SHIP SAFETY INSPECTION SERVICES AND CARRY OUT OTHER SHIP SAFETY ENFORCEMENT FUNCTIONS, AMENDING FOR THIS PURPOSE REPUBLIC ACT NUMBERED 9295, AND FOR OTHER PURPOSES

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

1 SECTION 1. *Short Title.* – This Act shall be known as the "Maritime Safety Act of
2 2009."

4 SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to adopt
5 measures that ensure safe and convenient sea travel and/or transport.

7 SEC. 3. *Objectives of the Act.* – This Act shall have the following objectives:

- 8 a) to ensure the safe and responsible operation of vessels within the maritime
- 9 jurisdiction of the country;
- 10 b) to promote the safety of life and property at sea and to protect all users of the sea
- 11 within the marine jurisdiction of the country;
- 12 c) to authorize the Philippine Coast Guard to undertake the enforcement activities
- 13 prior to a ship's departure, and while the ship is under way; and
- 14 d) to provide for the investigation of marine accidents and for appropriate action
- 15 following any such investigation.

1 **SEC. 4. Authority and Responsibility of Performing Ship Safety Inspection Services.** –
2 The Philippine Coast Guard (PCG) shall be restored of its authority and responsibility to perform
3 ship safety inspection services, issuance of Special Permit to carry dangerous cargoes/goods,
4 performance of ship safety enforcement functions and marine casualty investigation for
5 Philippine-registered ships engaged in domestic operations.

6
7 **SEC. 5. Ship Safety Inspection Services/Functions.** – The PCG, in order to promote
8 safety of life and property at sea and to protect all users of the sea within the marine jurisdiction
9 of the country, shall have the following ship safety inspection functions:

- 10 a) Comprised by the assessment of Philippine-registered ships engaged in domestic
11 trade, inspection services shall be conducted by the PCG prior to the issuance of ship
12 safety certificates, in order to determine the compliance of such ships with applicable
13 requirements of national laws, rules and regulations and international conventions:
14 *Provided*, That said laws, rules and regulations and international conventions are
15 within the jurisdiction of the PCG: *Provided, further*, That such laws, rules and
16 regulations pertain to ship safety standards;
- 17 b) Authorization to perform ship safety inspection services shall be based on ships
18 homeported in areas covered by the concerned maritime district or unit office of the
19 PCG;
- 20 c) All ship safety certificates shall be issued by the PCG to those ships that have
21 undergone inspection;
- 22 d) The PCG shall issue Special Permit to carry dangerous cargoes/goods on board
23 Philippine registered ships engaged in domestic trade.

24
25 **SEC. 6. Enforcement Functions.** The PCG shall have the authority and responsibility in
26 the following enforcement activities prior to a ship's departure, and while the ship is under way:

- 27 a) Verify the validity of ship and crew documentation prior to ship's departure;

- 1 b) Verify compliance with all the terms and conditions of the Certificate of Public
2 Convenience (CPC), or CPC Exemption, specifically:
- 3 1) Approved routing pattern/s;
 - 4 2) Validity of passenger insurance policy; and
 - 5 3) Maximum authorized passenger capacity through head counting in case
6 there is clear indication of overloading/overcrowding.
- 7 c) Serve copies of issued Cease and Desist Order (CDO) to the Master of the ship and to
8 enforce the same;
- 9 d) Undertake mandatory pre-departure inspection in accordance with PCG
10 Memorandum Circular Nos. 04-98 and 03-96, and their subsequent amendments;
- 11 e) Issue Maritime Violation Receipt (MVR) to the Master of the ship who fails to
12 comply with the provisions of relevant laws, rules and regulations on vessel safety.
13 When the violation warrants detention of the ship, the PCG shall request the
14 Philippine Ports Authority in writing, together with a copy of the MVR, to deny
15 departure clearance of the ship in accordance with Executive Order No. 493;
- 16 f) Receive, accept and forward copy of Master's Oath of Safety Departure (MOSD) to
17 the First Party on a monthly basis.
- 18

19 **SEC. 7. *Weather Forecasting Mechanism.*** – All ships shall be required to have their
20 own weather forecasting equipment, which shall provide real time weather information and shall
21 be independent from that of the PAGASA. Each master of the ship shall conduct proper training
22 to the ship's crew for the operation and utilization of the said equipment.

23

24 **SEC. 8. *Responsibility for Excess Passengers.*** – The responsible ship safety inspector,
25 who, in performance of his or her duty, allowed a domestic vessel to depart port, shall be held
26 accountable for every passenger in excess of the actual physical capacity of the said vessel, and
27 shall be subject to a corresponding penalty as listed in Section 12 of this Act.

1 **SEC. 9. Responsibility for Excess Gross Tonnage.** – The responsible ship safety
2 inspector shall be held accountable for every gross tonnage in excess of the actual physical
3 capacity of every domestic vessel which the said officer, in the performance of his/her duty,
4 allowed to depart port. Said erring inspector shall be subject to a corresponding penalty as listed
5 in Section 12 of this Act.

6
7 **SEC. 10. Administrative Powers in Marine Casualties or Incidents.** – The PCG, with its
8 function to investigate and inquire into the causes of marine accidents and casualties and marine
9 pollution incidents, shall determine appropriate administrative liabilities, fines, and penalties of
10 responsible parties. It may promulgate policies, rules and regulations necessary for the conduct
11 of the same. It shall be recognized that:

- 12 a) the PCG has the power and authority to hear and adjudicate any complaint made in
13 writing involving any violation of RA 9295;
- 14 b) under Republic Act No. 5173, P.D. No. 601 and the 1976 Philippine Merchant
15 Marine Rules and Regulations, the PCG has the power and authority to convene the
16 Board of Marine Inquiry and Special Boards of Marine Inquiry;
- 17 c) the jurisdiction of the Board of Marine Inquiry is to conduct administrative hearings
18 to determine the causes of marine casualties or incidents upon receipt of a marine
19 protest and to review on appeal the results and findings of Special Boards of Marine
20 Inquiry;
- 21 d) the jurisdiction of the Special Boards of Marine Inquiry is to conduct administrative
22 hearings to determine the causes of marine casualties in their geographical areas of
23 jurisdiction.

24
25 **SEC. 11. Ship Safety Inspection Services.** – The designated ship safety inspectors of the
26 PCG shall meet the qualification requirements prescribed for ship safety inspectors under the

1 existing ship safety inspection system. Such qualified ship safety inspectors shall be fully
2 familiar with the pertinent safety rules and regulations for domestic ships, and undergo
3 orientation/training on ship safety inspection.

4 All inspectors of the PCG performing ship safety inspection services at locations outside
5 100 kilometer radius from their official stations shall be provided reimbursement of travel
6 expenses in accordance with Executive No. 298, subject to the usual accounting and auditing
7 rules and regulations.

8 In the conduct of ship safety inspection services by the PCG in areas within 100
9 kilometer radius from the official stations of their inspectors, a reasonable amount to cover
10 gasoline expenses, supported by official receipts shall be allowed for reimbursement, as
11 authorized by a valid travel order issued for the purpose.

12
13 **SEC. 12. Penalties for Specific Violations.** – Loss of lives and properties resulting from
14 a ship safety inspector’s violation of this Act shall be punished accordingly.

- 15 a) Simple negligence – shall be punishable by imprisonment of six (6) months to one (1)
16 year at the discretion of the court;
- 17 b) Gross dereliction of duty – shall be punishable by imprisonment of one (1) year to
18 three (3) years at the discretion of the court;
- 19 c) Abandonment of post – shall be punishable by imprisonment of three (3) years to six
20 (6) years at the discretion of the court.

21
22 **SEC. 13. General Penal Clause.** – Any other violation of this Act by any person shall be
23 punished with a fine of not less than one hundred thousand pesos nor more than five hundred
24 thousand pesos or by imprisonment of six (6) months to five (5) years or both at the discretion of
25 the court: *Provided, That*, in case the violation is committed by an association or corporation, the
26 penalty herein prescribed shall be imposed on the responsible officers or directors thereof.

1 *Provided, further, That, nothing in this Act shall prevent the PCG from providing administrative*
2 *penalties for violation of any regulation that it promulgates.*

3
4 **SEC. 14. *Appropriation.*** - The funds needed for this purpose shall be taken from the
5 appropriations of the Department of Transportation and Communication. Thereafter, such
6 amount necessary for the implementation of this Act shall be included in the annual General
7 Appropriations Act.

8
9 **SEC. 15. *Separability Clause.*** – If any provision of this Act shall at any time be found to
10 be unconstitutional or invalid, the remainder thereof not affected by such declaration shall
11 remain in full force and effect.

12
13 **SEC. 16. *Repealing Clause.*** – All laws, decrees, rules or regulations inconsistent with
14 the provisions of this Act are hereby repealed or modified accordingly.

15
16 **SEC. 17. *Effectivity Clause.*** – This Act shall take effect after fifteen (15) days following
17 its complete publication in two (2) newspapers of general circulation.

Approved,