


SIXTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
Second Regular Session

15 MAY 11 P5:51

SENATE
S.B. **2761**

RECEIVED BY: 

Introduced by Senator Poe

**AN ACT
REQUIRING MANDATORY ENVIRONMENT INSURANCE COVERAGE
TO PROMOTE ECOLOGICAL PROTECTION**

EXPLANATORY NOTE

The primacy of the environment is enshrined Article II, Section 8 of the 1987 Philippine Constitution, which mandates the state to "...protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature." In the landmark environmental case of *Oposa vs. Factoran* (G.R. No. 101083), the Supreme Court ruled that "the right to a balanced and healthful ecology carries with it the correlative duty to refrain from impairing the environment."

Implied in the "duty to refrain from impairing the environment" is the obligation to judiciously regulate the utilization of our natural resources. This obligation is spelled out in several laws. This list of laws included: the Revised Forestry Code (P.D. No. 705), the Water Code of the Philippines (P.D. No. 1067), the Philippine Mining Act of 1997 (R.A. 8371), the Philippines Fisheries Code of 1998 (R.A. 8550), the Philippine Clean Air Act of 1999 (R.A. 8749), the Ecological Solid Waste Management Act of 2000 (R.A. 9003), and the Wildlife Resources Conservation Act (R.A. 9147).

Despite these existing laws that protect the environment, there are still lapses in implementing the constitutional right to a healthy and balanced ecology. The following information indicates ecological degradation:

- In 2012, 20 million metric tons of sediments flowed into water channels from the Philex tailings pond in Itogon, spilling tons of sediments into the Agno River and Balog Creek. An investigation by Samahan ng Nagtataguyod ng Agham at Teknolohiya Para sa Sambayanan (Agham) reported that Balog Creek is now "biologically dead". The livelihoods of residents near the spill were also severely affected.
- In August 2013, a mishap between 2GO Group Incorporation and Philippine Span Asia Carrier Corporation ships claimed twenty-four (24) lives and imperilled the Cardova marine environment in Talisay, Cebu. One of the sunken ships was loaded with 120,000 liters of Bunker oil, 20,000 liters of Lube oil and 20,000 liters of Diesel. Days after the collision, oils from wrecked and sunken ships had

reached five barangays of Cardova town. The marine ecosystem of the affected areas was affected causing the residents to lose their livelihoods.

- According to a study by Greenpeace the Chemphil Manufacturing Corporation have contributed to the wastewater in Pasig River. Sediments found in their channels that drain into the river were found to have high-levels of copper and manganese, lead, nickel and zinc.

The economy of the country is steadily increasing due to the growth of commercial and industrial businesses. While these businesses provide investments, incentives and employment, its large-scale operations may cause environmental disasters and undue sufferings to the people. To ameliorate the people and rehabilitate the environment from the environmental damages caused by these businesses, it is essential to institute a Mandatory Environmental Insurance Coverage.


This bill will require mandatory environmental insurance coverage for owners and operators of environmentally-critical businesses. The said insurance will be used to compensate for damages and to rehabilitate any environmental impairment caused by their operation. The Mandatory Environmental Insurance Coverage is designed to relieve a business firm of the financial burden to spend for environmental loss or damage as a consequence of its project's construction or operation. It will answer for all claims for the payment of damages to health and property, environmental rehabilitation, remediation and clean-up costs and expenses.

There have been many instances of man-made environmental damages like the 1996 Marcopper Mining tragedy in Marinduque which led to the biological death of the Boac and Makalupnit rivers, destroyed hectares of farmlands and displaced families. The 2005 and 2007 massive fish kills in Rapu-Rapu, Albay caused by cyanide spills from the mining operations of Lafayette, Philippines, Inc. also caused severe damage to the community. However, despite these environmental disasters, there is still no policy to ensure adequate compensation for communities affected by man-made disasters.

Although the government recognizes the indispensable role of the private sector, encourages private enterprise and provides incentives to needed investments, it also protects and advances the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature. This bill is essential, therefore, to protect the business sector, the people and the environment.

This legislation is a counterpart version of a similar policy measure filed by Representative Rosenda Ann Ocampo (Manila, 6th District).

In view of the foregoing, approval of this bill is urgently sought.


GRACE POE

15 MAY 11 P5:50

SENATE
S. B. — 2761

PREPARED BY: 

Introduced by Senator Poe

AN ACT
REQUIRING MANDATORY ENVIRONMENT INSURANCE COVERAGE
TO PROMOTE ECOLOGICAL PROTECTION

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

1 SECTION 1. *Mandatory Environment Insurance Coverage.* – All owners and
2 operators of environmentally-critical businesses shall be required to secure a Mandatory
3 Environmental Insurance Coverage (MEIC) to compensate for damages to health and
4 property, environmental rehabilitation, remediation and clean-up costs and expenses as a
5 result of environmental impairment arising from their operations.

6
7 For purposes of this Act, environmentally-critical businesses refer to commercial and
8 industrial establishments and enterprises, among others, that could pose serious risks to
9 people and the environment.

10
11 SECTION 2. *Forms of Mandatory Environment Insurance Coverage.* – The
12 Mandatory Environment Insurance Coverage shall be obtained only from bonding or
13 insurance companies duly accredited by the Department of Environment and Natural
14 Resources (DENR) in the following forms:

15
16 a) Environmental Performance Bond – which shall be required for all ongoing
17 activities or projects and applications for Environmental Compliance Certificate or Certificate
18 of Non-coverage to guarantee adequate and timely compliance with the environmental
19 standards and the terms and conditions set forth by the DENR during the pre-development,
20 development and construction phases of the project. The Environmental Performance Bond
21 shall answer for all environmental damages, penalties and legal obligations which may arise
22 from the failure of the project proponent to comply with its undertakings during the
23 aforementioned phases; and

24
25 b) Environmental Pollution, Impairment and Clean-Up Liability Insurance –
26 which shall be required for all existing and future activities or projects to cover operational
27 phases, including those that have been issued an Environmental Compliance Certificate or
28 Certificate of Non-coverage. The Environmental Pollution, Impairment and Clean-Up
29 Liability Insurance shall answer for all claims arising from damages to the environment,
30 bodily injury, and property damage arising from a pollution event including environmental

1 rehabilitation, clean-up or remediation costs and expenses for contamination or impairment of
2 the environment.

3
4
5 The DENR shall determine which businesses or industries shall be classified as
6 environmentally-critical and shall be required to obtain an Environmental Performance Bond
7 or an Environmental Pollution, Impairment and Clean-Up Liability Insurance.

8
9 **SEC. 3. *Pre-requisite for the Issuance of Environmental Compliance Certificate or***
10 ***Certificate of Non-coverage.*** – Owners and operators of environmentally-critical businesses
11 shall not be issued an Environmental Compliance Certificate or Certificate of Non-coverage
12 by the DENR without first obtaining the Mandatory Environment Insurance Coverage
13 required by this Act.

14
15 **SEC. 4. *Environmental Risk Inspector.*** – During the insurance coverage period, an
16 environmental risk inspector from the DENR shall conduct quarterly, bi-annual or annual
17 visits to the business firm's project to evaluate and recommend measures to prevent
18 environmental disasters.

19
20 **SEC. 5. *Beneficiaries.*** – The beneficiaries of the Mandatory Environment Insurance
21 Coverage include affected communities, stakeholders and local government units within the
22 projects' primary impact areas. Beneficiaries also include government departments, bureaus
23 and agencies which are tasked under law to undertake the rehabilitation, clean-up and
24 monitoring of the projects affected by the pollution event for which no responsible private or
25 public entity is specified.

26
27 The beneficiaries shall be represented by the government, particularly the DENR,
28 which shall identify the affected areas and prescribe rehabilitation or remediation measures.

29
30 **SEC. 6. *Payment of Claims.*** – The insurance company shall place all payments of
31 claims into special escrow accounts in government depository banks which shall in turn
32 disburse corresponding payments to beneficiaries only upon the advice of the Environmental
33 Management Bureau of the DENR (EMB-DENR) after proper documentation.

34
35 The EMB-DENR may create a multi-sectoral body composed of representatives from
36 the business, labor, government, civil society and other stakeholders to assure that claims are
37 verified and rightful parties are compensated and the environment is properly rehabilitated,
38 cleaned-up, remediated, stabilized and protected.

39
40 The EMB-DENR shall not receive and handle payments of claims for environmental
41 damages, penalties and charges, except for the claim component which properly accrues to it
42 as an insurance beneficiary.

43
44 The government agency tasked with rehabilitation and beneficiary of the Mandatory
45 Environmental Insurance Coverage as provided under Section 5 of this Act shall undertake
46 the same with funds coming from the insurance claim upon recommendation of the EMB-
47 DENR or the multi-sectoral body created by EMB-DENR and approved by the Secretary of
48 Environment and Natural Resources.

1 SEC. 7. **Penalties.** – The failure of the owner and operator of environmentally-critical
2 businesses to take out Mandatory Environment Insurance Coverage in violation of this Act
3 shall be punished with a fine of five hundred thousand pesos (P500,000.00) but not more than
4 two million pesos (P2,000,000.00) or imprisonment of not less than six (6) years but not more
5 than twelve (12) years, or both, at the discretion of the court.
6

7 In the case of a partnership, association, corporation or any juridical entity, the fine
8 shall be imposed upon the president, treasurer or any other officer or person responsible for
9 the violation.
10

11 If the offender is a foreigner, the offender shall be deported immediately without
12 further proceedings in the Bureau of Immigration after the service of sentence.
13

14 Government officials, employees and agents who shall approve the issuance of
15 certificates to owners or operators of environmentally-critical businesses without the
16 necessary Mandatory Environmental Insurance Coverage, in violation of this Act, shall suffer
17 the penalty of suspension of not less than thirty (30) days but not more than six (6) months
18 after due notice and hearing in the appropriate administrative proceedings.
19

20 SEC. 8. **Implementing Rules and Regulations.** – Within sixty (60) days from the
21 approval of this Act, the Secretary of Environment and Natural Resources shall, in
22 coordination with the Commissioner of the Insurance Commission, promulgate the necessary
23 rules and regulations for the effective implementation of this Act.
24

25 SEC. 9. **Repealing Clause.** – All laws, decrees, orders, rules and regulations, and
26 other issuances inconsistent with the provisions of this Act are repealed, amended or
27 modified accordingly.
28

29 SEC. 10. **Effectivity.** – This Act shall take effect fifteen (15) days after its publication
30 in the *Official Gazette* or in a newspaper of general circulation.
31

32 Approved,