

SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*Third Regular Session* )



**SENATE**  
**S. B. No. 2135**

'18 DEC 13 P 4:19

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Introduced by Senator SONNY ANGARA

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**AN ACT**  
**PROVIDING FOR THE FULL AND EFFECTIVE IMPLEMENTATION AND**  
**ENFORCEMENT OF INTERNATIONAL MARITIME INSTRUMENTS OF WHICH**  
**THE PHILIPPINES IS A STATE-PARTY**

EXPLANATORY NOTE

One of the difficulties of the overseas shipping fleet of the Philippines is the inability of the Philippines to fully and effectively implement international maritime conventions. The detention rate of Philippine flagged ships has affected its competitiveness as a flag registry and has caused the continued deletion of ships from our registry. The Philippines has also been placed on the Gray List of the Tokyo Port State Control Memorandum of Understanding (Tokyo MoU) which bases such classification on the performance and detention rate of ships in our registry during port State control inspections among Tokyo MoU members. The 2009 Voluntary IMO Member State Audit Scheme (VIMSAS) which the Philippines volunteered for, as one of its findings, the inability of the Philippines to effectively implement and enforce international maritime conventions.

The Philippines is a State Party to the five (5) safety conventions which this law seeks to implement particularly:

- The International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
- The International Convention for the Prevention and Pollution from Ships, 1973, as amended by the Protocol of 1978 (MARPOL 73/78);
- The Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS);

- The International Convention on Load Lines, 1996 (Load Line); and
- The International Convention on the Tonnage Measurement of Ships, 1969 (Tonnage).

However, there has as yet been no national law which implements these conventions and appoints a government agency to oversee the full, proper, and effective implementation of the conventions.

The Philippines is not yet a party to the following international conventions which this bill also seeks to implement:

- SOLAS Protocol of 1988;
- MARPOL Protocol of 1997; and
- Load Lines Protocol of 1988, as amended in 2003.

It is hoped that the passage of this bill which also seeks to implement these protocols, can serve as the motivation for convincing the President to ratify these instruments.

The bill appoints the Maritime Industry Authority (MARINA) as the government agency with mandate to fully and effectively implement these conventions and clothe it with requisite powers so that the primary preventive measures established by the International Maritime Organization (IMO) for ensuring the safety of ships and of lives and property on board ships and the protection of the marine environment may be properly implemented.

The provisions of the conventions and its structure provide for the constant updating of national regulations covering technical requirements that ensure the safety and security of ships and the protection of the marine environment. The power granted to MARINA under the proposed measure includes the power to amend its regulations and incorporate these new technical requirements as these come into force without need of further ratification because these are part of the

commitments of the Philippines when ratified the original conventions and partake the nature of the executive agreements.

This is a counterpart bill of House Bill No. 456 filed by Representative Jesulito "Jess" A. Manalo of ANGKLA: Ang Partido ng mga Pilipinong Marino, Inc.

In view of the foregoing, passage of this bill is earnestly sought.



**SONNY ANGARA**

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*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 “*Maritime Safety,*  
2 *Security and Prevention of Ship-Sourced Pollution Act of the Philippines*”.

3 Sec. 2. *Declaration of Policy.* – The following are hereby declared to be the  
4 policies of the State:

5 (a) The State shall provide for the full and effective implementation and  
6 enforcement of international maritime instruments that cover safety of life at sea,  
7 prevention of pollution from ships, load lines, tonnage measurements of ships, and  
8 regulations for preventing collisions at sea, of which the Philippines is a State Party;

9 (b) The State shall provide for a platform for the adoption of regulations  
10 implementing the technical annexes, provisions and requirements of these  
11 International Maritime Instruments as well as future amendments to such technical  
12 provisions and requirements as the State Parties to these Conventions may adopt  
13 from time to time;

14 (c) The State shall comply with its duties and obligations to the international  
15 community as State Party to these international maritime instruments by ensuring  
16 the effective exercise of its jurisdiction and control over ships flying its flag, and that  
17 those who are responsible for the management and operation of a ship registered in

1 the Philippines including their duly registered owners, operate their ships  
2 responsibly; and

3 (d) The State shall provide a mechanism for the full and effective  
4 implementation of Port State Control guidelines as provided by regional agreements  
5 or Memoranda of Understanding by which it may consistently carry out its obligation  
6 to conduct inspections on ships of other States, whether parties to international  
7 maritime instruments or not, when these are within the waters, ports, harbors and  
8 offshore terminals of the Philippines.

9 Sec. 3. *Scope of the Act.* – Unless otherwise indicated, this Act shall apply to:

10 (a) All merchant marine ships, whether seagoing or coastwise, which are  
11 registered under the Philippine flag;

12 (b) All persons, partnerships, corporations, firms or other entities duly  
13 registered or licensed in the Philippines to engage in the business of shipping as ship  
14 owners, ship operators, charterers, or ship managers, or those acting on their  
15 behalf; and

16 (c) All foreign ships that are within the waters, ports, harbours and offshore  
17 terminals of the Philippines regardless of whether or not they are registered in or  
18 belong to State Parties to the international maritime instruments sought to be  
19 implemented by this Act.

20 Sec. 4. *Definition of Terms.* – As used in this Act:

21 (a) *International maritime instruments* refer to all conventions, codes,  
22 recommendations, procedures, guidelines, or other similar instruments pertaining to  
23 safety of life at sea, prevention of pollution from ships, load lines, tonnage  
24 measurements of ships, and regulations for preventing collisions at sea, of which the  
25 Philippines is a State Party, including:

- 26 1. The International Convention for the Safety of Life at Sea, 1974 and its  
27 Protocols of 1978 and 1988 and Agreement of 1996;
- 28 2. The International Convention for the Prevention of Pollution from  
29 Ships, 1973, its Protocol of 1978 and its Protocol of 1997;
- 30 3. The Convention on the International Regulations for Preventing  
31 Collisions at Sea 1972;

- 1           4. The International Convention on Load Lines 1966 and its Protocol of
- 2           1988, as amended in 2003;
- 3           5. The International Convention on the Tonnage Measurement of Ships
- 4           1969; and
- 5           6. All other international instruments, codes, recommendations,
- 6           procedures, and guidelines implementing or applying these
- 7           Conventions.

8           (b) *Recognized Organization* refers to an organization that has been assessed  
9 as such by the Department of Transportation (DOTr), in accordance with the  
10 relevant guidelines of the International Maritime Organization (IMO) on recognized  
11 organizations.

12           Sec. 5. *Powers and Functions.* –

13           (a) DOTr. – For purposes of this Act, the DOTr shall have the following  
14 powers and functions:

- 15           1. Act as the single and central maritime administration, and exercise all
- 16           powers and functions relative to the compliance with, and effective
- 17           implementation and enforcement of international maritime instruments
- 18           to which the Philippines is a State Party;
- 19           2. Prescribe, fix, issue, revise, amend, update or repeal rules and
- 20           regulations from time to time to ensure the full and effective
- 21           implementation and enforcement of international maritime
- 22           instruments;
- 23           3. Determine the minimum standards and requirements, and issue rules
- 24           and regulations applicable to particular types of ships, considering their
- 25           size, type, motive capacity, trading limits and other physical and
- 26           technical attributes without diluting the minimum requirements of the
- 27           international maritime instruments;
- 28           4. Determine which ships shall be excluded or exempted from the
- 29           coverage of relevant regulations, and establish equivalent technical
- 30           standards where it is determined that by virtue of the ship's size, type,
- 31           motive capacity, or trading limits, it would be more workable to require
- 32           the implementation of such equivalent standards, without

1 compromising the safety of the ship, its crew, passengers and cargo,  
2 and without exposing the marine environment to the risk of damage  
3 from ship-sourced pollution;

4 5. Assess and determine the qualification of any recognized organization,  
5 execute the corollary written agreement to evidence the terms and  
6 conditions by which such recognized organization shall act on its  
7 behalf, and the extent of the powers delegated to such recognized  
8 organization in carrying out initial and periodic inspections and surveys,  
9 including the capacity to issue ship certificates on its behalf;

10 6. Require the master, or in the absence of the latter, the owner,  
11 charterer, manager or operator to submit, without delay, a full written  
12 report of any incident involving the ship that may endanger the safety  
13 of the ship, its crew, passengers, or cargo, or pose a threat to the  
14 marine environment;

15 7. Following any marine casualty, accident or incident involving a ship in  
16 the Philippine registry, undertake, on its own or through a duly  
17 constituted independent group of suitably qualified safety inspectors, a  
18 marine casualty safety investigation which is independent from any  
19 other form of investigation and is not intended to apportion blame or  
20 determine liability, but is conducted to determine the cause of the  
21 accident and the identification of measures to prevent the occurrence  
22 of similar marine casualties, accidents or incidents in the future;

23 8. Institute amendments to existing regulations to enhance the safety and  
24 security of ships, persons and property and the protection of the  
25 marine environment following receipt of any recommendation arising  
26 from the marine safety inspection report;

27 9. Receive the report of any violation from another State and conduct any  
28 other investigation on a ship in the Philippine registry to protect public  
29 interest and impose such penalties, sanctions, and levy such fines  
30 commensurate to the gravity of the offense to ensure effective  
31 implementation, compliance and enforcement of Maritime Conventions

1 and upon completion of the investigation, inform the State submitting  
2 the report of the action taken to address the violation;

3 10. Act as the designated point of contact for all matters related to the  
4 IMO with respect to safety of life at sea, prevention of pollution from  
5 ships, load lines, tonnage measurements of ships, and regulations for  
6 preventing collisions at sea; and

7 11. Exercise such other powers and functions necessary to fully implement  
8 international maritime instruments.

9 When creating procedures, rules and regulations, the DOTr shall always be  
10 guided by the relevant conventions, instruments, codes, recommendations, and  
11 guidelines of the IMO.

12 (b) Philippine Coast Guard (PCG). – For purposes of this Act, the PCG shall  
13 exercise port State control, consistent with its powers and functions under Republic  
14 Act No. 9993, otherwise known as the Philippines Coast Guard Law of 2009, and its  
15 Implementing Rules and Regulations.

16 (c) Maritime Industry Authority (MARINA). – For purposes of this Act, the  
17 MARINA shall exercise flag State control, consistent with its powers and functions  
18 under Presidential Decree No. 474, otherwise known as the Maritime Industry  
19 Decree of 1974 and Executive Orders Nos. 125 and 125-A, Series of 1987, as  
20 amended otherwise known as the Reorganization Act of the Ministry of  
21 Transportation and Communications.

22 Sec. 6. *Power to Adopt Regulations to Conform to Amendments to*  
23 *International Maritime Conventions.* – The MARINA, with the concurrence of the  
24 DOTr, through the Secretary, shall recommend to the Department of Foreign Affairs  
25 (DFA) the adoption of international maritime instruments which the Philippines is not  
26 yet a party to, so that the appropriate recommendation can be made, the relevant  
27 instrument of ratification or accession may be issued by the President, and the  
28 concurrence of the Senate of the Philippines may be obtained: *Provided, That* in the  
29 case of any subsequent amendment to any technical annex of any existing  
30 international convention or treaty to which the Philippines is already a party and  
31 which is deemed accepted by the State parties to the convention after the lapse of  
32 the specified time, the MARINA is hereby empowered and authorized to amend and

1 revise its rules and regulations to conform with the amendments to the relevant  
2 convention or treaty without need of further legislative or executive authorization.

3       *Sec. 7. Coordination Among Regulatory Agencies.* – The Secretary of  
4 Transportation shall direct, oversee and document the creation, maintenance and  
5 management of the appropriate coordinative framework and structure among all  
6 government agencies mandated by law to supervise and regulate all parties referred  
7 to in Section 2 of this Act in order to ensure the harmonized implementation and  
8 enforcement of the conventions covered by this Act. For this purpose, the Secretary  
9 of Transportation shall issue relevant regulations, orders, processes and procedures  
10 within sixty (60) days from the effective date of this Act, which regulations may be  
11 amended from time to time as needed. The issuance of the Secretary of  
12 Transportation shall give special attention to clearly identify the processes and  
13 procedures to be followed by the different regulatory agencies, considering each  
14 agency's mandate, technical competence and expertise, organizational structure and  
15 capabilities for carrying out the Philippines' obligations under the conventions. The  
16 Secretary of Transportation shall further clarify functions and tasks which require:

- 17       (a) execution directly by the agency;
- 18       (b) execution indirectly by an agency acting on behalf of another;
- 19       (c) coordination of several agencies by a lead agency;
- 20       (d) cooperation by agencies acting independently of each other; or
- 21       (e) monitoring and reporting to another agency

22       The Secretary of Transportation, as needed, shall coordinate with other  
23 executive departments whose line or attached agencies likewise exercise relevant  
24 functions or provide technical services that ensure the safety of the ship, its crew,  
25 passengers and cargo and the protection of the marine environment, such as the  
26 Philippine Atmospheric Geophysical and Astronomical Services Administration  
27 (PAGASA) under the Department of Science and Technology (DOST), and the  
28 National Mapping and Resource Information Authority (NAMRIA) under the  
29 Department of Environment and Natural Resources (DENR), among others.

30       *Sec. 8. Implementing Rules and Regulations.* – The DOTr shall issue the  
31 implementing rules and regulations for each of the Maritime Instruments within six  
32 (6) months from the effectivity of this Act.

1           Sec. 9. *Separability Clause.* – If, for any reason, any section, subsection,  
2 clause or term of this Act is held to be illegal, invalid, or unconstitutional, such parts  
3 not affected by such declaration shall remain in full force and effect.

4           Sec. 10. *Repealing Clause.* – All existing laws, orders, decrees, rules and  
5 regulations or parts thereof inconsistent with the provisions of this Act are hereby  
6 amended, modified or repealed accordingly.

7           Sec. 11. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after  
8 its publication in the Official Gazette or in a newspaper of general circulation.

Approved,