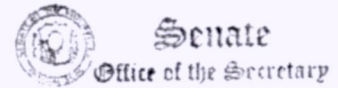


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



'19 NOV 11 P5:24

SENATE
S. B. No. 1160

RECEIVED BY: _____

Introduced by Senator SONNY ANGARA

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 Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS);
- The International Convention on Load Lines, 1996 (Load Line);
- The International Convention on the Tonnage Measurement of Ships, 1969 (Tonnage); and

- The Protocol of 1997 to Amend the International Convention for the Prevention of Pollution from Ships, 1973, as Modified by the Protocol of 1978 (MARPOL Annex VI)

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;
- 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 it ratified the original conventions and partake the nature of the executive agreements.


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



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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

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 Convention on the International Regulations for Preventing
29 Collisions at Sea 1972;
- 30 3. The International Convention on Load Lines 1966 and its Protocol of
31 1988, as amended in 2003;

- 1 4. The International Convention on the Tonnage Measurement of Ships
2 1969;
- 3 5. The Protocol of 1997 to Amend the International Convention for the
4 Prevention of Pollution from Ships, 1973, as Modified by the Protocol of
5 1978; and
- 6 6. All other international instruments, codes, recommendations,
7 procedures, and guidelines implementing or applying these
8 Conventions.

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

13 Sec. 5. *Powers and Functions.* –

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

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

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

- 5 5. Assess and determine the qualification of any recognized organization,
6 execute the corollary written agreement to evidence the terms and
7 conditions by which such recognized organization shall act on its
8 behalf, and the extent of the powers delegated to such recognized
9 organization in carrying out initial and periodic inspections and surveys,
10 including the capacity to issue ship certificates on its behalf;
- 11 6. Require the master, or in the absence of the latter, the owner,
12 charterer, manager or operator to submit, without delay, a full written
13 report of any incident involving the ship that may endanger the safety
14 of the ship, its crew, passengers, or cargo, or pose a threat to the
15 marine environment;
- 16 7. Following any marine casualty, accident or incident involving a ship in
17 the Philippine registry, undertake, on its own or through a duly
18 constituted independent group of suitably qualified safety inspectors, a
19 marine casualty safety investigation which is independent from any
20 other form of investigation and is not intended to apportion blame or
21 determine liability, but is conducted to determine the cause of the
22 accident and the identification of measures to prevent the occurrence
23 of similar marine casualties, accidents or incidents in the future;
- 24 8. Institute amendments to existing regulations to enhance the safety and
25 security of ships, persons and property and the protection of the
26 marine environment following receipt of any recommendation arising
27 from the marine safety inspection report;
- 28 9. Receive the report of any violation from another State and conduct any
29 other investigation on a ship in the Philippine registry to protect public
30 interest and impose such penalties, sanctions, and levy such fines
31 commensurate to the gravity of the offense to ensure effective
32 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 Order 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 any portion or provision of this Act is
2 subsequently declared invalid or unconstitutional, other provisions hereof which are
3 not affected thereby shall remain in full force and effect.

4 Sec. 10. *Repealing Clause.* – All other laws, acts, presidential decrees,
5 executive orders, presidential proclamations, issuances, rules and regulations, or
6 parts thereof which are contrary to or inconsistent with any of the provisions of this
7 Act are hereby repealed, amended, or modified accordingly.

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

Approved,