

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



'22 AUG 15 P5 :24

SENATE
S. B. No. 1168

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 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);
- SOLAS Protocol of 1988;
- Load Lines Protocol of 1988, as amended in 2003. 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 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.



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 from
13 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 the
16 effective exercise of its jurisdiction and control over ships flying its flag, and that those

1 who are responsible for the management and operation of a ship registered in the
2 Philippines including their duly registered owners, operate their ships 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 behalf;
15 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 but not limited to:

- 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 Conventions.

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

12 *Sec. 5. Powers and Functions. –*

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

- 15 1. Act as the single and central maritime administration, pursuant to
- 16 Republic Act No. 10635, and exercise all powers and functions relative
- 17 to the compliance with, and effective implementation and enforcement
- 18 of international maritime instruments to which the Philippines is a State
- 19 Party;
- 20 2. Exercise flag State control, consistent with its powers and functions
- 21 under Presidential Decree No. 474, otherwise known as the Maritime
- 22 Industry Decree of 1974 and Executive Order Nos. 125 and 125-A, series
- 23 of 1987, as amended, otherwise known as the Reorganization Act of the
- 24 Ministry of Transportation and Communications;
- 25 3. Prescribe, fix, issue, revise, amend, update or repeal rules and
- 26 regulations from time to time to ensure the full and effective
- 27 implementation and enforcement of international maritime instruments;
- 28 4. Determine the minimum standards and requirements, and issue rules
- 29 and regulations applicable to particular types of ships, considering their
- 30 size, type, motive capacity, trading limits and other physical and
- 31 technical attributes without diluting the minimum requirements of the
- 32 international maritime instruments;

- 1 5. Determine which ships shall be excluded or exempted from the coverage
2 of relevant regulations, and establish equivalent technical standards
3 where it is determined that by virtue of the ship's size, type, motive
4 capacity, or trading limits, it would be more workable to require the
5 implementation of such equivalent standards, without compromising the
6 safety of the ship, its crew, passengers and cargo, and without exposing
7 the marine environment to the risk of damage from ship-sourced
8 pollution;
- 9 6. Assess and determine the qualification of any recognized organization,
10 execute the corollary written agreement to evidence the terms and
11 conditions by which such recognized organization shall act on its behalf,
12 and the extent of the powers delegated to such recognized organization
13 in carrying out initial and periodic inspections and surveys, including the
14 capacity to issue ship certificates on its behalf;
- 15 7. Require the master, or in the absence of the latter, the owner, charterer,
16 manager or operator to submit, without delay, a full written report of
17 any incident involving the ship that may endanger the safety of the ship,
18 its crew, passengers, or cargo, or pose a threat to the marine
19 environment;
- 20 8. Following any marine casualty, accident or incident involving a ship in
21 the Philippine registry, undertake, on its own or through a duly
22 constituted independent group of suitably qualified safety inspectors, a
23 marine casualty safety investigation which is independent from any other
24 form of investigation and is not intended to apportion blame or
25 determine liability, but is conducted to determine the cause of the
26 accident and the identification of measures to prevent the occurrence of
27 similar marine casualties, accidents or incidents in the future;
- 28 9. Institute amendments to existing regulations to enhance the safety and
29 security of ships, persons and property and the protection of the marine
30 environment following receipt of any recommendation arising from the
31 marine safety inspection report;

- 1 10. Receive the report of any violation from another State and conduct any
2 other investigation on a ship in the Philippine registry to protect public
3 interest and impose such penalties, sanctions, and levy such fines
4 commensurate to the gravity of the offense to ensure effective
5 implementation, compliance and enforcement of Maritime Conventions
6 and upon completion of the investigation, inform the State submitting
7 the report of the action taken to address the violation;
- 8 11. Act as the designated point of contact for all matters related to the IMO
9 with respect to safety of life at sea, prevention of pollution from ships,
10 load lines, tonnage measurements of ships, and regulations for
11 preventing collisions at sea; and,
- 12 12. Exercise such other powers and functions necessary to fully implement
13 international maritime instruments.

14 When creating procedures, rules and regulations, the MARINA shall always be
15 guided by the relevant conventions, instruments, codes, recommendations, and
16 guidelines of the IMO.

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

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

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

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

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

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

1 Sec. 8. *Implementing Rules and Regulations.* – The MARINA shall issue the
2 implementing rules and regulations for each of the International Maritime Instruments
3 within six (6) months from the effectivity of this Act. In the event that the Philippines
4 adopts any future international instrument, code, recommendation, procedure, or
5 guideline relevant to safety of life at sea, prevention of pollution from ships, load lines,
6 tonnage measurements of ships, and regulation of preventing collisions at sea, the
7 MARINA shall issue the appropriate implementing rules and regulations thereof within
8 a reasonable amount of time.

9 Sec. 9. *Separability Clause.* – If any portion or provision of this Act is
10 subsequently declared invalid or unconstitutional, other provisions hereof which are
11 not affected thereby shall remain in full force and effect.

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

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

Approved,