

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

SENATE
OFFICE OF THE SECRETARY

10 JUL -6 11:25

SENATE

S. NO. 174

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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 very poor 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

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).

Although the recently-passed Philippine Coast Guard Law of 2009 or Republic Act No. 9993 gave the PCG the authority to conduct inspections on all merchant ships and vessels to ensure compliance with ship safety standards, the said law did not provide for clear-cut provisions regarding ship safety inspection services and penalties concerning the same.

This bill puts the maritime safety administration in the right perspective by giving the responsibility of ship safety inspection solely 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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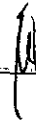
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AN ACT
TO RESTORE THE PHILIPPINE COAST GUARD (PCG) OF ITS AUTHORITY AND RESPONSIBILITY TO PERFORM SHIP SAFETY INSPECTION SERVICES AND CARRY OUT OTHER SHIP SAFETY ENFORCEMENT FUNCTIONS, AMENDING FOR THIS PURPOSE REPUBLIC ACT NUMBERED 9993, PROVIDING PENALTIES, 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 *2010.*”

3
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.

6
7 **SEC. 3. *Definition of Term.*** As used in this Act, ship or vessel shall refer to:

- 8 a) any kind, class or type of craft or artificial contrivance capable of floating in water,
9 designed to be used, or capable of being used as means of water transport under the
10 maritime jurisdiction of the Philippines for the purpose of transporting passengers
11 and/or cargo, for fishing and other commercial purposes utilizing its own motive
12 power or that of another;
- 13 b) a vessel of any type whatsoever not permanently attached to the sea-bed, including
14 dynamically supported craft, submersibles, or any other floating craft.

15
16 **SEC. 4. *Objectives of the Act.*** – This Act shall have the following objectives:

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

10 **SEC. 5. Authority and Responsibility of Performing Ship Safety Inspection Services. –**

11 The Philippine Coast Guard (PCG) shall be restored of its authority and responsibility to perform
12 ship safety inspection services, issuance of Special Permit to carry dangerous cargoes/goods,
13 performance of ship safety enforcement functions and marine casualty investigation for
14 Philippine-registered ships engaged in domestic operations.

15

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

- 19 a) Comprised by the assessment of Philippine-registered ships engaged in domestic
20 trade, inspection services shall be conducted by the PCG prior to the issuance of ship
21 safety certificates, in order to determine the compliance of such ships with applicable
22 requirements of national laws, rules and regulations and international conventions:
23 *Provided*, That said laws, rules and regulations and international conventions are
24 within the jurisdiction of the PCG: *Provided, further*, That such laws, rules and
25 regulations pertain to ship safety standards;

- 1 b) Authorization to perform ship safety inspection services shall be based on ships
2 homeported in areas covered by the concerned maritime district or unit office of the
3 PCG;
- 4 c) All ship safety certificates shall be issued by the PCG to those ships that have
5 undergone inspection;
- 6 d) The PCG shall issue Special Permit to carry dangerous cargoes/goods on board
7 Philippine registered ships engaged in domestic trade.

8

9 **SEC. 7. *Enforcement Functions.*** The PCG shall have the authority and responsibility in
10 the following enforcement activities prior to a ship's departure, and while the ship is under way:

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

1 f) Receive, accept and forward copy of Master's Oath of Safety Departure (MOSD) to
2 the First Party on a monthly basis.

3
4 **SEC. 8. *Weather Forecasting Mechanism.*** – All ships shall be required to have their
5 own weather forecasting equipment, which shall provide real time weather information and shall
6 be independent from that of the PAGASA. Each master of the ship shall conduct proper training
7 to the ship's crew for the operation and utilization of the said equipment.

8
9 **SEC. 9. *Responsibility for Excess Passengers.*** – The responsible ship safety inspector,
10 who, in performance of his or her duty, allowed a domestic vessel to depart port, shall be held
11 accountable for every passenger in excess of the actual physical capacity of the said vessel, and
12 shall be subject to a corresponding penalty as listed in Section 13 of this Act.

13 **SEC. 10. *Responsibility for Excess Gross Tonnage.*** – The responsible ship safety
14 inspector shall be held accountable for every gross tonnage in excess of the actual physical
15 capacity of every domestic vessel which the said officer, in the performance of his/her duty,
16 allowed to depart port. Said erring inspector shall be subject to a corresponding penalty as listed
17 in Section 13 of this Act.

18
19 **SEC. 11. *Administrative Powers in Marine Casualties or Incidents.*** – The PCG, with its
20 function to investigate and inquire into the causes of marine accidents and casualties and marine
21 pollution incidents, shall determine appropriate administrative liabilities, fines, and penalties of
22 responsible parties. It may promulgate policies, rules and regulations necessary for the conduct
23 of the same. It shall be recognized that:

24 a) the PCG has the power and authority to hear and adjudicate any complaint made in
25 writing involving any violation of Republic Act No. 9295 or the Domestic Shipping
26 Act;

1 b) under Republic Act No. 5173, P.D. No. 601 and the 1976 Philippine Merchant
2 Marine Rules and Regulations, the PCG has the power and authority to convene the
3 Board of Marine Inquiry and Special Boards of Marine Inquiry;

4 c) the jurisdiction of the Board of Marine Inquiry is to conduct administrative hearings
5 to determine the causes of marine casualties or incidents upon receipt of a marine
6 protest and to review on appeal the results and findings of Special Boards of Marine
7 Inquiry;

8 d) the jurisdiction of the Special Boards of Marine Inquiry is to conduct administrative
9 hearings to determine the causes of marine casualties in their geographical areas of
10 jurisdiction.

11
12 **SEC. 12. *Ship Safety Inspection Services.*** – The designated ship safety inspectors of the
13 PCG shall meet the qualification requirements prescribed for ship safety inspectors under the
14 existing ship safety inspection system. Such qualified ship safety inspectors shall be fully
15 familiar with the pertinent safety rules and regulations for domestic ships, and undergo
16 orientation/training on ship safety inspection.

17 All inspectors of the PCG performing ship safety inspection services at locations outside
18 100 kilometer radius from their official stations shall be provided reimbursement of travel
19 expenses in accordance with Executive No. 298, subject to the usual accounting and auditing
20 rules and regulations.

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

25
26 **SEC. 13. *Penalties for Specific Violations.*** – Loss of lives and properties resulting from
27 a ship safety inspector's violation of this Act shall be punished accordingly.

- 1 a) Simple negligence – This shall be punishable by imprisonment of six (6) months to
2 one (1) year at the discretion of the court;
- 3 b) Gross dereliction of duty – This violation shall be punishable by imprisonment of one
4 (1) year to three (3) years at the discretion of the court;
- 5 c) Abandonment of post – This shall be punishable by imprisonment of three (3) years
6 to six (6) years at the discretion of the court;
- 7 d) Excess Passengers – This violation shall be punishable by imprisonment of one (1)
8 year to three (3) years for every passenger in excess of the actual physical capacity of
9 the vessel, at the discretion of the court;
- 10 e) Excess Gross Tonnage – This shall be punishable by imprisonment of (3) years to six
11 (6) years for every gross tonnage in excess of the actual physical capacity of the
12 domestic vessel being allowed to depart port, at the discretion of the court;
- 13 f) Payment of damages to commercial vessels operators/owners – In case a commercial
14 vessel does not sail due to failure of the designated ship safety inspectors of the PCG
15 to perform their duty, the assigned officers and/or inspectors for operational and
16 random inspections shall pay the actual damage to the said commercial vessel.

17

18 **SEC. 14. General Penal Clause.** – Any other violation of this Act by any person shall be
19 punished with a fine of not less than one hundred thousand pesos nor more than five hundred
20 thousand pesos or by imprisonment of six (6) months to five (5) years or both at the discretion of
21 the court: *Provided*, That, in case the violation is committed by an association or corporation, the
22 penalty herein prescribed shall be imposed on the responsible officers or directors thereof:
23 *Provided, further*, That, nothing in this Act shall prevent the PCG from providing administrative
24 penalties for violation of any regulation that it promulgates.

25

26 **SEC. 15. Appropriation.** - The funds needed for this purpose shall be taken from the
27 appropriations of the Department of Transportation and Communication. Thereafter, such

1 amount necessary for the implementation of this Act shall be included in the annual General
2 Appropriations Act.

3

4 **SEC. 16. *Separability Clause.*** – If any provision of this Act shall at any time be found to
5 be unconstitutional or invalid, the remainder thereof not affected by such declaration shall
6 remain in full force and effect.

7

8 **SEC. 17. *Repealing Clause.*** – All laws, decrees, rules or regulations inconsistent with
9 the provisions of this Act are hereby repealed or modified accordingly.

10

11 **SEC. 18. *Effectivity Clause.*** – This Act shall take effect after fifteen (15) days following
12 its complete publication in two (2) newspapers of general circulation.

Approved,