Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

JUL 28 2004
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THIRTEENTH CONGRESS
First Regular Session

House Bill No. 1799

Introduced by the **Honorable ROILO GOLEZ**

EXPLANATORY NOTE

Pilotage Services is one of the important complementary services to vessels in port.

The Philippine Ports Authority (PPA) by its charter, Presidential Decree No. 85 Section 6 (a) (viii), is vested with the broad power to control, regulate and supervise pilotage and the conduct of pilots in any Port District. Pursuant to that power, PPA has promulgated several regulations on Pilotage in order to implement the mandate and/or to respond to the complaints aired by both foreign and coastwise shipping lines/ operators.

Some of the complaints aired by foreign and coastwise shipping lines / operators are the unsatisfactory / delayed services rendered by some pilots, lack of proper equipment/ gears, overcharging of pilotage fees and the collection of unauthorized fees for services claimed to have been rendered.

At the present pilotage services are solely provided by the members of the Harbor Pilots' Association in a pilotage district. This association is under the national umbrella organization of the United Harbor Pilots' Association of the Philippines (UHPAP).

On 3 February 1986, then President Marcos signed into law Executive Order No. 1088 without prior consultation with the maritime sector and the PPA. The cited order made pilotage services in all ports in the country compulsory, whether in government or private ports. Further, it increased pilotage fees by as much as 4,000% for the benefit of pilots who are exclusive members of the UHPAP.

Inspite of the general mandate of the PPA, there is a need to provide and clearly define pilotage services. Thus, this bill which seeks to provide a mechanism for determining: a) pilotage rates and b) extent of maritime liability of harbor pilots. There is likewise a need to establish in clear and unequivocal manner the basis for the imposition of not less than 10% government share from gross receipts from harbor pilotage operations or services.

Passage of this bill earnestly requested.

ROILO GOLEZ

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AN ACT
REGULATING HARBOR PILOTAGE SERVICES AND THE CONDUCT OF HARBOR PILOTS IN ALL PORTS IN THE PHILIPPINES AND FOR RELATED PURPOSES

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

SECTION 1. *Title.*- This Act shall be known as the "Pilotage Service Act of 2004."

SEC. 2. *Policy and Objectives.* - It is hereby declared the policy of the State to regulate, control, supervise pilotage services and the conduct of pilots in all ports of the country to attain the following objectives:

a) To ensure the safe conduct in ports of vessels and seaborne commerce/passengers;

b) To protect port structure and facilities;

c) To establish reasonable charges for pilotage services to enable harbor pilots to share in the burden of developing and maintaining harbor facilities;

d) To foster fair competition among harbor pilots in the delivery of pilotage services;

e) To ensure efficient pilotage service at all times; and

f) To professionalize harbor pilotage services.

SEC. 3. *Definition of Terms.* - For purposes of this Act, the words and
Phrases used herein shall, unless the context indicates otherwise, mean or be understood to mean as follows:

a) Pilotage service is the act of conducting/maneuvering a vessel to/from berth to achorage.

b) Harbor pilot is a licensed master mariner duly accredited by the Philippine Ports Authority to render pilotage in a pilotage district.

c) Authority refers to the Philippine Ports Authority.

d) Accreditation is the authority granted by PPA to any harbor pilot to render pilotage services in a particular pilotage district.

e) Permit to operate is the authority granted by the PPA to any pilots organization to render pilotage service in a particular pilotage district.

f) Gross income from pilotage services is total gross billing assessed against the ship owner/agents for pilotage and related services, whether collected or not.

SEC. 4. *Establishment of Pilotage District.* - The Philippine Ports Authority, hereinafter referred to as Authority, is hereby authorized to establish, through longitude and latitude, the pilotage districts throughout the country including the number of pilots for each pilotage district.

SEC. 5. *Provision of Pilotage Services.*- Pilotage services in all pilotage districts shall be provided directly by the Authority either by contract or through accredited pilotage organizations.

SEC. 6. *Compulsory or Optional Pilotage.* - For entering a harbor and achoring hereat, or passing through rivers or straights within a pilotage district, as well as docking and undocking at any pier/wharf, or shifting from one berth to another, every vessel engaged in foreign trade shall be under compulsory pilotage, except specific port/areas/cases declared as optional per the regulations promulgated by the Authority.

Pilotage for vessels engaged in domestic trade shall be optional, except in specific ports/areas/cases declared as compulsory pilotage pursuant to regulations promulgated by the Authority.

SEC. 7. *Accreditation of Harbor Pilots.* - Harbor pilots shall be accredited by the Authority for a term of not less than one (1) year but not exceeding five (5) years on the basis of merit and fitness.

The term of accreditation may be renewed for another period under such terms and conditions as the Authority may adopt, but in no case shall the renewal exceed the compulsory retirement age as provided for in Section 9 hereof.

The accreditation, transfer, suspension and cancellation of a harbor pilots' accreditation shall be governed by the rules and regulations promulgated by the Authority.

Nothing contained herein shall be construed to mean that an employer-employee relationship between the Harbor Pilot and the Authority is created.

SEC. 8. *Qualification of a Harbor Pilot.* - No person shall be accredited as Harbor Pilot unless he is a Filipino citizen, and, on the day of accreditation is not

more than fifty-five (55) years old, of sound physical and mental condition, of good moral character, and a holder of a license as Harbor Pilot for the pilotage district applied for.

SEC. 9. *Compulsory Retirement of Pilots.* - Upon the effectivity of this Act, harbor pilots shall be considered retired at the age of sixty (60) years.

SEC. 10. *Establishment of a Pilot's Organization.* - Pilots in a pilotage district may form themselves into a Pilots' Organization which shall be registered with the Securities and Exchange Commission and accredited with the Authority. The organization shall be headed by a Chief Pilot to be elected from the member-pilots.

SEC. 11. *Permit to Operate.* - Every Pilots' organization shall be duly accredited to render pilotage services by securing from the Authority a permit to operate (PTO) for such services, under terms/conditions the Authority may prescribe.

SEC. 12. *Cancellation of PTO.* - The PTO may be canceled by the Authority only for cause and after due process.

SEC. 13. *Record.* - Harbor Pilots/Pilots' Organizations shall keep a record of his/its operations and financial transactions and such other records or reports as may be required by this Act. All records shall be made open to member-pilots and concerned government agencies for inspection and examination.

SEC. 14. *Indemnity Insurance.* - Every pilots' organization shall collectively insure with the Government Service Insurance System (GSIS) its membership at an amount to be determined by the Authority to cover in whole or in part any liability arising from any accident resulting in damage to vessel(s), port facilities, and other properties and/or death or injury to persons which any member may have caused in the performance of pilotage service.

SEC. 15. *Operating Capital, Equipment and Facilities.* - To effectively and efficiently render pilotage services, individual pilots and/or pilots' organizations shall make available such operating capital equipment or facilities as may be required by the Authority.

SEC. 16. *Power to Define Pilotage Services and Prescribe Rates.* - The Authority shall define piotage services, including tug assistance and other related services, and shall determine, establish and adjust the rated therefore in coordination with relevant government agencies and concerned private sectors taking into consideration factors such as, but not limited to, tonnage of vessels and distance covered by the service.

The rates thus determined shall be subject to Board's approval and shall take effect fifteen (15) days after publication in any newspaper of general circulation.

SEC. 17. *Government Share for Pilotage Services.*- In consideration of the privilege granted to pilots/pilots' organizations to undertake pilotage services and the use of port facilities, there shall be collected a government share of not less than ten (10%) percent from the pilots' gross income from pilotage and related services.

SEC. 18. *Extent of Liability.* - Harbor Pilot/Pilotage Organization providing pilotage service to a vessel shall be responsible for the damage sustained by the

vessel and other facilities, and for death or injury to persons resulting from his/its fault or negligence. He/it may only be absolved from liability if the accident is caused by *force majeure* or natural calamities, or when his/its order is countermanded by the master of the vessel: Provided, however, That he/it exercised extra-ordinary diligence in the performance of his/its duties to prevent or minimize damage.

SEC. 19. *Penalties.* - Any person who violates the provisions of this Act and the rules and regulations promulgated to implement it shall be punished by imprisonment of not less than ten (10) days but not more than six (6) months, as may be determined by the court.

If the offender is a duly accredited harbor pilot, his accreditation shall, in addition to imprisonment, be suspended/canceled or revoked. The Authority shall have the power to suspend, cancel or revokeaccreditation of a harbor pilot and to exact reasonable administrative fines in an amount not less than Twenty Thousand Pesos (P/20,000.00) but not more than Two Hundred Thousand Pesos (P/200,000.00) for such specificviolations as shall be prescribed by the Authority.

SEC. 20. *Issuance of New Accreditation to Incumbent Harbor Pilots.* - Incumbent pilots in all pilotage districts shall be issued new accreditations in accordance with the provisions of this Act. In no case shall said new accreditations exceed the compulsory retirement age for harbor pilots as provided for in Section 9.

SEC. 21. *Repealing Clause.* - Executive Order No. 1088 and all other laws, decrees, orders, rules and regulations or parts thereof inconsistent with or contrary to the provisions of this Act are hereby repealed or modified accordingly.

SEC. 22. *Separability Clause.* - If any part or provision of this Act is held unconstitutional or invalid, other parts or provisions of this Act which are not affected thereby shall continue to be in full force and effect.

SEC. 23. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,