

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Thirteenth Congress
Second Regular Session



House Bill No. 3782

Introduced By: Hon. Prospero C. Nograles

EXPLANATORY NOTE

Pilotage has been a recognized profession of seasoned master mariners after they have opted to retire from active service in merchant ships. It is a job that will enable them to be with their family and at the same time practice their profession.

These harbor pilots have provided efficient and safe services in the berthing of vessels and in conducting vessels along channels and bays unfamiliar to most foreign master on board ocean going vessels calling on Philippine Ports. Their contribution therefore to the development of Philippine economy by way of a safe navigation within Philippine territorial waters can not be underestimated.

The Philippine has not yet passed a law regulating this maritime activity which has been covered only by the generally accepted international law principles, as with respect to the Pilot's liability in the event of damage to property or death and injury to persons caused by a vessel under pilotage. One of the purpose of this proposed legislation is to make a definitive declaration of policy on these matters. It is also the purpose of this proposed legislation to institutionalize prevailing practices in pilotage service; to rationalize the pilotage fees and other charges in related to the pilotage services such as tug assistance and overtime work during nighttime and Sundays and holidays; to define the legal relations between the harbor pilots, and pilotage organizations in a particular pilotage district with the harbor authorities such as the Philippine Ports Authorities for specific ports already established or that may be established from time to time by Congressional acts.

The foregoing have been considered, the passage of this Bill is earnestly requested.

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

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

Section 1. **Title** – This Act shall be known as the “**Pilotage Service Act of 2005.**”

Section 2. **Scope** – This Act shall apply to all harbor pilots and pilotage organizations providing services in all ports in the country, whether owned by the government or private persons. Other government ports under the control and supervision of other port agencies or specialized government entities shall also be covered by pertinent provisions of this Act.

Section 3. **Policy and Objectives**-The state hereby recognize that pilotage service plays a vital complementary role in the efficient operation of ports. It is therefore, the policy of the state through the authority to regulate and supervise pilotage services and the conduct of pilots in all ports in the country to attain the following objectives:

- a.) To ensure the safety of ports facilities vessels and their passengers and cargoes; and

- b) To ensure efficient pilotage service at all times, rationalize charges therefore based on the provisions of Executive Order 1088 and professionalize harbor pilots.

SECTION 4. *Definition of Terms-* For purpose of this Act, the words and phrases used herein shall, unless the context indicates otherwise, mean or be understood as follows:

- a) **"Authority"** refers to the Philippine Ports Authority.
- b) **"MARINA"** refers to the Maritime Industry Authority which is authorized by law to license harbor pilots for a given pilotage district based on general and technical examinations.
- c) **"Pilotage Service"** is the act of conducting or maneuvering a vessel to/from berth or anchorage, including related activities.
- d) **"Harbor Pilot"** is a master licensed to perform pilotage service within a specific pilotage district by the MARINA and appointed by the Authority for the purpose.
- e) **"Pilotage Organization"** is a corporation or partnership duly registered with the Exchange Commission and accredited by the Authority to provide pilotage services.
- f) **"Accreditation"** is the permit or license granted by the Authority to a pilot organization to render pilotage services in a particular pilotage district.
- g) **"Gross Income from Pilotage Services"** is the total billing for all services rendered including overtime, assessed and billed by a harbor pilotage organization against a ship owner or agents for pilotage and related services.

h) **"Appointment"** is a designation by the Authority granted to a harbor pilot to render pilotage service in a specified pilotage district.

i) **"United Harbor Pilots"** Association of the Philippines is the recognized national organization of all harbor pilots of the country and representing them in official dealing with the authority.

SECTION 5. *Provision of Pilotage Services-* Pilotage service is advisory in nature and the master is primarily responsible. Pilotage services shall be provided by the already existing pilotage organizations in a specific pilotage district. It shall be rendered by a harbor pilot by actually maneuvering the vessel, unless countermanded by the master.

SECTION 6. *Power to Define Pilotage services and Prescribe Rates-* The Authority shall have the power to define pilotage services, necessary tug assistance and other related requirements subject to appropriate consultations with the representatives of the United Harbor Pilots' Association of the Philippines, the ship agents or ship owners of vessels calling at ports and representatives of government agencies concerned. It shall also have the power to determine establish and adjust the rates upward for said services taking into consideration the present individual fees and charges under Executive Order No. 1088, simplify of rate structure and factors such as, but not limited to, tonnage draft or length of vessels, peculiarity and characteristics of the harbor, port and distance covered by the service. The rates thus determined shall be subject to approval by the Board of directors of the Authority and shall take effect fifteen (15) days after publication in any newspaper of general circulation.

SECTION 7. *Compulsory or Optional Pilotage-* Every vessel engaged in foreign trade shall be under compulsory pilotage. Pilotage for vessels engaged in domestic trade shall also be compulsory except in specific ports declared as optional by the Authority. Before any port shall be declared under optional

pilotage for domestic vessels, the Authority shall conduct appropriate consultations with the representatives of the United Harbor Pilots' Association of the Philippines of harbor pilots rendering pilotage services in the pilotage district where the port is located, the ship agents or ship owners of vessels calling at said ports and representatives of government agencies concerned. Such ports declared under optional pilotage shall be based on the following factors:

- a) Size or type of vessels calling at the port;
- b) Physical configuration as well as mooring and berthing facilities of the port;
- c) Hydrographic consideration of the harbor and its approaches or channels;
- d) Existence of navigation aids, vessel traffic systems and other similar harbor safety or traffic aids;
- e) Average frequency or volume of vessel traffic of the port under consideration; and
- f) Such other factors which may affect the risk of vessel movement while in the port.

SECTION 8. *Establishment of Pilotage district*- The Authority shall establish through the definition of their longitude and latitude, such pilotage districts throughout the country and determine the number of pilots therein, but in no case less than the present number.

SECTION 9. *Qualification of a Harbor Pilot*- No person shall be appointed as Harbor Pilot unless he is a Filipino citizen of sound physical and mental condition, good moral character and a holder of a license from the MARINA as harbor pilot for the pilotage district applied for, provided that, no person who is above fifty-five (55) years old at the time of examination shall be allowed by the MARINA to take an examination of a pilotage district applied for.

SECTION 10. *Appointment of Harbor Pilots-* The Authority in consultation and coordination with the United Harbor Pilots' Association of the Philippines and the pilot association concerned shall appoint additional harbor pilot in a pilotage district, whose number shall depend on economic viability and the need of the service.

Every pilot must undergo on the job training for at least ninety (90) days under the direct supervision of regular pilots of the district and shall only be appointed upon certification of the chief pilot of the district of his competency.

The appointed pilot shall serve until he reaches the age of seventy (70) years unless he becomes incapacitated or dies.

The appointment of harbor pilots shall not create an employer-employee relationship between the harbor pilot and the Authority. It shall be subject to cancellation or suspension for cause as may be determined by the Authority and after due process.

When there is no licensed harbor pilot or one who has taken or passed the MARINA examination given for a pilotage district, the authority may, in the exigency of the services and after proper application, temporarily appoint a harbor pilot for said district. Such temporary appointment shall not exceed one (1) year and shall be renewable for the same period. The Authority shall further ensure that except for the MARINA license for that pilotage district, a harbor pilot appointed temporarily must have all the qualifications of a regular harbor pilot as well as basic familiarity with the pilotage district applied for.

Applicants who are also holders of a MARINA license or members of the United Harbor Pilots' Association of the Philippines for other pilotage districts shall be given preference in their application.

SECTION 11. *Compulsory Retirement of Pilots-* Harbor pilots appointed under this Act shall be considered retired at the age of seventy (70) years.

SECTION 12. *Establishment of a Pilotage Organization-* Appointed harbor pilots in a pilotage district newly opened shall organize themselves into a corporation or partnership and register it with the Securities and Exchange Commission. Said corporation or partnership, otherwise known as the pilotage organization, shall be accredited by the authority in accordance with this Act. Pilotage association or firm including all their pilot members must be member of good standing of the United Harbor Pilots' Association until their respective retirement, resignation or death.

SECTION 13. *Accreditation of Pilotage Organization-* Every pilotage organization presently constituted shall continue to render pilotage services provided they comply the conditions enumerated hereunder. Newly organized pilotage firm in accordance with this law shall secure from the Authority a Permit to Operate (PTO), which shall contain the following conditions, in addition to what the Authority may deem proper to impose:

- a) Capitalization
- b) Equipment and communication facilities
- c) Maintenance of records of the operations and financial transactions
- d) Indemnity insurance secured from the Government Service Insurance System (GSIS)
- e) Payment of government share based on actual collection

SECTION 14. *Supervision or Cancellation of Accreditation or Appointment-*The accreditation of a pilotage organization or appointment of a harbor pilot may be cancelled by the authority for the following causes:

- a) Refusal or failure to render pilotage service without just or reasonable cause;

- b) Gross incompetence or inefficiency which compromises the safety of port facilities, vessels and their passengers and cargoes;
- c) Charging rates not agreed by the parties or authorized or prescribed by the Authority;
- d) Involvement or participation in smuggling or related activities through its harbor pilots, members or officers;
- e) Failure to post the required performance bond or indemnity insurance;
- f) Failure to maintain the required capitalization, equipment or facilities as provided under its accreditation; and
- g) Refusal to submit to the Authority's supervision, without justifiable cause.

SECTION 15. *Pilotage Service by the Authority-* Upon deliberate and unjustified refusal or failure of the harbor pilot of the pilotage organization to perform services, the authority may order other duly appointed harbor pilots, to render such required services without prejudice to suspension or cancellation of the pilotage organization's accreditation or suspension or removal of such pilot as provided in this Act, after observance of due process.

SECTION 16. *Extent of Liability-* A pilotage organization providing service to vessels through its harbor pilots or members shall, after due process shall be responsible for the damage sustained by the vessel, port facilities and for death or injury to persons, unless proximately caused by the master, force majeure or fortuitous event.

SECTION 17. Penalties- any person who violates any of the provisions of this Act or rules and regulations promulgated by the Authority, shall be punished by imprisonment of not less than six (6) months or one (1) day but not more than (6) years, and a fine of not less than Php 20,000.00 but not more than Php 200,000.00 subject to the following qualification:

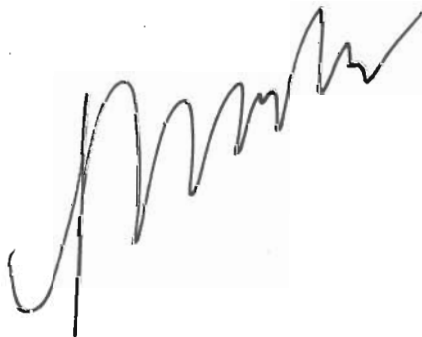
- a) If the offender is a juridical person, the penalty of imprisonment and fine shall be imposed upon its manager, director, representative or employee thereof responsible for the violation.

SECTION 18. Implementing Rules and regulations- The Authority is hereby authorized to promulgate the appropriate rules and regulation based on admiralty laws and practices for the proper implementation of this Act, in consultation with the United Harbor Pilots' Association of the Philippines.

SECTION 19. Repealing Clause- 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.

SECTION 20. Separability Clause- If any part or provision of this Act is declared as unconstitutional or invalid by a court of competent jurisdiction, the other parts or provisions, which are not affected thereby, shall continue to be in full force and effect.

SECTION 21. Effectivity Clause- This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspaper of general circulation.

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