

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

15th CONGRESS
First Regular Session

House Bill No. 2382

Introduced by **HON. ANTONIO T. KHO**

Explanatory Note

After more than 5,000 deaths (a conservative estimate) in two decades, many maritime companies are still in business operating old and defective inter-island ships and vessels—one of the just too many and multi-faced problems plaguing the maritime industry and the safety of many Filipinos, a great majority of whom are poor, whose mode of transport is inter-island by ship and other smaller watercrafts and vessels.

Always, the Executive Department in the past, have issued instructions to maritime agencies to identify and implement concrete steps to forestall accidents at our seas, but year after year, the painful stories of maritime tragedy continue, hugging our front pages and headlines.

But as the body count mounts, the finger-pointing intensifies on who should be blamed whether the State's maritime agencies or the shipping industry. This national habit was evident again as some 800 lives were snuffed out when the 23,000-ton M/V Princess of the Stars capsized amid the onslaught of Typhoon Frank last year. This has been a common scene after disasters have claimed lives and properties in our country.

According to government records, the country has a maritime safety record with an average of more than 200 accidents every year and 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.

On the other hand, maritime authorities, blame the shipping industry for using second-hand vessels with an average age of 25 years. Furthermore, a government development agency, the Japan International Cooperation Agency, made a study in 2007 which stated that insufficient navigational aids and lack of navigational marks contribute to sea accidents in the Philippines.

It is high time that the legislature, as the highest policy making body of the land, steps in and institute the needed policies to promote maritime safety and help our maritime agencies in effectively discharging their functions and responsibilities.

This bill's main feature is strengthening the Philippine Coast Guard by vesting it with the primary authority of enforcing maritime safety standards and overloading rules, and undertaking

rescue operations in sea accidents.

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).

At present, MARINA, having the power to inspect vessels and all equipment on board, works in cooperation with the PCG to ensure compliance with ship safety standards. In 2005, these two agencies entered into a memorandum of agreement authorizing the PCG to perform, among others, ship safety inspection services in behalf of the MARINA.

It is my humble submission that according the primary responsibility of ship safety inspection and enforcement of maritime safety rules, standards and regulations to the Philippine Coast Guard will greatly help prevent the loss of thousands of lives and property caused by sea accidents every year, and it will also put the blaming game among government agencies into an end.

This legislative initiative also includes improving safety in narrow inter-island passages and areas with heavy sea traffic where most accidents occur. Consideration is also given to delineating sea-lanes and implementing better monitoring, communications and life-saving systems in these areas.

A phase-out plan for old and defective ships and random drug tests for maritime crew and staff are also proposed.

This humble representation who comes from an island province where many of his constituents have died and suffered through the years because of sea tragedies and defective and poorly maintained ships and vessels, just like many others too in other island provinces of the archipelago using inter-island water transport, strongly believe that we should not procrastinate any longer to correct these maladies.

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


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AN ACT

PROMOTING MARITIME SAFETY IN THE PHILIPPINES BY STRNGTHENING THE PHILIPPINE COAST GUARD (PCG) AND VESTING IN IT THE PRIMARY RESPONSIBILITY OF ENFORCING MARITIME SAFETY RULES, STANDARDS AND REGULATIONS AS WELL AS ANY OTHER MATTER RELATIVE TO THE SAFETY AND PROTECTION OF LIFE AND PROPERTY OF PASSENGERS ON BOARD SHIPS AND VESSELS WITHIN PHILIPPINE TERRITORIAL WATERS AND FOR OTHER PURPOSES.

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

SECTION 1. Short Title. - This Act shall be known as the "Maritime Safety Act of 2010."

SEC. 2. Declaration of Policy. - It is hereby declared the policy of the State to adopt measures that ensure safe and convenient sea travel and/or transport.

SEC. 3. Objectives of the Act. - This Act shall have the following objectives:

(a) To ensure the safe, reliable and responsible operation of vessels within the maritime jurisdiction of the country and all waters considered under the Philippine territory;

(b) To promote the safety of life and property at sea and to protect all users of the sea within the maritime jurisdiction of the country by providing minimum standards to be applied on all water vessels such as but not limited to the following:

1. competence of licensed masters, pilot and seafarers;
2. minimum manning level requirements of seafarers;
3. age and condition of said vessels;
4. number of passengers and/or cargoes in accordance with the duly authorized load capacity of the vessels;
5. establishment and maintenance of adequate and modern communications and all necessary navigational aids to be manned and operated by competent personnel, including adequate and reliable life-saving devices and equipment;
6. establishment and maintenance of rescue centers to serve as look-out points in accident-prone areas at sea and which shall readily provide aid assistance and facilities when needed.

(c) To authorize the Philippine Coast Guard to undertake enforcement activities prior to a vessel's departure and at any point of its voyage;

(d) To engage in search and rescue operations and call on other government/non-government units

in rendering assistance to all distressed persons or vessels either on the high seas or on Philippine waters;

(e) To provide for the investigation of marine accidents and for appropriate action following any such investigation.

SEC. 4. Delineation of Authority/Restoration of Authority to Enforce Ship Safety and Inspection and Other Functions. - The Philippine Coast Guard (PCG) shall be primarily responsible for the enforcement and implementation of rules, regulations and standards pertaining to the maritime industry, safety and related matters as formulated by the Maritime Industry Authority (MARINA), to ensure the safe operation of all inter-island ships and vessels.

To this end, the PCG shall be restored of its authority and responsibility to perform ship safety inspection services, issuance of Special Permit to carry dangerous cargoes/goods, performance of ship safety enforcement functions and marine casualty investigation for Philippine-registered ships engaged in domestic operations.

SEC. 5. Enforcement Functions. - The PCG shall have the authority and responsibility in the following enforcement activities prior to a ship's departure, and at any time of its voyage:

(a) To verify compliance with any of the following ship and crew documentation prior to the ship or vessel's departure when required or applicable, such as:

1. Certificate of Ship Registry;
2. Pleasure Yacht Registration;
3. Certificate of Number;
4. Certificate of Ownership;
5. Coastwise License;
6. Bay and River License;
7. Certificate of Inspection;
8. Special Certificate of Inspection;
9. Permit to Operate Fishing Vessel/s;
10. Special Permit to Navigate;
11. Special Permit to Carry/Load Flammable/Dangerous/Hazardous Cargoes;
12. Seafarer's Identification and Record Book (SIRB);
13. Standards of Training, Certification and Watchkeeping (STCW) Endorsement Certificate;
14. Other seafarer-related documents (e.g. licenses, training certificates, dispensation permit/s);
15. Motorboat Operator's License (MBOL); and
16. Special Permit for Small Boat Captains and Marine Diesel Engine Mechanics License.

(b) To verify compliance with the terms and conditions specified in the Certificate of Public Convenience (CPC), Provisional Authority (PA), Special Permit (SP) or CPC exemption, particularly:

1. Route/s and schedule of trips approved by MARINA;
2. Validity of passenger insurance policy for passenger-carrying vessels; and
3. Maximum authorized passenger capacity through head counting in case there is clear indication of overloading/overcrowding.
4. Requirement of officers and crew to wear the proper uniform while on duty.

(c) To serve and enforce the cease and desist orders (CDOs) issued by the MARINA and other concerned government agencies on the master, owner or his agents of the ship;

(d) To issue Maritime Violation Receipt (MVR) to the master, owner or agents of the ship who

fails to comply with the provisions of relevant laws, rules and regulations on vessel safety. When the violation warrants detention of the ship, the PCG shall request the Philippine Ports Authority in writing, together with a copy of the MVR, to deny departure clearance of the ship in accordance with Executive Order No. 493 and other existing laws;

(e) To undertake the issuance of the following in accordance with the rules and regulations that the MARINA may promulgate:

1. Motorboat Operator's License (MBOL)
2. Certificate of Inspection;
3. Special Certificate of Inspection;
4. Special Permit to Navigate/Towing Permit;
5. Special Permit to Carry/Load Flammable/Dangerous/Hazardous Cargoes/Goods; and
6. Special Permit for Small Board Captains and Marine Diesel Engine Mechanics License.

In all of the above cases, the MARINA shall be furnished with a list of such issuances on a quarterly basis.

(f) To clear ships for departure where there is compliance with all maritime safety-related rules and regulations and after payment of the necessary port dues and charges;

(g) To provide the MARINA a list of inspectors and issuing offices, by area of assignment, with their corresponding qualifications including their specimen signatures as well as copies of any order or issuance made arising from the exercise of their duties and functions;

(h) To designate vessels traffic separation scheme and/or system where appropriate;

(i) To undertake the control of movement of vessels/watercrafts during typhoons and adverse weather conditions and to inform the concerned MARINA Regional Director and his Central Office Action Officer and other concerned government agencies of any control undertaken on the movement of vessels/watercrafts during such conditions;

(j) To conduct the Emergency Readiness Evaluation (ERE)/Material Readiness Evaluation (MARE);

(k) To submit a monthly report to the Secretary of the Department of Transportation and Communications (DOTC), copy furnished the MARINA Administrator, on the conduct of the functions under this Act, including the submission of reports on maritime accidents and casualties.

SEC. 6. Ship Safety Inspection Service Functions. - The PCG, in order to promote safety of life and property at sea within Philippine territory, shall have the following ship safety inspection functions:

(a) Inspection services shall be conducted by the PCG prior to the issuance of ship safety certificates, in order to determine the compliance of such ships with applicable requirements of national laws, rules and regulations and international conventions: *Provided*, That said laws, rules and regulations and international conventions are within the jurisdiction of the PCG: *Provided, further*, That such laws, rules and regulations pertain to ship safety standards;

(b) All ship safety certificates shall be issued by the PCG to those ships that have undergone inspection.

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

SEC. 8. Adequate Communications and Life-Saving Equipment. - All ships, including other sea vessels and crafts, shall be required to maintain and operate adequate and reliable communications, navigational aids and life-saving equipment which shall include, among others, life vests and lifeboats, primarily intended during emergency escapes and other situations when passengers have to leave the vessel or ship due to greater risks or dangers while on board;

SEC. 9. Responsibility for Excess Passengers. - The responsible ship safety inspector, who, in performance of his or her duties, allowed a domestic vessel to depart port, shall be held accountable for every passenger in excess of the actual physical capacity of the said vessel, and shall be subject to a corresponding penalty as listed in Section 16 of this Act;

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

SEC. 11. Random Drug Tests. - A monthly random drug testing of shipping crews and officers for all passenger inter-island ships and other vessels shall be carried out by the Dangerous Drugs Board (DDB), in coordination with the Philippine Coast Guard;

SEC. 12. Phase-out Plan. - The Philippine Coast Guard and Maritime Industry Authority (MARINA) shall jointly formulate a phase-out plan for passenger inter-island ships and other watercrafts and vessels in accordance with international and universally accepted standards relative to its seaworthiness and in close coordination with the joint committees on transportation of the Senate and the House of Representatives; *Provided*, That all ships and vessels which are already twenty (20) years old based from the time it was first registered as a common carrier shall be barred from plying any maritime route servicing both passengers and cargo three (3) years from the promulgation of this Act; *Provided, Further*, that in computing the age of the vessel if the same was imported, the time that it was used as a common carrier in its country of origin and in any other country shall also be considered, aside from the time it was first used in the Philippines.

All ship-owners associations and representatives from groups or associations operating watercrafts and maritime vessels, as well as international maritime authorities and experts and from the country's maritime schools and institutions shall be adequately consulted relative to this plan.

SEC. 13. Review of Standards for Seamen and Maritime Professionals. - The Professional Regulations Commission (PRC) shall review the standards and implementation of training and licensing rules and regulations governing seamen and maritime professionals manning domestic ships. The Philippine Coast Guard and the Maritime Industry Authority shall also provide a system of assessment and review of those manning smaller vessels and watercrafts which shall include the institutionalization of an accreditation system in lieu of a license normally given to maritime professionals.

SEC. 14. Administrative Powers in Marine casualties/Accidents. - The PCG, with its function to investigate and inquire into the causes of marine accidents and casualties and marine pollution incidents, shall determine appropriate administrative liabilities, fines, and penalties of responsible parties. It may promulgate policies, rules and regulations necessary for the conduct of the same. It shall be recognized that:

a) The PCG has the power and authority to hear and adjudicate any complaint made in writing involving any violation of R.A. 9295;

b) Under Republic Act No. 5173, Presidential Decree No. 601 and the Philippine Merchant Marine Rules and Regulations, the PCG has the power and authority to convene the Board of Marine Inquiry and Special Boards of Marine Inquiry;

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

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

SEC. 15. Ship Safety Inspection Services – The designated ship safety inspectors of the PCG shall meet the qualification requirements prescribed for ship safety inspectors under the existing ship safety inspection system. Such qualified ship safety inspectors shall be fully familiar with the pertinent safety rules and regulations for domestic ships and undergo orientation/training on ship safety inspection. All inspectors of the PCG performing ship safety inspection services at locations outside 100 kilometer radius from their official stations shall be provided reimbursement of travel expenses in accordance with Executive No. 298, subject to the usual accounting and auditing rules and regulations. In the conduct of ship safety inspection services by the PCG in areas within 100 kilometer radius from the official stations of their inspectors, a reasonable amount to cover gasoline expenses, supported by official receipts shall be allowed for reimbursement, as authorized by a valid travel order issued for the purpose.

SEC. 16. Penalties for Specific Violations. - Loss of lives and properties resulting from a ship safety inspector's violation of this Act shall be punished accordingly:

a) Simple Negligence - shall be punished by imprisonment of six (6) months and one (1) day to one (1) year, at the discretion of the court;

b) Gross Dereliction of Duty – shall be punishable by imprisonment of one (1) year and one (1) day to three (3) years, at the discretion of the court;

c) Abandonment of Post – shall be punishable by imprisonment of three (3) years and one (1) day to six years at the discretion of the court.

SEC. 17. Penalties for Non-Compliance to Maritime Safety - The loss of lives arising from any non-compliance with the rules, standards and regulations pertaining to maritime safety by the ship's master crew, agents or owner shall be punished with a fine of not less than One Million Pesos (PhP 1,000,000.00) but not more than Five Million Pesos (PhP 5,000,000.00) and by imprisonment of one (1) year and one (1) day to three (3) years, at the discretion of the court; *Provided, That*, in case the violation is committed by an association or corporation, the penalty herein prescribed shall be imposed on the

responsible officers or directors thereof.

In the case of motorized bancas and similar motorized watercrafts and vessels, the loss of lives shall be punished with a fine of not less than One Hundred Thousand Pesos (PhP 100,000.00) but not more than Three Hundred Thousand Pesos (PhP 300,000.00) and by imprisonment of the same penalty as provided in the preceding section.

In the case of the captain of the ship or vessel, including motorized banca or any other similar motorized watercrafts, he shall further be disqualified perpetually from acting as an officer of such vessel, motorized banca or other similar motorized watercraft.

In all cases, any penalty that may be imposed shall be without prejudice to civil and/or criminal liability under existing laws.

SEC. 18. Appropriation – The funds needed for this purpose shall be taken from the appropriations of the Department of Transportation and Communications. Thereafter, such amount necessary for the implementation of this Act shall be included in the annual General Appropriation Act.

SEC. 19. Separability Clause – If any provision of this Act shall at any time be found to be unconstitutional or invalid, the remainder thereof not affected by such declaration shall remain in full force and effect.

SEC. 20. Repealing Clause – All laws, decrees, rules or regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 21. Effectivity Clause – This Act shall take effect after fifteen (15) days following its complete publication in two (2) newspapers of general circulation.

Approved,