



Republic of the Philippines

HOUSE OF REPRESENTATIVES

Quezon City, Metro Manila

**Fifteenth Congress
First Regular Session**

HOUSE BILL NO. 4652

Introduced by Honorable Roger Gaviola Mercado

EXPLANATORY NOTE

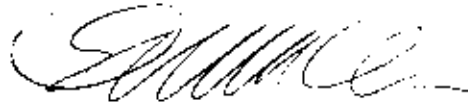
Pilotage has been a recognized profession of seasoned Master Mariners after they have opted to retire from active service in merchant ships just so that they may be near their family and at the same time practice their profession. In the process these Harbor Pilots have provided efficient and safe pilotage services in the berthing of vessels, and in conducting vessels along channels and bays unfamiliar to foreign Master on board ocean going vessels calling on Philippine Ports. Their contribution in the development of the country's economy by way of safe navigation within Philippine territorial waters can not be underestimated.

The Philippines has yet to pass a Pilotage Act which provides for an integrated and comprehensive legislation on pilotage in accordance with the generally accepted international principles of pilotage, and which is highly responsive to changing needs and requirements affecting the Harbor Pilots and their pilotage services.

Presidential Decree 857 which granted the Philippine Ports Authority (PPA) regulatory powers over Pilotage has already become unresponsive to the declared national policy of uniformity on the regulatory control of pilotage matters by the establishment of various Port Authorities under Special Charter/s separate and Distinct from the PPA, and when these Port Authorities have assumed upon themselves regulatory control over Pilots in their respective territorial areas even without express legislative mandate in their respective Special Charter/s. It is thus the purpose of this Act to place regulatory control and supervision of pilotage and the conduct of Harbor Pilots under a Pilotage Commission to rationalize regulatory policies on pilotage services in the interest of uniformity and general application of all pilotage administrative policies in all ports of the Philippines.

It is also the purpose of this proposed legislation to institutionalize prevailing jurisprudence on pilotage services, to rationalize the Pilotage fees and other charges related to pilotage services such as tug assistance and overtime work during nighttime and Sundays and Holidays, to define Harbor Pilot's liability in the event of damage to property or death and injury to persons caused by a vessel under pilotage, and to streamline the legal relations and regulatory control on Harbor Pilots and pilotage organizations in all ports of the country under the Pilotage Commission.

Foregoing considered, the passage of this Bill is earnestly requested.



ROGER GAVIOLA MERCADO



Republic of the Philippines

HOUSE OF REPRESENTATIVES

Quezon City, Metro Manila

Fifteenth Congress
First Regular Session

HOUSE BILL NO. 4652

Introduced by **Honorable Roger Gaviola Mercado**

**AN ACT CREATING A HARBOR PILOTAGE COMMISSION,
REGULATING HARBOR PILOTAGE SERVICES AND THE
CONDUCT OF HARBOR PILOTS IN ALL PORTS IN THE
PHILIPPINES AND FOR 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 2011".

SECTION 2. *Scope-* This Act shall apply to all harbor pilots and pilotage organizations providing pilotage services in all ports in the country, whether owned by the government or private persons.

SECTION 3. *Policy and Objectives-* It is hereby recognized by the State that pilotage service plays a vital and complementary role in the efficient operation of ports and the protection of marine environment. It is, therefore, the policy of the state through the Pilotage Commission to regulate, and supervise pilotage services and the conduct of pilots in all ports in the country to attain the following objectives:

To ensure the safety of life at sea, port facilities, vessels, and their passengers and cargoes;

To ensure safe and efficient pilotage service at all times, the protection of marine environment, and rationalize charges based on the provisions of Executive Order 1088.

To promote and develop professionalism of 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:

“Authority” refers to the Philippine Ports Authority in general and to such other Port Authority, under a Special Charter, and granted with jurisdiction, supervision and control over port operation and management at a specific port in the Philippines.

“Pilotage Commission” refers to the Pilotage Commission created under this Act.

“Pilotage Service” is the act of conducting, navigating or maneuvering a vessel to/from berth or anchorage, along rivers, channels and estuaries, including all related activities thereof.

“Harbor Pilot” is a Master Mariner, who is not part of the regular complement of the vessel, taken on board at a particular place, is in charge of its conduct and navigation, and is duly licensed and appointed to act as such by the Pilotage Commission to render pilotage service within a specific pilotage district.

“Pilotage Organization” is an association of Harbor Pilots duly licensed and appointed by the Pilotage Commission for a particular Harbor Pilotage District as defined in this Act.

“Pilotage License” is the permit or license granted by Pilotage Commission to a Master Mariner to exercise his profession and to render pilotage services in a particular pilotage district.

“Appointment” is a designation by the Pilotage Commission granted to a harbor pilot to exercise his profession and render pilotage service in a particular pilotage district.

“Non-Governmental Organization” (NGO) includes non-stock, non-profit private organizations with proven track record or experience in the conservation, management and protection of marine environment.

“United Harbor Pilots Association of the Philippines, Inc.” (UHPAP) is the umbrella national organization of all harbor pilots of the country, duly licensed and appointed to render pilotage services in their particular pilotage district.

SECTION 5. The Pilotage Commission – A Pilotage Commission is hereby created

consisting of five (5) members, namely: the General Manager of the Philippine Ports Authority, the Commandant of the Philippine Coast Guard, the incumbent President of the United Harbor Pilots Association, Inc., a representative of a National Association of Philippine registered Shipowners who shall be appointed by the President of the Philippines and a representative of a recognized non-governmental organization (NGO) likewise to be appointed by the President of the Philippines from among a list of recommendees to be submitted by the aforesaid last two Sectors.

The PPA General Manager shall act as Chairman of the Pilotage Commission. The members of the Commission shall be appointed by the President of the Philippines. The Secretary of the Department of Transportation and Communications shall fix the compensation of the members of the Pilotage Commissioners upon the recommendation of the Pilotage Commission. The Pilotage Commission is hereby placed under the administrative control and supervision of the Secretary of the Department of Transportation and Communications.

The presence of three members of the Commission shall constitute a quorum for the exercise of its functions and the affirmative vote of at least three members shall be a valid and a binding act of the Commission. In case the chairman is absent in any meeting, the members present shall elect a temporary chairman to preside over the meeting.

Any provision of law to the contrary notwithstanding, the chairman and members of the Commission shall receive a per diem for every meeting actually attended. The Commission shall hold regular meetings once a month and in no case shall it hold more than one special meeting in any month.

The per diem of the chairman and members of the Board shall be chargeable to the Pilotage Safety Development Trust Fund provided in Section 18 of this Act.

Powers and Duties- The Pilotage Commission shall have the following powers and functions :

- (a) To exercise administrative control, regulation, and supervision on pilotage and the conduct of pilots in any Port District.
- (b) To Adopt rules and regulations necessary for the enforcement and administration of pilotage and the conduct of pilots;
- (c) To Issue Harbor Pilot licenses to pilot applicants meeting the qualifications herein set forth and such additional qualifications as may be determined from time to time by the Pilotage Commission;
- (d) To Appoint duly licensed Harbor Pilots to conduct pilotage service.
- (e) To Establish a comprehensive training program to assist in the training and evaluation of pilot applicants before final licensing, and formulate such other additional training requirements for Harbor Pilots, including but not limited to a program of continuing education on pilotage services;

- (f) To Maintain a register of pilots, records of pilot accidents, and other history pertinent to pilotage;
- (g) To Determine from time to time the number of pilots necessary to be licensed in each Harbor Pilotage District in order ensure the operation of a safe, efficient, and competent pilotage service in each district;
- (h) To Determine and fix uniform pilotage fees for pilotage services, and review the same every five (5) years thereafter.
- (i) To Conduct investigations and render a report involving any marine casualty of vessels under pilotage, and to submit recommendations to the Secretary of Transportation and Communications and to Congress any measure to ensure the safety of life at sea, property and the protection of environment;

The Chairman or any member of the Pilotage Commission in his absence, shall have power to administer oaths in any matter before the Commission for consideration or inquiry and to issue subpoenas requiring witnesses to appear before the Commission. Such subpoenas shall be signed by a member of the Commission. A witness willfully disobeying such subpoena served upon the witness shall be liable for contempt to be filed with the appropriate court of law.

SECTION 6. *Power to Define Pilotage services and Prescribe Rates-* The Pilotage Commission 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 and the ship agents or ship owners of vessels calling at ports. It shall also have the power to determine, establish and adjust the prevailing rates upward for said services based on the present individual fees and charges provided under Executive Order No. 1088 as well as the generally accepted international rates on pilotage services. The factors to be considered in the adjustment of rates shall include, among others tonnage, draft or length of vessels, peculiarity and characteristics of the harbor, port and distance covered by the service as well as pilotage services at nighttime, and during Sundays and holidays. The rates thus determined shall take effect fifteen (15) days after publication in any newspaper of general circulation.

Unpaid Pilotage Fees shall be considered a maritime lien on the vessel in which pilotage services as defined under this Act are rendered.

SECTION 7. *Compulsory Pilotage-* Pilotage services shall be compulsory in government and private wharves, berths, piers or anchorage. Every vessel engaged in foreign trade shall be always under compulsory pilotage. Pilotage for vessels engaged in domestic trade shall also be compulsory except those engaged in domestic regular ferry services, including fast craft ferry vessels, not over 500 gross tons.

SECTION 8. *Establishment of Harbor Pilotage district-* There shall be Twenty Six [26] Harbor Pilotage Districts for the entire Country, namely-

FOR LUZON-

Manila, Aparri, Batangas, San Fernando, Masinloc-Sta.Cruz-Sual,
Siaian-Hondagua & Casiguran, Subic, Bicol Region, Puerto Princesa

VISAYAS

Cebu, Iloilo, North Panay, Pulupandan, Tacloban, Catbalogan, Tagbilaran,
Dumaguete, Maasin-Surigao

MINDANAO

Davao, Zamboanga, Jolo, Masao, Iligan, Cagayan De Oro,
General Santos (Dadiangas), Polloc.

The Pilotage Commission may from to time increase or decrease the number Pilotage Districts as well as the number of Harbor Pilots thereof upon prior consultation and with the conformity of the United Harbor Pilot Association and the concerned Harbor Pilotage District. The number of pilots for each pilotage district shall depend on economic viability and the need of the service.

The prevailing territorial jurisdiction of each Harbor Pilotage District and the number of existing Harbor Pilots per District shall remain unless otherwise changed by the Pilotage Commission pursuant to this Act.

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 has been a Master Mariner on board sea-going vessels of not less than 5,000 gross tons for at least 5 years.

No person who is above fifty-five (55) years of age shall be appointed as Harbor Pilot.

SECTION 10. *Appointment of Harbor Pilots-* The Pilotage Commission in consultation and coordination with the Philippine Ports Authority, the United Harbor Pilots' Association of the Philippines and the pilot association concerned shall appoint the harbor pilot in each particular pilotage district.

Upon certification of the Chief Pilot of a vacancy in his Harbor Pilotage District, the Pilotage Commission shall cause the publication of the vacancy for the said Harbor Pilotage District at least once in a newspaper of general circulation.

Master Mariners who are qualified for evaluation and licensing as Harbor Pilot shall submit their applications at the Harbor Pilotage District concerned. After proper evaluation and assessment, the Chief Pilot and the Harbor Pilotage District concerned shall have the full discretion to choose whom to undergo on the job training from among the most qualified candidates for Harbor Pilot.

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

The Pilotage Commission shall simultaneously issue the corresponding Harbor Pilotage License upon his appointment as the Harbor Pilot in a particular Harbor Pilotage District.

The appointed pilot shall serve until he reaches the age of seventy (70) years unless he becomes incapacitated to perform his duties and responsibilities by reason of illness or injury. Each Pilot shall **undergo** an annual physical and medical examination by any physician duly accredited by the Department of Health to determine his fitness to continue discharging his duties as Harbor Pilot.

The appointment of harbor pilots shall not create an employer-employee relationship between the harbor pilot and the Pilotage Commission or the Authority. Any Harbor Pilot in a particular pilotage district shall be subject to cancellation or suspension for cause by the Pilotage Commission, as provided in Section 14 hereof, upon the recommendation of the Chief Pilot of the said Pilotage District and the United Harbor Pilots' Association of the Philippines, and after due process.

The Pilotage Commission shall automatically issue a Pilot License and Appointment to all existing, incumbent and active Harbor Pilots to perform pilotage services at their respective individual Harbor Pilotage District wherein he belongs at the time of the passage of this Act.

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 shall register and organize themselves into a Pilotage Organization, and must be members in good standing of the said Pilotage Organization for the pilotage District as well as with the United Harbor Pilot Association of the Philippines, Inc.

SECTION 13. Harbor Pilotage District Organization. There shall only be one Harbor Pilotage District Organization for every Harbor Pilotage District. Each Harbor Pilotage District Organization shall submit to the Pilotage Commission its Articles of Incorporation and By Laws as well as the list of its officers and members, all of whom are duly appointed Harbor Pilots for the particular pilotage District.

The Pilotage Organizations presently organized and constituted for the specific pilotage District shall continue to act as a pilotage organization under this Act. It is the obligation of each pilotage organization to elect and submit to the Pilotage Commission the name of one of its member to act as the Chief Pilot for the pilotage district.

All Harbor Pilotage District Organization and their active and practicing Licensed Harbor Pilot members must be a member of the Umbrella Organization for Harbor Pilots, which for purposes of this Act shall be the United Harbor Pilots' Association of the Philippines, Inc.

SECTION 14. *Suspension or Cancellation of Appointment*- The appointment of a harbor pilot, after due process and investigation, may be suspended or cancelled by the Pilotage Commission for the following causes:

- (1) Refusal or failure to render pilotage service without just or reasonable cause;
- (2) Gross *negligence*, *incompetence* or inefficiency which compromises the safety of port facilities, vessels and their passengers and cargoes;
- (3) Charging rates not agreed by the parties or authorized or prescribed by the Pilotage Commission;
- (4) Involvement or participation in smuggling or related activities through its harbor pilots, members or officers;
- (5) Failure to post the required performance bond or indemnity insurance;
- (6) Refusal to submit to the authority of the Pilotage Commission without justifiable cause.
- (7) Intoxication and use of prohibited drugs at the time and during the performance of his duties as Harbor Pilot.
- (8) Use and submission of any false or forged documents for the purpose of obtaining the Harbor Pilot License and/or Appointment.
- (9) Acts prejudicial to the professional Code of Conduct for Harbor Pilots.
- (10) Physical or mental impediment to render pilotage services as may be determined by a physician accredited by the Department of Health.

SECTION 15. *Administrative Sanctions*- Upon deliberate and unjustified refusal or failure of a harbor pilot of the pilotage organization to perform services, the Pilotage Commission upon recommendation of the Chief Pilot may order other duly appointed harbor pilots of the same pilotage organization to render such required services without prejudice to suspension or removal of such pilot as provided in this Act, after observance of due process.

SECTION 16. - Limitation of Pilot's Liability. A Harbor pilot licensed to act as

such by the Pilotage Commission and authorized to provide pilotage services in the different Harbor Pilotage Districts shall not be liable for damages in excess of the amount of Five Hundred Thousand Pesos (P500,000.00) for damages or loss occasioned by a pilot's errors, omissions, fault, or neglect in the *performance of pilotage services*, except as may arise by reason of his willful misconduct or gross negligence.

Each Harbor Pilots shall post an Indemnity Insurance Bond from the Government Service Insurance System (GSIS) or from such reputable Insurance Company acceptable to the Pilotage Commission, to cover the limit of his liability or for such amount as may be required by the Commission after consultation with the United Harbor Pilot Association of the Philippines.

The Harbor Pilot shall be free from responsibility for damage, injury or death arising from the negligence of the Master and crew of the vessel under pilotage, unseaworthiness of the vessel, breakdown of its machineries and equipment, force majeure or fortuitous event.

Upon actual boarding a vessel to provide pilotage services, that pilot becomes a servant of the vessel and its owner and operator. Nothing in this section exempts the vessel, its owner, or its operator from liability for damage or loss occasioned by that ship to a person or property on the ground that (a) the ship was piloted by a duly licensed Pilot, or (b) the damage or loss was occasioned by the error, omission, fault, or neglect of a pilot duly licensed by the Commission.

The safety and protection of human life and property in maritime commerce under compulsory pilotage is declared to be in the public interest, and the limitation and regulation of the liability of Harbor pilots licensed and authorized under this Act to provide harbor pilotage services, is necessary to such safety and protection and is deemed to be in the public interest.

The Harbor Pilot on board a vessel under pilotage service shall serve as adviser of the Master during and at the time of his engagement in the conduct and maneuver of the vessel. The Master of the vessel, its owners and agents are not relieved of responsibility for any loss or damage caused by or to the vessel even while the vessel is under compulsory pilotage.

SECTION 17. *Marine Accident and Casualty.* In the event of a marine accident and casualty in which a vessel under pilotage is involved, the Pilotage Commission shall immediately conduct its own enquiry and investigation of the incident, and shall secure the necessary data, information and documents, needed in the further proceedings of the investigation including depositions of witnesses, before a vessel involved in the incident is cleared for departure from port or place of incident.

SECTION 18. *Pilotage Safety Development Trust Fund.* - There shall be an independent and separate trust fund established under this Act, to be administered by the Pilotage Commission in accordance with existing government auditing rules and regulations.

An amount equivalent to **Five (5%)** of the gross amount of Pilotage Fees paid to the Harbor Pilots for rendering pilotage services shall be collected to establish the Pilotage Safety Development Trust Fund, which shall be exclusively and solely be disbursed and utilized for the following purposes:

- (1) Installation and/or upgrading of Pilotage equipment and facilities to conform with international safety standards for navigation.
- (2) Developmental Loans by way of Financial Assistance to the needs of the different Harbor Pilotage Organizations in the several Harbor Pilotage Districts for the acquisition of capital equipment necessary to render pilotage services in their respective Harbor Pilotage Districts.
- (3) Such other projects for the promotion and development of maritime safety involving pilotage services as well as for the protection of marine environment
- (4) Per Diems and administrative expenses of the Pilotage Commission.

The Trust Fund shall be deposited at all times in only one authorized government depository bank as determined by the Pilotage Commission. Any and all interests that shall accrue therefrom shall form part of the same fund.

The Pilotage Commission shall render a quarterly report to the Secretary of Transportation and Communications of the status of the Trust Fund, including detailed disbursements therefrom.

There shall be no disbursement from the Trust Fund unless they are made pursuant to the program of expenditures duly approved by the Pilotage Commission.

No other charges or imposition by way of government share shall be levied on the gross income of Harbor Pilots derived from rendering pilotage services and in the exercise of their profession as Harbor Pilots.

SECTION 19. *Penal Provision.* A fine of not less than Twenty thousand pesos (P20,000.00) nor more than Two Hundred Thousand Pesos (P200,000.00) or imprisonment for a period of not less than one (1) year nor more than six (6) years or both such fine and imprisonment, at the discretion of the court, shall be imposed upon:

- (a) Any person who shall render pilotage services without license and appointment by the Pilotage Commission;

(b) Any person who represents himself as a Harbor Pilot for a particular Pilotage District without being a member of the Pilotage Organization for the said particular Harbor Pilotage District

(c) Any person who shall give any false or forged documents for the purpose of obtaining the Harbor Pilot License and/or Appointment.

(d) Any person who shall use an expired, revoked and/or suspended Harbor Pilot License or Appointment to perform pilotage services;

(e) Any person who shall assume, use or advertise the title of a Harbor Pilot under his name, or any description to convey the impression that he is an active and duly Licensed Harbor Pilot without holding a valid Harbor Pilot License and Appointment issued by the Pilotage Commission.

SECTION 20. *Implementing Rules and regulations-* The Pilotage Commission 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, and with the representatives of the Philippine Registered shipping companies.

SECTION 21. *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 22. *Transitory Provision.* – The existing Port Authority granted by law to exercise supervision and regulation of Pilotage and the conduct of Harbor Pilots shall continue to function in the interim until such time that the Pilotage Commission shall be constituted pursuant to this Act.

SECTION 23. *Appropriations.* - To carry out the provisions of this Act, there is hereby appropriated for the initial year of operation of the Pilotage Commission, the sum of two million pesos out of the funds in the National Treasury not otherwise appropriated. Thereafter, the Pilotage Safety Development Trust Fund shall finance the cost of the administrative operations of the Pilotage Commission as well as defray such projects that the Pilotage Commission shall undertake pursuant to this Act.

SECTION 24. *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 25. *Effectivity Clause-* This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspaper of general circulation.