

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

House Bill No. 99



Introduced By Hon. DOUGLAS S. HAGEDORN

EXPLANATORY NOTE

Presently, the only measure that has legal basis insofar as the prevention and control of marine pollution is the Presidential Decree No. 976 which was promulgated in 1976. However, this law, otherwise known as the Marine Pollution Decree of 1976, were not sufficient to deal with pervasive emissions and discharges of polluted effluents and wastes from ships. Moreover, the wide-elbow-room vested in said law made it too general that liberal promulgation of its implementing regulation or standard paramountly depends on the primary agency responsible therefor. Worst, overlapping jurisdictions among government agencies as far as the prevention of pollution from ships have instigated confusion among stakeholders and implementing agencies.

In view of these, this proposed "Prevention of Pollution from Ships Act of 2013" is filed in order to address limitations and weaknesses of P.D. No. 976 and other related laws, and to come up with a comprehensive but relevant measure.

This proposed law primarily intends to implement the provisions of the most important convention on marine pollution, which is MARPOL 73/78, an International Convention for the Prevention Pollution from Ships, as modified by protocol of 1978 and other protocols and annexes related thereto.

Among the countries worldwide, as of May 2013, 152 states, representing 99.2 per cent of the world's shipping tonnage, are parties to the convention. For the East Asia' region, on the Philippines and Thailand have not yet ratified the MARPOL, to think that the Philippines is among the top 15 countries in terms of tonnage.

This notwithstanding, the rampant degradation of the marine environment bolsters the need for the immediate passage of this measure, despite the ratification of the MARPOL.

Specifically, this legislative bill seeks to prevent pollution from ships, in general and implement said convention as regards a (1) harmful substances (e.g., oil, oily mixture, oil residues, noxious and liquid substances in bulk, harmful substances in packaged form,

sewage, garbage, and air), and (2) system of certification, survey, inspection, monitoring, detection, representation, adjudication of maritime pollution cases.

More importantly, the measure now clearly defines and delineates functions of Philippine Coast Guard, Maritime Industry Authority, Department of Environment and Natural Resources and Local Government Units, Philippine Port Authority and other port authorities.

Furthermore, to address the immediate and comprehensive rehabilitation of marine environment damage as brought about by ship operations, this measure provides for a mechanism for environmental guarantee be institutionalized to finance the needs for emergency response, clean-up or rehabilitation of areas that may be damaged.

Finally, the bill provides for appropriate sanctions which are adequate in severity to discourage violations.

For this reason, the approval of this bill is earnestly sought

A handwritten signature in black ink, appearing to read 'D. Hagedorn', is positioned above the printed name.

HON. DOUGLAS S. HAGEDORN

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Philippines

Sixteenth Congress
First Regular Session

99
HOUSE BILL NO. _____

INTRODUCED BY HON. DOUGLAS S. HAGEDORN

AN ACT
TO PREVENT AND CONTROL POLLUTION FROM SHIPS, PROVIDE PENALTIES THEREFOR
AND FOR OTHER PURPOSES

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

CHAPTER 1
GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “Prevention of Pollution from Ships Act of 2013”.

SEC. 2. *Declaration of Policy.* – The State shall hereby prevent and control pollution resulting from the operations of ships in order to protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

It shall likewise be the policy of the State to implement the Convention as it is herein defined, including its amendments and protocols that have been ratified by the Philippines.

SEC. 3. *Definition of Terms.* – As used in this Act:

(a) *Atmospheric discharges or emissions from ships* refer to any deliberate discharge or emission of ozone depleting substances, nitrogen oxides, sulfur oxides and volatile organic compounds when such discharges do not meet the requirements of the Convention.

(b) *Chemical tanker* refers to a ship constructed or adapted for the carriage in bulk of any liquid product listed in the International Bulk Chemical Code or any noxious liquid substance.

(c) *Coastal state* refers to the relationship of the Philippines to a foreign-flagged vessel traversing Philippine waters and its corollary right to exercise jurisdiction and regulatory control over such vessel.

(d) *Convention* refers to:

(1) The International Convention for the Prevention of Pollution from Ships 1973, as amended by the Protocol of 1978 or MARPOL 73/78;

(2) Protocol I and II of MARPOL 73/78;

(3) Annexes I, II, III, IV, V and VI, their relevant appendices, any technical code referred to, as well as any amendment to any of these documents which may enter into force in accordance with the procedure referred to in Article 16 of MARPOL 73/78;

(4) Any subsequent protocol of and amendment to the Convention which the Philippine Government may ratify necessary to advance the purposes of this Act;

(5) Any mandatory Code referred to in the Convention or any subsequent protocol to the Convention which the Philippine Government may ratify or any amendment which may enter into force in accordance with Article 16 of the Convention.

(e) *Department* refers to the Department of Transportation and Communications.

(f) *Discharge* refers to any release, however caused, of harmful substances from a ship, including any escape, disposal, spilling, leaking, pumping, emitting or emptying of such substances, except:

(1) Release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources; or

(2) Release of harmful substances for purposes of legitimate scientific research into pollution abatement or control.

(g) *Dirty ballast* refers to water carried in the cargo tank.

(h) *Flag state* refers to the relationship of the Philippines to vessels registered under its flag and the corollary right to exercise jurisdiction and regulatory control over these vessels.

(i) *Foreign-flagged ship* refers to any ship registered in another State or authorized to fly its flag, whether or not it is a State party to MARPOL 73/78, when found in any of the ports, terminal facilities or waters within the jurisdiction or sovereignty of the Philippines.

(j) *Garbage* refers to all kinds of victual, domestic and operational waste, excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically.

(k) *Harmful substance in package form* refers to those substances which are identified as marine pollutants in the International Maritime Dangerous Goods (IMDG) Code and are held in forms of containment specified for harmful substances in the IMDG Code. If not otherwise identified in the IMDG Code, harmful substances in package form shall include substances identified in accordance with the following criteria as provided in the Convention:

(1) Those which are bio-accumulated to a significant extent and known to produce a hazard to aquatic life or to human health; or

(2) Those which are bio-accumulated with attendant risk to aquatic organisms or to human health with a short retention of the order of one (1) week or less; or

(3) Those which are highly toxic to aquatic life.

(l) *Marine incident* refers to an event involving the actual or probable discharge into the sea, or emission into the atmosphere, of a harmful substance or effluents containing such a substance.

(m) *Marine casualty* refers to any accident or incident of navigation which results in producing a harmful, deleterious or damaging effect upon the marine environment.

(n) *Master* refers to every person, except a pilot, having command or charge of any ship, including a boat captain.

(o) *Noxious liquid substance* refers to any substance identified as such under the relevant chapter of the International Bulk Chemical Code or provisionally assessed as such by Annex II of the Convention.

(p) *Oil* refers to petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products, other than petrochemicals which are classified as noxious liquid substances in accordance with Annex II of the Convention, and including substances listed as asphalt solutions, gasoline blending stocks, oils, gasolines, jet fuels, distillates, gas oil and naphtha in accordance with Appendix I of Annex I of the Convention.

(q) *Oily mixture* refers to a mixture with any oil content.

(r) *Oil tanker* refers to a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes combination carriers or any other tanker when in fact carrying cargo or part of cargo of oil in bulk.

(s) *Other harmful substance* refers to any substance other than oil, noxious liquid substances, harmful substances in package form, garbage, sewage, which, if introduced into the sea, is liable to create hazards to human health, to harm living resources and marine life, to damage amenities or to interfere with other legitimate uses of the sea, and includes, but is not limited to, atmospheric discharges and other substances identified as marine pollutants which may be subject to control pursuant to the provisions of this Act and other relevant environmental laws of the Philippines.

(t) *Owner* refers to the person registered as the owner of the ship or who assumes the operation of the ship, or, in the absence of registration, the person owning the ship or the bareboat charterer of the ship, and, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, "owner" shall include such State.

(u) *Philippine ship* refers to any ship registered under the laws of the Philippines and entitled to fly its flag wherever the ship may be found.

(v) *Philippine waters* refer to the internal waters, archipelagic waters, territorial seas, waters within the contiguous and exclusive economic zones.

(w) *Plastics* include, but shall not be limited to, synthetic ropes, synthetic fishing nets, plastic garbage bags, incinerator ashes from plastic products which may contain toxic or heavy metal residues.

(x) *Port state* refers to the relationship of the Philippines to a foreign-flagged vessel which may be found in any of its ports, terminal facilities or harbors and its corollary right to exercise jurisdiction and regulatory control over such vessel.

(y) *Secretary* means the Secretary of the Department of Transportation and Communications.

(z) *Sewage* refers to:

(1) Drainage and other wastes from any form of toilets and urinals;

(2) Drainage from medical premises (dispensary, sick bay, etc.) via wash basins, wash tubs and scuppers located in such premises;

(3) Drainage from spaces containing living animals; or

(4) Other waste waters when mixed with the drainages defined above.

(aa) *Ship* refers to a vessel of any type operating in the marine environment and includes pleasure crafts, fishing vessels, hydrofoil boats, air-cushion vehicles, submersibles, floating craft, drilling rigs and fixed or floating platforms.

(bb) *Undue delay* refers to a delay that is unreasonable and unnecessary in light of the particular conditions of the ship, the ship's cargo, destination and schedule, and in light of the purpose and scope of the investigation, inspection or other cause for detaining the ship.

CHAPTER 2

SCOPE AND APPLICATION

SEC. 4. *Scope and Application of this Act.* – Unless otherwise specified herein, this Act shall apply to:

(a) All Philippine ships, wherever they may be found;

(b) All foreign-flagged ships in Philippine waters whether or not they are registered with State parties to the Convention; and

(c) All other ships operating within the Philippine waters: *Provided*, That the provisions of the Convention setting forth technical requirements that ships must meet which are inapplicable or impractical in Philippine local setting may be suspended or equivalents prescribed therefor upon determination by the Department, subject to public consultation: *Provided, further*, That nothing herein shall prevent enactment of any law providing for standards, requirements or regulations higher than those provided for by the Convention.

SEC. 5. *Exemptions.* – This Act shall not apply to warships and naval auxiliary ships: *Provided*, That all government ships shall be exempted from the coverage of this Act during emergency response cases: *Provided, however*, That the Department, through the Maritime Industry Authority (MARINA), the Philippine Coast Guard (PCG), the Philippine Ports Authority (PPA) and other concerned agencies, shall ensure that appropriate measures shall be adopted, not impairing the operational capabilities of such ships, that such ship operates in a manner consistent, so far as is reasonable and practicable, with this Act.

CHAPTER 3

EXERCISE OF JURISDICTION OVER SHIPS

SEC. 6. *Powers and Functions of the Department.* – The Department shall be the principal government agency responsible for the overall implementation and enforcement of this Act and any requirement of the Convention. For this purpose, the Department, through the Secretary, shall have the following general powers and functions:

(a) Oversee the implementation of this Act and coordinate the efforts of concerned agencies;

(b) Formulate a comprehensive program to prevent or minimize marine pollution from ships in coordination with the Department of Environment and Natural Resources (DENR), the Department of Agriculture (DA), the Department of the Interior and Local Government (DILG), the Department of Energy (DOE), port authorities and other relevant agencies and stakeholders;

(c) Constitute the Marine Pollution Adjudication Board (MPAB);

(d) Reorganize or streamline the functions of its different line, staff and attached authorities, agencies or bureaus for purposes of the effective and efficient implementation of the provisions of this Act; and

(e) Exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Act.

SEC. 7. *Powers and Functions of the Maritime Industry Authority.* – The Maritime Industry Authority (MARINA) shall have the sole and exclusive authority and responsibility to ensure that environmental and pollution regulations and standards for the construction and equipment of Philippine vessels, before they are allowed to fly the Philippine flag, and/or as part of their registration, are complied with. For this purpose, the MARINA shall have the following duties and functions:

(a) Ensure that all Philippine ships are constructed and equipped with any fitting, material, appliance or apparatus deemed appropriate and effective for the prevention of any discharge or emission of harmful substances in consonance with the requirements of the Convention;

(b) Survey all Philippine ships for purposes of the provisions of the immediately preceding paragraph, which function may be delegated to MARINA-recognized organizations through a deputation process to be formulated pursuant to this Act:

Provided, That, except for direct replacement, no change in the ship's structure, equipment, fittings, arrangements and materials shall be made without the approval of the MARINA;

(c) Issue the required statutory certificates to all Philippine ships;

(d) Review and revise, whenever appropriate, the existing system of certification, survey, inspection and monitoring of ships, with respect to pollution prevention to ensure efficiency and transparency, consistent with the overall management of the maritime sector and in accordance with the requirements of the Convention;

(e) Conduct surveys and issue certificates or endorsements to foreign ships registered with another State party, if so requested by a State which is a party to the Convention;

(f) Require ships to keep and maintain relevant record books in accordance with the Convention;

(g) Suspend, withdraw or revoke any certificate it may have issued to any Philippine ship found not compliant with this Act and with rules and regulations promulgated therefor;

(h) Hear and adjudicate any violation of rules and regulations of the MARINA issued pursuant to this Act;

(i) Impose such fines and penalties on Philippine ships which shall fail to comply with the requirements of this Act and its implementing rules and regulations;

(j) Accredite, appoint and authorize recognized organizations to act on its behalf and, for this purpose, execute the requisite memorandum of agreement defining the extent of powers that may be exercised by such recognized organizations including, but not limited to, the following:

(1) Perform and conduct statutory surveys on Philippine ships;

(2) Require repairs on a Philippine ship pursuant to findings resulting from port state inspection;

(3) Carry out surveys requested by port state authorities; and

(4) Withdraw any statutory certificates if corrective action is not taken by the Philippine ships.

(k) Provide the International Maritime Organization (IMO) with a list of recognized organizations authorized to act on behalf of the Philippines together with the extent of their powers, the specific responsibilities they are empowered to perform and the conditions of the authority delegated to them;

(l) Impose, fix, collect and receive, in accordance with the duly approved schedules, such fees necessary for the survey and certification of ships pursuant to this Act. Such fees shall be imposed and collected in order to recover the cost for rendering the service and shall not be used in order to impose a penalty: *Provided*, That excessive fees, multiple fees and duplicative fees shall at all times be avoided;

(m) Issue such rules and regulations necessary to implement the provisions of this Act: *Provided*, That such rules and regulations shall be in consonance with the Convention and shall not change or in any way amend or be contrary to the intent and purposes of this Act;

(n) Provide its officers and personnel with adequate training and continuing education to ensure an efficient and professional pollution regulatory machinery;

(o) Impose and collect fees and charges in connection with the performance of its functions under this Act; all fees and charges shall accrue to the Marine Environmental Management Fund (MEMF) established under Section 42 of this Act; such fees shall be imposed and collected in order to recover the cost for rendering the service and shall not be used in order to impose a penalty: *Provided*, That excessive fees, multiple fees and duplicative fees shall at all times be avoided; and

(p) Exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Act.

SEC. 8. Powers and Functions of the Philippine Coast Guard. – Unless otherwise provided under Section 9 of this Act, the Philippine Coast Guard (PCG) shall have the sole and exclusive authority and responsibility to enforce environmental and pollution regulations and standards to all ships which may be operating within Philippine waters, including ports, terminal facilities or harbors. It shall include the authority to board and inspect ships to ensure compliance with such regulations and standards.

For this purpose, the PCG shall have the following duties and functions:

(a) Ensure that all ships are operated and certificated in accordance with the requirements of the Convention;

(b) Inspect the certificates and record books required of any ship pursuant to Section 12 of this Act;

(c) Conduct a physical inspection of the ship if there should be clear grounds for believing that the condition of the ship or its equipment does not correspond substantially with what is stated in the ship's certificates;

(d) Investigate any complaint involving the alleged violation of the Convention committed by a ship regardless of source of the complaint or the location of the violation and request the submission of evidence which the complainant may have regarding the alleged violation;

(e) Request the assistance of any other State whose cooperation may be useful to the investigation against a ship;

(f) Detain a ship pursuant to Section 16 of this Act;

(g) Require a ship to proceed to the nearest repair yard and ensure that the ship does not leave until it can proceed to sea without posing an unreasonable threat or harm to the marine environment;

(h) Initiate proceedings against any person for violation of this Act when sufficient evidence exists with respect to the alleged violation;

(i) Inform the complainant and the International Maritime Organization (IMO) of the results of the investigation and any action taken against the ship operator of the Philippine ship in respect of any alleged violation;

(j) Deny entry of a foreign-flagged ship to any Philippine port or terminal facility if it fails to comply with the requirements of the Convention;

(k) Coordinate with, and inform, the diplomatic representative of the State, or the flag State administration, of any violation of the foreign ship and any action taken against the ship;

(l) Inspect, verify and investigate a ship if it has discharged any harmful substance into the marine environment if:

(1) It has reasonable grounds to believe that a discharge has occurred in Philippine waters;

(2) It receives a report from another coastal State; or;

(3) It receives a request from the flag State;

(m) Forward the report of any violation committed by the ship with respect to any discharge of harmful substances into the marine environment to the ship's flag state administration together with any evidence it may have;

- (n) Immediately inform any affected coastal State of the discharge;
- (o) Inform the flag State administration of the foreign ship of the alleged violation and furnish it with such information and evidence to show that a violation has occurred;
- (p) Ensure that the ship is not unduly delayed or detained;
- (q) Order into port any ship found in the territorial seas if there are clear grounds to believe that the ship has discharged harmful substances into the marine environment;
- (r) Establish procedures for reporting incidents involving any actual or probable discharge or emission which may be in violation of this Act and of the requirement of the Convention consistent with the reporting requirements under this Act;
- (s) Require all ships and aircrafts registered under the Philippine flag to immediately report any marine casualty which they witnessed while navigating;
- (t) Upon inquiry or investigation, cause or recommend regulatory or other appropriate actions to be taken in connection with any violation of the provisions of this Act;
- (u) Cooperate with the government of other States which are members of international organizations on the prevention of pollution from ships concerning the detection of violations and enforcement of this Act using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence;
- (v) Provide its officers and personnel with adequate training and continuing education to ensure an efficient and professional pollution regulatory machinery;
- (w) Adopt a continuing information campaign on marine resources protection aimed at developing public awareness of the health hazards and other adverse effects of ship pollution;
- (x) Administer the MEMF;
- (y) Issue such rules and regulations necessary to implement the provisions of this Act: *Provided, That such rules and regulations shall be in consonance with the Convention and shall not change or in any way amend or be contrary to the intent and purposes of this Act;* and
- (z) Exercise such powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Act.

SEC. 9. *Role of the Department of Environment and Natural Resources (DENR).* – For purposes of this Act, the DENR shall have the following powers and functions:

(a) Provide technical assistance on pollution prevention to the concerned government agencies in the implementation of this Act;

(b) Establish guidelines for the identification of harmful substances in packaged form in accordance with the guidelines and listings provided by the IMDG Code in coordination with the PPA and other port authorities; and

(c) Set emission standards for ships in accordance with the requirements of the Convention.

For floating craft, drilling rigs and fixed or floating platforms, and vessels which primarily operate or undertake business, commercial or industrial activities while anchored, the DENR, in coordination with the PCG, shall enforce the applicable provisions of Presidential Decree No. 1586 and Republic Act No. 9275.

The DENR, in coordination with the PCG, shall likewise monitor hazardous and radioactive wastes being transported by ships in the country, and prevent the disposal thereof and/or the entry of ships carrying the same.

CHAPTER 4

PREVENTION OF POLLUTION FROM SHIPS

SEC. 10. *Prohibition of Discharge or Emission of Harmful Substances.* – It shall be unlawful for any person to discharge or emit the following substances from any Philippine ship, or from any other ship while it is within Philippine waters:

(a) Oil, whether carried as cargo or as bunker;

(b) Oily mixture, whether generated from cargo operations or from machinery spaces;

(c) Noxious liquid substances carried in bulk;

(d) Harmful substances in packaged form;

(e) Sewage;

(f) Garbage; and

(g) Other harmful substances, whether generated during the operation of the ship or not.

The provisions of this section shall not apply in the following cases:

(1) The discharge or emission is necessary for the purpose of securing the safety of a ship and those on board or saving life at sea; or

(2) The discharge results from unintentional damage to the ship or its equipment, and all reasonable precautions have been taken after the occurrence of the damage or the discovery of the discharge for the purpose of preventing or minimizing the discharge, unless the master, owner or agent of the ship acted either with intent to cause damage or recklessly and with knowledge that damage would probably result; or

(3) The discharge is for the purpose of combating specific pollution incidents in order to minimize the damage from pollution.

For this purpose, the Department shall promulgate rules and regulations for the purpose of giving effect to the immediately preceding paragraph as regards its application in general or with respect to particular classes of ships, or in relation to particular descriptions of harmful substances, or to the disposal or discharge thereof in prescribed circumstances, or in relation to particular areas of the sea in consonance with the requirements of the Convention.

SEC. 11. *Immediate Report of Discharges of Harmful Substances.* – If any actual or probable discharge of any harmful substance occurs from any Philippine ship into any part of the sea or atmosphere, the master shall immediately report the incident to the nearest affected coastal State and to the Department.

If any actual or probable discharge of any harmful substance occurs from any Philippine ship or foreign-flagged ship while it is operating in Philippine waters, the master of the ship shall immediately report the occurrence to the PCG. The PCG shall immediately inform any affected coastal State. If a foreign-flagged ship is involved, the PCG shall immediately inform the flag State of the ship.

If the master of the ship fails to report the occurrence, or the discharge occurs in circumstances where the ship has been abandoned, the owner, charterer, manager and operator of the ship or an agent of the owner, charterer, manager and operator of the ship shall without delay, report the occurrences to the Department.

SEC. 12. *Record Books.* – Philippine ships and all ships within Philippine waters shall maintain on board record books in the English language, whether as part of their official logbook or not. For this purpose:

(a) Every oil tanker which is one hundred fifty (150) gross tonnage or more and every ship, other than an oil tanker which is four hundred (400) gross tonnage or more shall be

provided with, and shall be required to maintain, an Oil Report Book Part I for Machinery Space Operations in accordance with the requirements of the Convention;

(b) Every oil tanker which is one hundred fifty (150) gross tonnage or more shall be provided with, and shall be required to maintain, an Oil Record Book Part II for Cargo/Ballast Operations in accordance with the requirements of the Convention;

(c) Every chemical tanker shall be provided with, and shall be required to maintain, a Cargo Record Book in accordance with the requirements of the Convention; and

(d) Every ship which is four hundred (400) gross tonnage or more and every ship which is certified to carry fifteen (15) persons or more shall be provided with, and shall be required to maintain, a Garbage Record Book in accordance with the requirements of the Convention.

SEC. 13. *Reception Facilities.* – Port authorities shall ensure that public and private ports and terminal ports in the Philippines shall be appropriately and adequately provided with facilities to meet the needs of ships without causing such ships undue delay in the reception of its oily residues, oily mixtures, dirty ballast, tank washing water, noxious liquid substances, sewage, garbage, ozone depleting substances and equipment containing such substances and for cleaning of exhaust gases in consonance with this Act and the requirements of the Convention.

For this purpose, port authorities shall: (a) determine and establish the most effective and efficient means for meeting the internationally-accepted requirements with respect to reception facilities in public and private ports; (b) formulate and implement integrated waste management system for the use and operation of reception and treatment facilities; and (c) coordinate with the DENR and concerned local government units (LGUs) on the proper handling and disposal of wastes collected at ports.

Port authorities may accredit or enter into agreements with private entities in relation to the establishment and operation of reception and treatment facilities.

SEC. 14. *Use of Reception Facilities.* – All ships entering or availing the services of ports, terminals and repair ports shall use reception facilities established pursuant to the immediately preceding section, subject to the integrated waste management system to be established by port authorities.

SEC. 15. *Denial of Entry.* – A foreign-flagged ship believed to have probably violated or would violate the requirements of this Act, or rules and regulations promulgated therefor, may be denied entry to any port in the Philippines.

SEC. 16. *Detention of Ships.* – Ships shall be detained in any of the following cases:

(a) The fine or fines imposed on ship, owner or operator of the ship pursuant to Chapter 5 of this Act, except those imposed for violations of administrative regulations under Sections 27, 28 and 29 of this Act, have not been paid;

(b) The condition of the ship does not substantially correspond with what is stated in the ship's certificates;

(c) The ship does not hold valid ship's certificates;

(d) There are reasonable or probable grounds to believe that:

(1) The ship incurred a pollution cost liability under Section 33 of this Act;

(2) The ship violated any of the requirements of this Act or rules and regulations promulgated therefore; and

(3) The ship caused harm or damage or exhibited a reasonable environmental threat to the marine environment.

A ship detained under paragraph (d) of this section may be released after the owner of the ship posts with the MPAB an adequate cash bond, insurance guaranty, or protection indemnity guaranty or a combination thereof, as approved by the Board, to satisfy the liability of the owner, master or agent of the ship under this Act.

CHAPTER 5

FINES, PENALTIES AND LIABILITIES

SEC. 17. *Imposition of Fines, Penalties and Liabilities.* – Except for fines and penalties for violations of administrative regulations under Sections 27, 28 and 29 of this Act, all fines and penalties imposed for violations of the provisions of this Chapter shall be imposed by the MPAB established pursuant to Section 35 of this Act.

For this purpose, an appropriate fine rating system shall be established by the said Board, taking into consideration degree of willfulness, negligence or recalcitrance of the master, owner or operator of the ship, their history of noncompliance and the gravity of the damage caused by the ship to the environment.

SEC. 18. *Discharge or Emission of Harmful Substances.* – A ship which is found to have discharged or emitted harmful substances under Section 10 of this Act shall be liable to the following fines:

(a) In the case of a Philippine ship, unless the discharge or emission is committed and appropriately fined in other States' jurisdiction:

(1) For oil or oily mixture under paragraphs (a) and (b) of Section 10 of this Act – not less than Twenty thousand pesos (Php20,000.00) but not more than Ten million pesos (Php10,000,000.00);

(2) For noxious liquid substances or harmful substances in packaged form under paragraphs (c) and (d) of Section 10 of this Act – not less than Ten thousand pesos (Php10,000.00) but not more than Ten million pesos (Php10,000,000.00);

(3) For sewage or garbage under paragraphs (e) and (f) of Section 10 of this Act – not less than Five thousand pesos (Php5,000.00) but not more than Two million pesos (Php2,000,000.00); and

(4) For other harmful substances as defined in this Act – not less than Three thousand pesos (Php3,000.00) but not more than Ten million pesos (Php10,000,000.00).

(b) In the case of a foreign-flagged ship:

(1) For oil or oily mixture under paragraphs (a) and (b) of Section 10 of this Act – not less than Five thousand US dollars (US\$5,000) but not more than Five million US dollars (US\$5,000,000), or its equivalent in Philippine pesos;

(2) For noxious liquid substances or harmful substances in packaged form under paragraphs (c) and (d) of Section 10 of this Act – not less than Three thousand US dollars (US\$3,000.00) but not more than Three million US dollars (US\$3,000,000.00), or its equivalent in Philippine pesos;

(3) For sewage or garbage under paragraphs (e) and (f) of Section 10 of this Act – not less than One thousand US dollars (US\$1,000.00) but not more than One million US dollars (US\$1,000,000.00), or its equivalent in Philippine pesos.

(4) For other harmful substances as defined in this Act – not less than Three thousand US Dollars (US\$3,000.00) but not more than Five million US dollars (US\$5,000,000.00), or its equivalent in Philippine pesos; and

Any person directly or negligently responsible for the discharge or emission into Philippine waters or atmosphere shall be liable to a fine of not less than Five thousand US

dollars (US\$5,000.00) but not more than Five million pesos (Php5,000,000.00) and, whenever appropriate, to the costs of any measure reasonably taken in removing or eliminating the discharged or emitted substances.

SEC. 19. *Failure to Maintain Record Books.* – (a) A ship which operates or is allowed to operate without record books required under Section 12 of this Act or fails to maintain on board said record books shall be liable to a fine of Two hundred thousand pesos (Php200,000.00).

(b) Any person who fails to comply with the provisions of Section 12 of this Act or the rules and regulations promulgated therefor shall be liable to a fine of not less than Five thousand pesos (Php5,000.00) but not more than Two hundred thousand pesos (Php200,000.00).

(c) Any person who makes any false or misleading entry in said record books carried or kept under Section 12 of this Act shall be liable to a fine of not less than Ten thousand pesos (Php10,000.00) but not more than Five hundred thousand pesos (Php500,000.00).

SEC. 20. *Refusal to Use Reception Facilities.* – A ship which unjustifiably refuses to use reception facilities shall be liable for a fine of not less than Ten thousand pesos (Php10,000.00) but not more than Five hundred thousand pesos (Php500,000.00): *Provided*, That disposal of oil in reception facilities shall be required upon determination by the PCG.

SEC. 21. *Absence of and Noncompliance with Shipboard Garbage Management.* – If a ship operates without a shipboard garbage management plan as required under the Convention or fails to operate in accordance with such plan, it shall be liable for a fine of not less than Ten thousand pesos (Php10,000.00) but not more than Two hundred thousand pesos (Php200,000.00).

SEC. 22. *Unauthorized Change in the Ship's Structure, Equipment, Fittings, Arrangements and Materials.* – Unless authorized under this Act or the Convention, any ship owner who made, or caused the making of changes in the structure, equipment, fittings, arrangements and materials of the ship without the approval of the MARINA shall be punished by a fine of not less than Ten thousand pesos (Php10,000.00) but not more than One hundred thousand Pesos (Php100,000.00).

SEC. 23. *Operating Without the Required Certification.* – A ship which is operated or is allowed to operate without the certification required pursuant to this Act or the

Convention shall be detained and shall be liable to a fine of not less than Ten thousand pesos (Php10,000.00) but not more than Five hundred thousand pesos (Php500,000.00).

SEC. 24. *Violation of Detention Order.* – A ship which proceeds to sea in violation of a detention order made pursuant to Section 16 hereof shall be liable to the following fines:

(a) Philippine ship – not less than Ten thousand pesos (Php10,000.00) but not more than One million pesos (Php1,000,000.00); and

(b) Foreign-flagged ship – not less than Five thousand US dollars (US\$5,000.00) but not more than Five million US dollars (US\$5,000,000.00), or its equivalent in Philippine pesos.

SEC. 25. *Continuing Violation.* – Where a ship continuously discharges or emits harmful substances in violation of Section 10 of this Act, it shall be held liable for the fines stipulated under Section 18 and shall be furthermore liable to an additional fine of not less than Ten thousand pesos (Php10,000.00) but not more than Two hundred thousand pesos (Php200,000.00) for every day or part thereof during which the offense continues.

SEC. 26. *Obstruction of Investigation.* – Any person who shall, without justifiable reason, obstruct or hamper the conduct of an investigation of a violation of this Act shall be liable to pay a fine of not less than Ten thousand pesos (Php10,000.00) but not more than One hundred thousand pesos (Php100,000.00).

SEC. 27. *Neglect of Duty.* – Any government official or employee charged with the responsibility of enforcing any provision of this Act, who is found guilty of gross negligence of duty, shall be dismissed from the service with prejudice to reinstatement. Neglect of duty shall be prosecuted in accordance with existing laws.

SEC. 28. *Connivance in Violation of this Act.* – Any government official or employee charged with the responsibility of enforcing and/or implementing any provision of this Act who connives with the ship owner, master or operator of a ship or any person to violate, or permits the commission of, any violation of this Act shall be dismissed from the service and shall be jointly and severally liable with any such person found to be liable for the fine imposed pursuant to this Act.

SEC. 29. *Violations of Administrative Regulations.* – Any person who commits or omits acts in violation of rules and regulations issued by concerned agencies pursuant to this Act,

unless the violations are otherwise covered under Sections 19 to 28 hereof, shall be liable to the following fines:

(a) First violation – a fine of not less than One thousand pesos (Php1,000.00) but not more than One hundred thousand pesos (Php100,000.00);

(b) Second violation – a fine more than One hundred thousand pesos (Php100,000.00) but not more than Two hundred thousand pesos (Php200,000.00); and

(c) Third violation – a fine more than Two hundred thousand pesos (Php200,000.00) but not more than One million pesos (Php1,000,000.00) and the suspension of vessel safety certificate for six (6) months to one (1) year.

The concerned agency shall promulgate rules and regulations for the summary imposition of administrative sanctions, subject to due process, for failure to comply with any order, decision, rules or regulations of the Department issued pursuant to this Act. All administrative fines imposed by the concerned agency pursuant to this Act shall accrue to the MEMF.

SEC. 30. *Intentional Violation.* – In case the discharge or emission of harmful substances or toxic pollutants identified pursuant to Republic Act No. 6969, otherwise known as the “Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990”, in toxic amounts or in violation of Section 10 of this Act is deliberate and willful, the offender, without prejudice to the civil liability of the offender, shall be liable to the following fines or imprisonment of not less than six (6) years but not more than twelve (12) years, or both, at the discretion of the court:

(a) Philippine ship – not less than Fifty thousand pesos (Php50,000.00) but not more than Twenty million pesos (Php20,000,000.00); and

(b) Foreign-flagged ship – not less than Fifty thousand US dollars (US\$50,000.00) but not more than Eight million US dollars (US\$8,000,000.00), or its equivalent in Philippine Pesos.

SEC. 31. *Automatic Adjustment of Penalties and Fines.* – The fines prescribed in this Act shall be automatically increased by ten percent (10%) every three (3) years from the effectivity of this Act.

SEC. 32. *Clean-up Operations.* – In the event harmful substances under Section 10 of this Act are discharged or emitted from any ship into Philippine waters or into any part of the sea or waters outside Philippine waters but such substances subsequently flowed or

drifted into Philippine waters, or into the Philippine atmosphere, the PCG, in coordination with other agencies concerned, shall be responsible for the cleanup and containment of discharged substances, and the prevention or mitigation of the resulting damage to the environment, human health, tourist and fishing industries, public and private properties: *Provided*, The necessary initial cleanup and containment shall be made by the owner of the ship which discharged or caused the discharge of such harmful substances.

SEC. 33. *Cost Liability for the Discharge or Emission of Harmful Substances.* – The owner of the ship liable for the discharge of harmful substances under Section 32 hereof shall be primarily responsible to pay for the following pollution costs:

(a) Reasonable expenses that the PCG and other agencies concerned may reasonably undertake or has undertaken pursuant to the immediately preceding section; and

(b) Environmental damages and/or other reasonable measures taken for environmental rehabilitation.

In case the responsibility for the above pollution cost liability falls on two (2) or more ships, and the liability of each of the owners thereof cannot be reasonably distinguished from that of the other, each of the owners shall be jointly and severally liable for the whole amount of the cost.

Republic Act No. 9483, otherwise known as the "Oil Pollution Compensation Act of 2007", shall govern the civil liability for the discharge of oil, including the oily mixture, discharged as part of the incident under the said Act.

Reimbursement of the cost incurred shall be made to the MEMF or to such other funds where disbursements were sourced.

SEC. 34. *Informer's Reward to Persons Instrumental in the Discovery of Violations of this Act.* – Any person with the exception of the Department, the DENR, the LGUs, the MARINA, the PCG or port authority officials or employees or their relatives within the sixth degree of consanguinity, who voluntarily gives definite and sworn information, not yet in the possession of the MARINA or the PCG, leading to the discovery of the violation of this Act, thereby resulting in the imposition of fines and/or fees or conviction of the guilty party and/or the imposition of any of the fines or penalties, shall be rewarded in a sum equivalent to ten percent (10%) of the fines imposed and/or fees recovered.

CHAPTER 6

MARINE POLLUTION ADJUDICATION BOARD

SEC. 35. Marine Pollution Adjudication Board. — There is hereby constituted a Marine Pollution Adjudication Board (MPAB) under the Office of the Secretary vested with quasi-judicial powers which the Board shall have sole and exclusive jurisdiction over all marine pollution cases as provided for in Section 17 of this Act. The Board shall be composed of the following members:

- (a) The Secretary of the Department, or his duly authorized permanent representative, as Chairman;
- (b) The Secretary of the DENR, or his duly authorized permanent representative;
- (c) The Administrator of the MARINA, or his duly authorized permanent representative;
- (d) The Commandant of the PCG, or his duly authorized permanent representative;
- (e) The General Manager of the PPA, or his duly authorized permanent representative;
- (f) A permanent representative endorsed by the Association of Masters and Mates;
- (g) A permanent representative endorsed by the Marine Engineers Association; and
- (h) A member of the Philippine Bar duly endorsed by the Integrated Bar of the Philippines (IBP).

The grant of honoraria to members of the MPAB shall be subject to existing laws, accounting and auditing rules and regulations.

SEC. 36. Powers and Functions. — The MPAB shall have the following powers and functions:

- (a) To hear and decide cases falling under their jurisdiction pursuant to Section 17 of this Act;
- (b) To conduct hearings on all matters within its jurisdiction, proceed to hear and determine the disputes in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private, adjourn its hearings at any time and place, refer technical matters or accounts to an expert and to accept the experts' reports thereon as evidence after hearing of the parties upon due notice, direct parties to be joined in or excluded from the proceedings, correct, amend or waive any error, defect or irregularity, whether in substance or in form, give all such directions as it may deem necessary or expedient in the determination of the dispute

before it and dismiss the dispute as part thereof, where it is trivial or where further proceedings by the Commission are not necessary or desirable;

(c) To promulgate and adopt its own rules on pleading, practice and in the adjudication of pollution cases coming from ship. It shall not be bound by technical rules of procedure and evidence but shall proceed to hear and decide all cases, disputes or controversies in a most expeditious manner, employing all reasonable means to ascertain the facts of every case in accordance with justice and equity and the merits of the case;

(d) To summon witnesses, administer oaths, take testimony, require submission of reports, compel the production of books and documents and answers to interrogatories and issue *subpoena ad testificandum* and *subpoena duces tecum* and to enforce its writs through sheriffs or other duly deputized officers;

(e) To punish direct and indirect contempt in the same manner and subject to the same penalties as provided in the Rules of Court;

(f) To enjoin any or all acts involving or arising from any case pending before it which, if not restrained forthwith, may cause grave or irreparable damage to any of the parties to the case or seriously affect social or economic stability;

(g) To issue orders and decisions to compel compliance with the provisions of this Act and the Convention and issuances or decisions of the MPAB;

(h) To deputize in writing or request assistance of appropriate government agencies or instrumentalities for the purpose of enforcing its decisions; and

(i) To issue an *ex parte* order directing the discontinuance of discharge of substances that cause marine pollution, or the temporary suspension or cessation of operation of the equipment, project or activity and other acts causing environmental degradation, generating such pollutants or wastes, without the necessity of a previous public hearing: *Provided*, That such *ex parte* order shall be issued only in case of immediate threat to life or property, public health, safety or welfare or to animal or plant life, or exceeds the allowable environmental standards. The *ex parte* order shall be immediately executory and shall remain in force and effect until the same is modified or lifted by the MPAB.

SEC. 37. Finality of Determination. — Any case or controversy before the MPAB shall be decided by majority of all its members within thirty (30) days after it is submitted for resolution. Only one (1) motion for reconsideration shall be allowed. Unless an appeal is

perfected and a cash bond equivalent to the fine imposed is deposited, any order, decision or ruling issued by the MPAB shall be final and executory.

SEC. 38. *Appeals.* – Any decision, order or judgment of the MPAB may be appealed to the Court of Appeals by *certiorari* within fifteen (15) days from receipt of a copy thereof: *Provided*, That cease and desist orders shall be immediately executory.

CHAPTER 7

MISCELLANEOUS PROVISIONS

SEC. 39. *Ship Pollution Prevention Program.* – The Department, in coordination with concerned agencies and stakeholders, shall establish a Prevention of Ship Pollution Program to enhance government implementation of this Act particularly on: (a) awareness building and capacity building; (b) databanking; (c) development of reception facilities; (d) marine environment protection; and (e) research.

SEC. 40. *Implementing Rules and Regulations.* – The Department and the concerned agencies shall promulgate the implementing rules and regulations for this Act within one (1) year after the enactment of this Act. The proposed implementing rules and regulations shall be subjected to public consultations with affected sectors. The Department shall ensure that functions of the implementing agencies and rules and regulations promulgated prior to and after the effectivity of this Act are devoid of any duplication or inconsistency.

The rules and regulations issued by other government agencies and instrumentalities for the prevention of marine pollution not inconsistent with and appropriate to the implementation of this Act shall supplement the rules and regulations issued by the Department pursuant to this Act.

SEC. 41. *Joint Congressional Oversight Committee (JCOC).* – The Joint Congressional Oversight Committee created under Section 33 of Republic Act No. 9275 or the “Philippine Clean Water Act of 2004” shall also monitor the implementation of this Act and review the implementing rules and regulations promulgated by the Department.

The JCOC shall exist for a period not exceeding five (5) years from the effectivity of this Act and thereafter, its oversight functions shall be exercised by the Senate Committee on Environment of the Senate and the Committee on Ecology of the House of Representatives, acting separately.

The Secretariat of the Congressional Oversight Committee shall come from the secretariat personnel of the Committees of the Senate and the House of Representatives comprising the JCOC.

SEC. 42. *Marine Environmental Management Fund (MEMF).* – There is hereby established a Marine Environmental Management Fund (MEMF) to be administered by the PCG. The Oil Pollution Management Fund (OPMF) created under Section 22 of Republic Act No. 9483, otherwise known as the “Oil Pollution Compensation Act of 2007”, is hereby abolished. All balances, including the liabilities incurred by the OPMF, shall be transferred to the MEMF. The MEMF shall be sourced from the following:

- (a) Fees, charges and fines imposed pursuant to this Act and Republic Act No. 9483;
- (b) Donations, endowments, grants and contributions; and
- (c) Amounts specifically appropriated for the MEMF under the annual General Appropriations Act.

The MEMF shall be utilized for the following activities:

- (1) Containment, removal and clean-up operations of the PCG in all oil pollution cases; and
- (2) Enforcement and monitoring activities of the MARINA, the PCG and port authorities of the Department and other relevant agencies: *Provided*, That ninety percent (90%) of the funds shall be maintained annually for the containment, removal and clean-up operations of the PCG in all cases of pollution from ships: *Provided, further*, That in no case shall the MEMF be used to fund personal services expenditures except for the compensation of those involved in clean-up operations.

SEC. 43. *Appropriations.* – The amount necessary to carry out the provisions of this Act shall be charged against the current year’s appropriations of the concerned agencies. Thereafter, such sums as may be necessary for the operation and maintenance of this Act shall be included in the General Appropriations Act.

SEC. 44. *Separability Clause.* – In the event that any provision of this Act is declared unconstitutional, the validity of the remainder shall not be affected thereby.

SEC. 45. *Repealing Clause.* – The fifth paragraph of Section 28 of Republic Act No. 9275 and Section 22 of Republic Act No. 9483 are hereby repealed. Republic Act No. 6969, Presidential Decree Nos. 979 and 601 are hereby amended and modified accordingly. All

laws, decrees, rules and regulations and executive orders contrary to or inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 46. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after the completion of its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,