

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

333
House Bill No. _____



Introduced by Representative ROSE MARIE J. ARENAS

AN ACT

PROVIDING FOR A MARITIME CODE THE FULL AND EFFECTIVE IMPLEMENTATION AND ENFORCEMENT OF INTERNATIONAL MARITIME INSTRUMENTS OF WHICH THE PHILIPPINES IS A STATE-PARTY [THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, AND ITS PROTOCOLS OF 1978 AND 1988, AND AGREEMENT OF 1996 THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973, ITS PROTOCOL OF 1978 AND ITS PROTOCOL OF 1997, THE CONVENTION ON THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA 1972, THE INTERNATIONAL CONVENTION ON LOAD LINES 1966 AND ITS PROTOCOL OF 1988, AS AMENDED IN 2003, THE INTERNATIONAL CONVENTION ON THE TONNAGE MEASUREMENT OF SHIPS 1969, AND FOR OTHER PURPOSES"]

EXPLANATORY NOTE

One of the difficulties of the overseas shipping fleet of the Philippines is the inability of the Philippines to fully and effectively implement international maritime conventions. The detention rate of Philippine flagged ships has affected its competitiveness as a flag registry and has caused the continued deletion of ships from our registry. The Philippines has also been placed on the Gray List of the Tokyo Port State Control Memorandum of Understanding (Tokyo MoU) which bases such classification on the performance and detention rate of ships in our registry during port State control inspections among Tokyo MoU members. The 2009 Voluntary IMO Member State Audit Scheme (VIMSAS) which the Philippines volunteered for, showed as one of its findings, the inability of the Philippines to effectively implement and enforce international maritime conventions.

The Philippines is a State Party to the five (5) safety conventions which this law seeks to implement particularly:

- The International Convention for the Safety of Life at Sea, 1974 (SOLAS 74)
- The International Convention for the Prevention and Pollution from Ships, 1973, as amended by the Protocol of 1978 (MARPOL 73/78)
- The Convention on the International Regulations for Preventing Collisions at Sea 1972 (COLREGS)
- The International Convention on Load Lines 1966 (Load Line)
- The International Convention on the Tonnage Measurement of Ships 1969 (Tonnage)

However, there has as yet been no national law which implements these conventions and appoints a government agency to oversee the full, proper, and effective implementation of the conventions.

The Philippines is not yet a party to the following international conventions which this bill also seeks to implement:

- SOLAS Protocol of 1988,
- MARPOL Protocol of 1997,
- Load Lines Protocol of 1988, as amended in 2003

It is hoped that the passage of this bill which also seeks to implement these protocols, can serve as the motivation for convincing the President to ratify these instruments.

This bill appoints the Maritime Industry Authority (MARINA) as the government agency with mandate to fully and effectively implement these conventions and clothe it with requisite powers so that the primary preventive measures established by the International Maritime Organization (IMO) for ensuring the safety of ships and of lives and property on board ships and the protection of the marine environment may be properly implemented.

The provisions of the conventions and its structure provide for the constant updating of national regulations covering technical requirements that ensure the safety and security of ships and the protection of the marine environment. The power granted to MARINA under this proposed measure includes the power to amend its regulations and incorporate these new technical requirements as these come into force without need of further ratification because these are part of the commitments of the Philippines when it ratified the original conventions and partake the nature of executive agreements.

Early passage of this bill is recommended.

This bill was first introduced by ANGKLA partylist during the 17th Congress.


 ROSE MARIE J. ARENAS
 Representative
 3rd District, Pangasinan

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

Chapter I
General Provisions

Section 1. Short title.— This Act shall be known as the “Maritime Safety, Security and Prevention of Ship-Sourced Pollution Act of the Philippines”.

Sec. 2. Declaration of Policy. – The following are hereby declared to be the policies of the State: *(Formerly a section titled: Purposes of the Act)*

(a) The State shall provide for the full and effective implementation and enforcement of INTERNATIONAL MARITIME INSTRUMENTS THAT COVER SAFETY OF LIFE AT SEA, PREVENTION OF POLLUTION FROM SHIPS, LOAD LINES, TONNAGE MEASUREMENTS OF SHIPS, AND REGULATIONS FOR PREVENTING COLLISIONS AT SEA, AND OF WHICH THE PHILIPPINES IS A STATE-PARTY [the following International Conventions:

1. The International Convention for the Safety of Life at Sea, 1974 and its Protocols of **1978 AND 1988 AND AGREEMENT OF 1996** (SOLAS 74);

2. The International Convention for the Prevention **[and] OF** Pollution from Ships, 1973, its Protocol of 1978 and its Protocol of 1997 (MARPOL 73/78);...(IMO's suggestion)

3. The Convention on the International Regulations for Preventing Collisions at Sea 1972 (COLREGS);

4. The International Convention on Load Lines 1966 and its Protocol of 1988, as amended in 2003 (LOAD LINES);

5. The International Convention on the Tonnage Measurement of Ships 1969 (TONNAGE); and

6. All other international instruments, codes, recommendations, **PROCEDURES** and guidelines implementing or applying these Conventions.]

(b) The State shall provide for a platform for the adoption of regulations implementing the technical annexes, provisions and requirements of these **[international]** Conventions as well as future amendments to such technical provisions and requirements as the State Parties to these Conventions may adopt from time to time;

(c) The State shall comply with its duties and obligations to the international community as State Party to these **[international]** Conventions by ensuring the effective exercise of its jurisdiction and control over ships flying its flag, and that those who are responsible for the ownership, management and operation of a ship registered in the Philippines operate their ships responsibly; and

(d) The State shall provide **A MACHANISM** for the **FULL AND EFFECTIVE IMPLEMENTATION OF PORT STATE CONTROL GUIDELINES AS PROVIDED BY REGIONAL MEMORANDA**, [framework] by which it may consistently carry out its obligation to conduct [port State control] inspections on ships of other States, whether parties to the **INSTRUMENTS** [Conventions] or not, when these are within the waters, ports, harbors and offshore terminals of the Philippines.

Sec. 3. Scope of the Act. – Unless otherwise indicated, this Act shall apply to:

(a) All merchant marine ships, whether seagoing or coastwise, which are registered under the Philippine flag;

(b) All persons, partnerships, corporations, firms or other entities duly registered or licensed in the Philippines to engage in the business of shipping as ship owners, ship operators, charterers, or ship managers, or those acting on their behalf;

(c) All foreign ships that are within the waters, ports, harbors and offshore terminals of the Philippines regardless of whether or not they are registered in, or belong to, State Parties to the Conventions sought to be implemented by this Act.

SEC. 4. DEFINITION OF TERMS. – UNLESS OTHERWISE PROVIDED, THE FOLLOWING TERMS SHALL HAVE THE MEANINGS HEREINAFTER SET FORTH:

(a) INTERNATIONAL MARITIME INSTRUMENTS SHALL REFER TO

(b) COLREGS SHALL REFER TO THE CONVENTION ON THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA 1972;

(c) CONVENTIONS SHALL COLLECTIVELY REFER TO THE CONVENTIONS BEING IMPLEMENTED BY THIS ACT, PARTICULARLY, SOLAS 74, MARPOL 73/78, COLREGS, LOAD LINE, AND TONNAGE CONVENTIONS;

(d) DFA SHALL REFER TO THE DEPARTMENT OF FOREIGN AFFAIRS;

(e) DOTR SHALL REFER TO THE DEPARTMENT OF TRANSPORTATION;

(f) IMO SHALL REFER TO THE INTERNATIONAL MARITIME ORGANIZATION;

(g) LOAD LINES SHALL REFER TO THE INTERNATIONAL CONVENTION ON LOAD LINES 1966 AND ITS PROTOCOL OF 1988, AS AMENDED IN 2003;

(h) MARINA SHALL REFER TO THE MARITIME INDUSTRY AUTHORITY CREATED UNDER PRESIDENTIAL DECREE NO. 474 AS AMENDED;

(i) MARPOL 73/78 SHALL REFER TO THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, 1973, ITS PROTOCOL OF 1978 AND ITS PROTOCOL OF 1997;

(j) PCG SHALL REFER TO THE PHILIPPINE COAST GUARD ESTABLISHED UNDER REPUBLIC ACT NO. 9993;

(k) RECOGNIZED ORGANIZATION SHALL REFER TO AN ORGANIZATION RECOGNIZED BY THE MARINA IN ACCORDANCE WITH THE RELEVANT GUIDELINES OF THE IMO ON RECOGNIZED ORGANIZATIONS;

(l) SOLAS 74 SHALL REFER TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974 AND ITS PROTOCOLS OF 1978 AND 1988, AND AGREEMENT OF 1996;

(m) **TONNAGE SHALL REFER TO THE INTERNATIONAL CONVENTION ON THE TONNAGE MEASUREMENT OF SHIPS 1969 (TONNAGE);** *(UP-IMALS's suggestion)*

Sec.5. Powers and functions of the MARINA. – For purposes of this Act, the MARINA shall have the following powers and functions which shall be in addition to its mandate under Presidential Decree No. 474 and Executive Orders Nos. 125 and 125-A series of 1987 as amended:

(a) Act as the single and central maritime administration, and exercise all powers and functions relative to the compliance with, and effective implementation and enforcement of, the following **[international]** Conventions of the IMO:

1. SOLAS 74;
2. MARPOL 73/78;
3. COLREGS;
4. LOAD LINES;
5. TONNAGE; and

6. All other international instruments, codes, recommendations, procedures, and guidelines implementing or applying these Conventions.

(b) Prescribe, fix, issue, revise, amend, update or repeal rules and regulations from time to time to ensure the full and effective implementation and enforcement of the **[international]** Conventions set forth in letter (a) of this section;

(c) Issue, amend, suspend, revoke, or cancel any and all ship certificates required by the Conventions;

(d) Exercise jurisdiction over all ships in the Philippine registry and all attendant powers and functions relative to the issuance, verification, amendment, suspension, revocation or cancellation of relevant ship certificates and all other matters pertaining to the implementation and enforcement of the Conventions;

(e) Determine the minimum standards and requirements, and issue rules and regulations applicable to particular types of ships, considering their size, type, motive capacity, trading limits and other physical and technical attributes without **[deviating in any material degree from the] DILUTING THE MINIMUM** requirements of the Conventions;
...*(IMO suggestion)*

(f) Determine which ships shall be excluded or exempted from the coverage of relevant regulations and establish equivalent technical standards where **[appropriate in consideration] IT IS DETERMINED THAT BY VIRTUE** of the ship's size, type, motive capacity, or trading limits, it would be more practicable to require the implementation of such equivalent standards, without compromising the safety of the ship, its crew, passengers and

cargo, and without exposing the marine environment to the risk of damage from ship-sourced pollution;

(g) Provide regulations for, and undertake, initial and periodic inspections and surveys of all ships in the Philippine registry regardless of trading limits;

(h) Where applicable, **INSPECT AND CERTIFY OR** delegate **THE** authority **TO INSPECT AND CERTIFY** through a written formal agreement setting forth the extent of the delegated authority to allow for the initial and periodic inspections, surveys and certification of ships in the Philippine registry to **THE PCG OR TO** a duly accredited recognized organization;

(i) Assess and determine the qualification of any recognized organization, execute the corollary written agreement to evidence the terms and conditions by which such recognized organization shall act on its behalf, and the extent of the powers delegated to such recognized organization in carrying out initial and periodic inspections and surveys, including the capacity to issue ship certificates on its behalf;

(j) Require the master, or in his absence, the owner, charterer, manager or operator to submit, without delay, a full written report of any incident involving the ship that may endanger the safety of the ship, its crew, passengers, or cargo, or pose a threat to the marine environment;

(k) Following any marine casualty, accident or incident involving a ship in the Philippine registry, undertake, on its own or through a duly constituted independent group of suitably qualified safety inspectors, a marine casualty safety investigation which is independent from any other form of investigation and is not intended to apportion blame or determine liability but is conducted to determine the cause of the accident and the identification of measures to prevent the occurrence of similar marine casualties, accidents or incidents in the future;

(l) Institute amendments to its regulations to enhance the safety and security of ships, persons and property and the protection of the marine environment following receipt of any recommendation arising from the marine safety inspection report;

(m) Receive the report of any violation from another State and conduct any other investigation on a ship in the Philippine registry to protect public interest and impose such penalties, sanctions, and levy such fines commensurate to the gravity of the offense to ensure effective implementation, compliance and enforcement of the Conventions and upon completion of the investigation, inform the State submitting the report of the action taken to address the violation;

(n) Provide for **THE POLICY FRAMEWORK AND RELEVANT** regulations for the inspection of foreign merchant marine ships while in the waters, ports, harbors and offshore terminals of the Philippines, including the inspection of ship certificates, the manner by which further inspection shall be carried out, and the determination of clear grounds if the condition of the ship should pose a threat to the safety of the ship, its crew, passengers and cargo, and expose the marine environment to risk of damage from ship-sourced pollution;

(o) In accordance with the mandate of the Philippine Coast Guard under Republic Act No. 9993, deputize the Philippine Coast Guard to carry out port State control inspections on foreign merchant marine ships which enter the waters, ports, harbors and offshore terminals of the Philippines in accordance with the port State control rules and regulations issued to fully implement the Conventions;

(p) Provide for **THE POLICY FRAMEWORK AND RELEVANT REGULATIONS AND** measures to ensure that the inspection of foreign merchant marine ships which enter the waters, ports, harbors and offshore terminals of the Philippines are completed with dispatch and no undue delay or detention occurs arising from the enforcement of any provision of the Conventions;

(q) In case of violation by a foreign merchant marine ship, provide the flag registry of such ship with information and evidence that maybe in its possession regarding the violation that has occurred and any other State that may be affected by such violation;

(r) Act as [competent authority] **THE DESIGNATED POINT OF CONTACT FOR ALL MATTERS RELATED TO THE IMO; AND**

(s) Exercise such other powers and functions necessary to fully implement the Conventions.

When creating procedures, rules and regulations, the MARINA shall always be guided by the relevant conventions, instruments, codes, recommendations, and guidelines of the IMO.... *(UP-IMALS, AISL, AMOSUP's suggestions)*

Sec. 6. Power to Adopt Regulations to Conform to Amendments to International Maritime Conventions. – The MARINA with the concurrence of the Department of Transportation (DOTr), through the Secretary, shall recommend to the DFA the adoption of international maritime conventions **WHICH THE PHILIPPINES IS NOT YET A PARTY TO** so that the appropriate recommendation can be made, and the relevant instrument of ratification **OR ACCESSION MAY BE** issued by the President and the concurrence of the Senate of the Philippines may be obtained; Provided that in the case of any subsequent amendment to any technical annex of any existing international convention or treaty to which the Philippines is already a party and which is deemed accepted by the State Parties to the convention after the lapse of the specified time, the MARINA is hereby empowered and authorized to amend and revise its rules and regulations to conform with the amendments to the relevant convention or treaty without need of further legislative or executive authorization. *(UP, DFA, DOTr's suggestions)*

SEC. 7. COORDINATION AMONG REGULATORY AGENCIES. – **THE SECRETARY OF TRANSPORTATION SHALL DIRECT, OVERSEE AND DOCUMENT THE CREATION, MAINTENANCE AND MANAGEMENT OF THE APPROPRIATE COORDINATIVE FRAMEWORK AND STRUCTURE AMONG ALL GOVERNMENT AGENCIES MANDATED BY LAW TO SUPERVISE AND REGULATE ALL PARTIES REFERRED TO IN SECTION 2 OF THIS ACT IN ORDER TO ENSURE THE HARMONIZED IMPLEMENTATION AND ENFORCEMENT OF THE CONVENTIONS COVERED BY THIS ACT. FOR THIS PURPOSE, THE SECRETARY OF TRANSPORTATION SHALL ISSUE RELEVANT REGULATIONS, ORDERS, PROCESSES AND PROCEDURES**

WITHIN SIXTY (60) DAYS FROM THE EFFECTIVE DATE OF THIS ACT, WHICH REGULATIONS MAY BE AMENDED FROM TIME TO TIME AS NEEDED. THE ISSUANCE OF THE SECRETARY OF TRANSPORTATION SHALL GIVE SPECIAL ATTENTION TO CLEARLY IDENTIFYING THE PROCESSES AND PROCEDURES TO BE FOLLOWED BY THE DIFFERENT REGULATORY AGENCIES, CONSIDERING EACH AGENCY'S MANDATE, TECHNICAL COMPETENCE AND EXPERTISE, ORGANIZATIONAL STRUCTURE AND CAPABILITIES FOR CARRYING OUT THE PHILIPPINES' OBLIGATIONS UNDER THE CONVENTIONS. THE SECRETARY OF TRANSPORTATION SHALL FURTHER CLARIFY FUNCTIONS AND TASKS WHICH REQUIRE:

- (a) EXECUTION DIRECTLY BY THE AGENCY;
- (b) EXECUTION INDIRECTLY BY AN AGENCY ACTING ON BEHALF OF ANOTHER;
- (c) COORDINATION OF SEVERAL AGENCIES BY A LEAD AGENCY;
- (d) COOPERATION BY AGENCIES ACTING INDEPENDENTLY OF EACH OTHER; OR
- (e) MONITORING AND REPORTING TO ANOTHER AGENCY.

THE SECRETARY OF TRANSPORTATION, AS NEEDED, SHALL COORDINATE WITH OTHER EXECUTIVE DEPARTMENTS WHOSE LINE OR ATTACHED AGENCIES LIKEWISE EXERCISE RELEVANT FUNCTIONS OR PROVIDE TECHNICAL SERVICES THAT ENSURE THE SAFETY OF THE SHIP, ITS CREW, PASSENGERS AND CARGO AND THE PROTECTION OF THE MARINE ENVIRONMENT, SUCH AS THE PHILIPPINE ATMOSPHERIC GEOPHYSICAL AND ASTRONOMICAL SERVICES ADMINISTRATION (PAG-ASA) UNDER THE DEPARTMENT OF SCIENCE AND TECHNOLOGY, AND THE NATIONAL MAPPING AND RESOURCE INFORMATION AUTHORITY (NAMRIA) UNDER THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, AMONG OTHERS.

Sec. 8. *Reorganization of the MARINA.* – To ensure the proper implementation and enforcement of the Conventions, the Maritime Industry Board [**constituted through Presidential Decree No. 474**] is hereby authorized to reorganize the MARINA and create such additional offices and positions necessary to address the requirements of the Conventions. For this purpose, Presidential Decree No. 474 creating the MARINA and Executive Orders Nos. 125 and 125-A series of 1987 are hereby amended accordingly.

Sec. 9. *Appropriations.* – The Secretary of Transportation, through the MARINA, shall immediately include in its programs the operationalization requirements of the services created for the effective implementation of the Conventions, the initial funding of which shall be charged against the savings or current year's appropriations of the Authority. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

Sec.10. *Implementing Rules and Regulations.* – The MARINA shall issue the implementing rules and regulations for each of the Conventions within six (6) months from the effectivity of this Act.

Sec.11. *Transitory Provisions.* – All ship certificates issued prior to the effectivity of this Act shall be deemed valid and effective without necessity of revalidation or reissuance until the respective dates of expiration as stated in such certificates unless sooner revoked for cause by the MARINA. Thereafter, new certificates shall be issued in accordance with the implementing rules and regulations issued pursuant to this Act, in conformity with the requirements of the relevant Convention.

Sec. 12. *Separability Clause.* – If, for any reason, any section, subsection, clause or term of this Act is held to be illegal, invalid, or unconstitutional, such parts not affected by such declaration shall remain in full force and effect.

Sec. 13. *Amendatory Clause.* – The provisions of Presidential Decree No. 474 and Executive Order No. 125 and 125-A series of 1987 which are otherwise inconsistent with the provisions of this Act are hereby amended or repealed. All existing laws, orders, decrees, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby amended, modified or repealed accordingly.

Sec. 14. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,