

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS

First Regular Session

2268

House Bill No. _____



Introduced by **Rep. LAWRENCE LEMUEL H. FORTUN**

EXPLANATORY NOTE

The Philippines as an archipelagic nation has a rich marine life which is constantly threatened from various pollutants. Wastes and polluted effluents from ships are sources of threats to our environment and eco system which needs to be addressed.

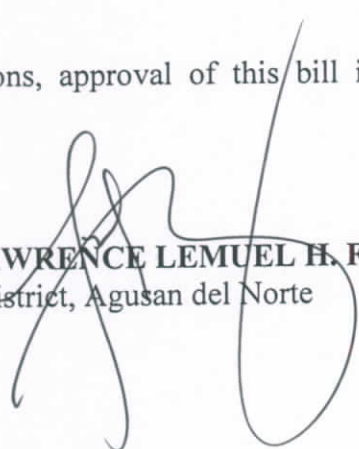
The Presidential Decree 979, otherwise entitled Marine Pollution Decree of 1976, was promulgated in 1976 when the polluted effluents and wastes from ships were not yet ostensibly pervasive. P.D. 979 is viewed as too general in its implementing regulation or standard and no longer responsive to the prevalent threat of pollution from ships.

This measure seeks to remedy the shortcomings of the 1976 Presidential Decree and more significantly, seeks to implement the provision of the MARPOL 73/78, otherwise known as the International Convention for the Prevention of Pollution from Ships 1973, as amended by the Protocol of 1978.

The highlights of this measure are to establish guidelines for the identification of harmful substances including emission of oil, noxious liquid substances and other harmful substances. It also seeks to set emission standards for ships plying Philippine seas. The bill likewise seeks to establish a Marine Pollution Adjudication Board that has quasi-judicial powers and exclusive jurisdiction over all marine pollution cases.

A version of this measure, filed in the 15th, 16th Congresses and 17th Congresses, had its success in the legislative mill short of passage into a law. It is prayed that in the 18th Congress, this measure is finally passed and approved into a law.

In view of the foregoing considerations, approval of this bill is earnestly sought.


REP. LAWRENCE LEMUEL H. FORTUN
1st District, Agusan del Norte

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House Bill No. 2268

Introduced by **Rep. LAWRENCE LEMUEL H. FORTUN**

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

1 **Section 1. Short Title.** - This Act shall be known as the "Prevention of
2 Pollution from Ships Act".

3 **Section 2. Declaration of Policy.** - In pursuit of the constitutional mandate
4 to protect and advance the right of the people to a balanced and healthful ecology in
5 accord with the rhythm and harmony of nature, the State shall prevent and control
6 pollution resulting from the operations of ships.

7 It shall likewise implement the Convention as herein defined, including its
8 amendments and protocols that have been ratified by the Philippines.

9 **Section 3. Definition of Terms.** - As used in this Act:

10 (a) *Atmospheric discharges or emission from ships* refer to any discharge
11 or emission of nitrogen oxides, sulfur oxides, volatile organic
12 compounds and other ozone depleting substances when the discharges
13 do not meet the requirements of the Convention;

- 14 (b) *Chemical tanker* refers to a ship constructed or adapted for the
15 carriage in bulk of any liquid product listed in the International Bulk
16 Chemical Code or any noxious liquid substance;
- 17 (c) *Coastal state* refers to the relationship of the Philippines to a foreign-
18 flagged vessel traversing Philippine waters and its corollary right to
19 exercise jurisdiction and regulatory control over the vessel;
- 20 (d) *Convention* refers to:
- 21 (1) The International Convention for the Prevention of Pollution
22 from Ships 1973, as amended by the Protocol of 1978 or
23 MARPOL 73/78;
- 24 (2) Protocol I and II of MARPOL 73/78;
- 25 (3) Annexes I, II, III, IV, V and VI, their relevant appendices, any
26 technical code referred to, as well as any amendment to any of
27 these documents which may enter into force in accordance with
28 the procedure referred to in Article 16 of MARPOL 73/78;
- 29 (4) Any subsequent protocol of and amendment to the Convention
30 which the Philippine Government may ratify necessary to
31 advance the purposes of this Act; and
- 32 (5) Any mandatory Code referred to in the Convention or any
33 subsequent protocol to the Convention which the Philippine
34 Government may ratify or any amendment which may enter into
35 force in accordance with Article 16 of the Convention;
- 36 (e) *Discharge* refers to any release, however caused, of harmful
37 substances from a ship, including any escape, disposal, spilling,
38 leaking, pumping, emitting or emptying of the substances, except:
- 39 (1) Release of harmful substances directly arising from the
40 exploration, exploitation and associated off-shore processing of
41 sea-bed mineral resources; or
- 42 (2) Release of harmful substances for purposes of legitimate
43 scientific research on pollution abatement or control;
- 44 (f) *Dirty ballast* refers to water carried in the cargo tank;
- 45 (g) *Flag state* refers to the relationship of the Philippines to vessels
46 registered under its flag and corollary right to exercise jurisdiction and
47 regulatory control over these vessels;

- 48 (h) *Foreign-flagged ship* refers to any ship registered in another State or
49 authorized to fly its flag, whether or not it is a State party to MARPOL
50 73/78, when found in any of the ports, terminal facilities or waters
51 within the jurisdiction or sovereignty of the Philippines;
- 52 (i) *Garbage* refers to all kinds of victuals, domestic and operational
53 wastes, excluding fresh fish and parts thereof, generated during the
54 normal operation of the ship and liable to be disposed of continuously
55 or periodically;
- 56 (j) *Harmful substance in packaged form* refers to those substances which
57 are identified as marine pollutants in the International Maritime
58 Dangerous Goods (IMDG) Code and are held in forms of containment
59 specified for harmful substances in the IMDG Code. Other harmful
60 substances in package form shall include substances identified in
61 accordance with the following criteria as provided in the Convention:
- 62 (1) Those which are bio-accumulated to a significant extent and
63 known to produce a hazard to aquatic life or to human health; or
64 (2) Those which are bio-accumulated with attendant risk to aquatic
65 organisms or to human health with a short retention of the order
66 of one (1) week or less; or
67 (3) Those which are highly toxic to aquatic life;
- 68 (k) *Incident* refers to an event involving the actual or probable discharge
69 into the sea, or emission into the atmosphere, of a harmful substance
70 or effluents containing such a substance;
- 71 (l) *Marine casualty* refers to any accident or incident of navigation which
72 results in producing a harmful, deleterious or damaging effect upon
73 the marine environment;
- 74 (m) *Master* refers to any person having command or charge of any ship,
75 including a boat captain;
- 76 (n) *Noxious liquid substance* refers to any substance identified as such
77 under the relevant chapter of the International Bulk Chemical Code
78 and/or provisionally assessed as such by Annex II of the Convention;
- 79 (o) *Oil* refers to petroleum in any form including crude oil, fuel oil,
80 sludge, oil refuse and refined products, other than petrochemicals
81 which are classified as noxious liquid substances in accordance with

- 82 Annex II of the Convention, and including substances listed under
83 Annex I of the Convention;
- 84 (p) *Oily mixture* refers to a mixture with any oil content;
- 85 (q) *Oil tanker* refers to a ship constructed or adapted primarily to carry oil
86 in bulk in its cargo spaces and includes combination carriers or any
87 other tanker when it is carrying cargo or part cargo of oil in bulk;
- 88 (r) *Other harmful substances* refers to any substance other than oil,
89 noxious liquid substances, harmful substances in package form,
90 garbage, and sewage, which, if introduced in the sea, is liable to create
91 hazards to human health, harm living resources and marine life,
92 damage amenities or to interfere with other legitimate uses of the sea,
93 and includes atmospheric discharges and other substances identified as
94 marine pollutants in the Convention, which may be subject to control
95 pursuant to the provisions of this Act and other relevant environmental
96 laws of the Philippines;
- 97 (s) *Owner* refers to the person registered as the owner of the ship or who
98 assumes the operation of the ship, or, in the absence of registration, the
99 person owning the ship or the bareboat charterer of the ship, and, in
100 the case of a ship owned by a State and operated by a company which
101 in that State is registered as the ship's operator, "owner" shall include
102 State;
- 103 (t) *Philippine ship* refers to any ship registered under the laws of the
104 Philippines and entitled to fly its flag wherever the ship may be;
- 105 (u) *Philippine waters* refers to the internal waters, archipelagic waters,
106 territorial seas, waters within the contiguous and exclusive economic
107 zones;
- 108 (v) *Port state* refers to the relationship of the Philippines to a foreign
109 flagged-flagged vessel which may be found in any of its ports,
110 terminal facilities or harbors and its corollary right to exercise
111 jurisdiction and regulatory control over the vessel;
- 112 (w) *Sewage* refers to:
113 (1) Drainage and other wastes from any form of toilets and urinals;

- (2) Drainage from medical premises including dispensary and sick bay through wash basins, wash tubs and scuppers located in the premises;
- (3) Drainage from spaces containing living animals; or
- (4) Other waste waters when mixed with the drainages defined above;
- (x) *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 crafts, drilling rigs and fixed or floating platforms; and
- (y) *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

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

- (a) All Philippine ships, wherever they may be;
- (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 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 of Transportation (DOT), subject to public consultation: *Provided, further*, That nothing herein shall prevent the enactment of any law providing for standards, requirements or regulations higher than those provided for the by the Convention.

Section 5. *Exemptions.* – This Act shall not apply to warships, naval auxiliary ships, and man-of-war vessels: *Provided*, That all government or noncommercial ships shall be exempted from the coverage of this Act during emergency response cases: *Provided, however*, That the DOT, through the Maritime Industry Authority (MARINA), the Philippine Coast Guard (PCG) the Philippine

Ports Authority (PPA), and other concerned agencies, shall adopt appropriate measures that will ensure that these ships operate, so far as is reasonable and practicable, in a manner consistent with this Act: *Provided, finally*, That the measure will not impair the operational capabilities of these ships.

CHAPTER 3

Exercise of Jurisdiction Over Ships

Section 6. Powers and Functions of the Department of Transportation (DOT). - The DOT 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 Secretary of the DOT shall exercise 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 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 or bureaus, authorities, or agencies for purposes of the effective and efficient implementation of the provisions of this Act; and
- (e) Exercise powers and perform other functions as may be necessary to carry out its duties and responsibilities under this Act.

Section 7. Powers and Functions of the Maritime Industry Authority (MARINA) - The MARINA shall have the sole and exclusively 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 organization 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, arrangement 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 of 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) 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 the recognized organizations including the following:
 - (1) Perform and conduct statutory surveys on Philippine ships;
 - (2) Require repairs on a Philippine ship pursuant to finding resulting from port state inspection;
 - (3) Carry out surveys requested by port state authorities; and

216 (4) Withdraw any statutory certificates if appropriate corrective
217 action is not taken by the Philippine ships;

218 (i) Provide the International Maritime Organization (IMO) with a
219 list of recognized organizations authorized to act on behalf of the
220 Philippines, together with the specific responsibilities they are
221 empowered to perform and the conditions of the authority
222 delegated to them;

223 (j) Impose, fix, collect and receive, in accordance with the duly
224 approved schedules, fees necessary for the survey and
225 certification of ships pursuant to this section. The fees shall be
226 imposed and collected in order to recover the cost for rendering
227 the service and shall not be used in order to impose a penalty:
228 *Provided*, That excessive fees, multiple fees and duplicative fees
229 shall at all times be avoided;

230 (k) Issue rules and regulations necessary to implement the provisions
231 of this section: *Provided*, that the rules shall be in consonance
232 with the Convention and shall not change or in any way amend or
233 be contrary to the intent and purposes of this Act;

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

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

245 (n) Hear, adjudicate and impose such fines and penalties on
246 Philippine ships which shall fail to comply with the rules and
247 regulations issued pursuant to this section; and

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

Section 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, or in 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;

- 281 (i) Inform the complainant and the IMO of the results of the
282 investigation and any action taken against the ship operator of the
283 Philippine ship in respect of any alleged violation;
- 284 (j) Deny entry of a foreign-flagged ship to any Philippine port or
285 terminal facility if it fails to comply with the requirements of the
286 Convention;
- 287 (k) Coordinate with, and inform, the diplomatic representative of the
288 State, or the flag state administration, of any violation of the
289 foreign ship and any action taken against the ship;
- 290 (l) Inspect, verify and investigate a ship if it has discharged any
291 harmful substance into the marine environment under any of the
292 following circumstances:
- 293 1. It has reasonable grounds to believe that a discharge has
294 occurred in Philippine waters;
 - 295 2. It receives a report from another coastal State; or
 - 296 3. It receives a request from the flag State.
- 297 (m) Forward the report of any violation committed by the ship, with
298 respect to any discharge of harmful substances into marine
299 environment, to the ship's flag state administration, together with
300 any evidence it may have;
- 301 (n) Immediately inform any affected coastal State of the discharge;
- 302 (o) Ensure that the ship is not unduly delayed or detained;
- 303 (p) Order into port any ship found in the territorial seas if there are
304 clear grounds to believe that the ship has discharged harmful
305 substances into the marine environment;
- 306 (q) Establish procedures for reporting incidents involving any actual
307 or probable discharge or emission which may be in violation of
308 this act and of the requirement of the Convention consistent with
309 the reporting requirements under this Act;
- 310 (r) Require all ships and aircrafts registered under the Philippine flag
311 to immediately report any marine casualty witnessed while
312 navigating;

- 313 (s) Upon inquiry or investigation, cause or recommend regulatory or
314 other appropriate actions to be taken in connection with any
315 violation of the provisions of this Act;
- 316 (t) Cooperate with the government of other States which are
317 members of international organization on the prevention of
318 pollution from ships concerning the detection of violations and
319 enforcement of this Act using all appropriate and practicable
320 measures of detection and environmental monitoring, adequate
321 procedures for reporting and accumulation of evidence;
- 322 (u) Provide its officers and personnel with adequate training and
323 continuing education to ensure an efficient and professional
324 pollution regulatory machinery;
- 325 (v) Adopt a continuing information campaign on marine resources
326 protection aimed at developing public awareness of the health
327 hazards and other adverse effects of ship pollution;
- 328 (w) Administer the MEMF;
- 329 (x) Issue such rules and regulations necessary to implement the
330 provisions of this Act: *Provided*, That the rules and regulations
331 shall be in consonance with the Convention and shall not change
332 or in any way amend or be contrary to the intent and purposes of
333 this Act; and
- 334 (y) Exercise powers and perform other functions as may be necessary
335 to carry out its duties and responsibilities under this Act.

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

- 339 (a) Provide technical assistance on pollution prevention to the concerned
340 government agencies in the implementation of this Act;
- 341 (b) Establish guidelines for the identification of harmful substances in
342 packaged form in accordance with the guidelines and listings provided
343 by the IMDG Code in coordination with the PCG, PPA and other port
344 authorities;
- 345 (c) Set effluent and emission standards for ships in accordance with the
346 requirements of the Convention;

- (d) The floating crafts, drilling rigs and fixed or floating platforms, and vessels which primarily operate or undertake business, commercial, or industrial activities while anchored, the DENR shall enforce, in coordination with the PCG, the applicable provisions of Presidential Decree No. 1586, otherwise known as the Environmental Impact Statement System law; Republic Act No. 8749, otherwise known as the Philippine Clean Air Act of 1999; and Republic Act No. 9275, otherwise known as the Philippine Clean Water Act of 2004; and
- (e) Monitor, in coordination with the PCG, 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

Section 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 result 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, unless the master, owner or agent of the ship acted either with intent to cause

380 damage or recklessly and with knowledge that damage would probably
381 result; or

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

384 For this purpose, the DOT shall promulgate rules and regulations to
385 implement the immediately preceding paragraph as regards its
386 application in general, or with respect to the following considerations in
387 consonance with the requirements of the Convention with the
388 requirements of the Convention:

- 389 (i) Classes of ships;
390 (ii) Description of harmful substances;
391 (iii) Disposal or discharge of these substances in prescribed
392 circumstances; and
393 (iv) Areas of the sea.

394 **Section 11. *Immediate Report of Discharge of Harmful Substances.*** – If
395 any actual or probable discharge of any harmful substance occurs from any Philippine
396 ship into any part of the sea or atmosphere the master shall immediately report the
397 incident to the nearest affected coastal State and to the DOT.

398 If any actual or probable discharge of any harmful substance occurs from any
399 Philippine ship or foreign-flagged ship while it is operating in Philippine waters, the
400 master of the ship shall immediately report the incident to the PCG. The PCG shall
401 immediately inform the flag State of the ship.

402 If the master of the ship fails to report the incident, or the discharge occurs in
403 circumstances where the ship, or the agent of the owner, charterer, manager and
404 operator of the ship shall without delay, report the incident to the DOT.

405
406 **SEC. 12. *Record Books.*** – Philippine ships and all ships within Philippine
407 waters shall maintain on board record books in the English language, whether as part
408 of their official logbook or not. For this purpose:

- 409 (a) Every oil tanker which is one hundred fifty (150) gross tonnage or more
410 and every ship, other than an oil tanker which is four hundred (400) gross
411 tonnage or more shall be provided with, and shall be required to maintain,
412 an Oil Report Part I for Machinery Space Operations in accordance with
413 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 Shipboard Garbage Management Plan 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 are appropriately and adequately provided with facilities to meet the needs of ships for the reception of their oily residues, oily mixtures, dirty ballast, tank washing water, noxious liquid substances, sewage, garbage, ozone depleting substances, and equipment containing these substances, and for cleaning of exhaust gases in consonance with this Act and the requirements on the Convention.

For this purpose, port authorities shall : (a) determine and establish the most effective and efficient means for meeting internationally –accepted requirements with respect to reception facilities in public and private ports without causing such ships undue delay; (b) formulate and implement an integrated waste management system for the use and operation of reception and treatment facilities in coordination with the DENR and the PCG; 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 accredited or enter into agreements with private entities in relation to the establishment and operation of reception and treatment facilities upon verification of compliance with standards established for said facilities by the DENR and PCG.

SEC. 14. Use of Reception Facilities. – All ships entering or availing the services of ports, terminals and repair reports 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. – Should there be a probability that a foreign-flagged ship has violated or may violate the requirements of this Act, or the rules and regulations promulgated therefor, the ship 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 127, 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 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 Marine Pollution Adjudication Board (MPAB) established under Section 35 of this Act, an adequate cash bond, insurance guaranty, or protection indemnity guaranty or a combination thereof, as approved by the MPAB, to cover the liability of the owner, master or agent of the ship under this Act.

CHAPTER 5

FINES, PENALTIES, AND LIABILITIES

SEC. 17. Imposition of Finances, Penalties and Liabilities.– Except for fines and penalties for violations of administrative regulations under Section 27, 28 and 29 of this Act, all fines and penalties imposed for violations of the provisions of this

Chapter, or the Philippine Clean Air Act and the Philippine Clean Water Act, whenever applicable, 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 MPAB, 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 of 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 pay 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 Two Hundred Thousand Pesos (Php 200,000.00) 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 Two Hundred Thousand Pesos (Php200,000.00) but not more than Ten Million Pesos (Php10,000,000.00);

(3) For sewage or garbage under paragraphs (e) and (f) Section 10 of this Act- not less than Fifty Thousand Pesos (Php50,000.00) 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 Two Hundred Thousand Pesos (Php200,000.00) 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 Fifty Thousand US dollars (US\$50,000) 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 from under paragraphs (c) and (d) of Section 10 of this Act - not less than Fifty Thousand US dollars (US\$50,000.00) 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 this Act – not less than Ten Thousand US dollars (US\$10,000.00) but not more than One Million US dollars (US\$1,000,000.00), or its equivalent in Philippine pesos; and
- (4) For other harmful substances as defined in this Act – not less than Fifty Thousand US dollars (US\$50,000.00) but not more than Five Million US dollars (US\$5,000,000.00), or its equivalent in Philippine pesos.

Any person directly or negligently responsible for the discharge or emission into Philippine waters or a atmosphere shall be liable for a fine of not less than Five Thousand Pesos (Php5,000.00) but not more than Five Million Pesos (Php5,000,000.00) and, whenever appropriate, to the costs any measure reasonably taken in removing or eliminating the discharged or emitted substances.

Unless the fines and penalties established under Environmental Impact Statement System Law, the Philippine Clean Air Act and the Philippine Clean Water Act are higher, the fines set in this Act shall be imposed for floating craft, drilling rigs and fixed or floating platforms, and vessels which primarily operate or undertake business, commercial or industrial activities while anchored.

SEC. 19. Failure to Maintain Record Books. – (a) A ship which operate without record books required under Section 12 of this Act or fails to maintain said record books on board shall be liable to pay 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 pay a fine not more than Five Thousand Pesos (Php5,000.00) 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 to pay 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 to pay 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 any change 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 more 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 under this Act or the Convention shall be detained and 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).

SEC. 24. Violation of Detention Order. - A ship which proceeds to sea in violation of a detention order issued 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 Million US dollars (US\$5,000,000.00), or its equivalent in Philippine pesos.

SEC. 25. Continuing Violation. - A ship, which continuously discharges or emits harmful substances in violation of Section 10 of this Act, shall be held liable for

the fines stipulated under Section 18. Likewise, it shall be made liable to pay 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 violation continues to be committed.

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 nor 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 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 Section 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

618 (Php1,000,000.00) and the suspension of vessel safety certificate
619 for six (6) months to one (1) year.

620 The concerned agency shall promulgate rules and regulations for the summary
621 imposition of administrative sanctions, subject to due process, for failure to comply
622 with any order, decision, rules and regulations of the Department issued pursuant to
623 this Act shall accrue to the MEMF.

624

625 **SEC. 30. Intentional Violation** - In case the discharge or emission of harmful
626 substances or toxic pollutants identified pursuant to Republic Act No. 6969,
627 otherwise known as the "Toxic Substances and Hazardous and Nuclear Wastes
628 Control Act of 1990", is in toxic amounts or is deliberate and willful, in violation of
629 Section 10 of this Act, the offender, without prejudice to the civil liability that may be
630 imposed, shall be accordingly liable for a fine or imprisonment or not less than six
631 (6) years, but not more than twelve (12) years, or both, at the discretion of the court:

632

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

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

640

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

644

645 **SEC. 32. Clean-up Operations.** – In the event harmful substances, under
646 Section 10 of this Act are discharged or emitted from any ship into Philippine waters
647 or into any part of the sea or waters outside Philippine waters but such substances
648 subsequently flowed or drifted into Philippine waters, or into the Philippine
649 atmosphere, the PCG, in coordination with other agencies concerned, shall be
650 responsible for the cleanup and containment of discharged substances, and the
651 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 cause 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 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 officials or employees of the DOT, the DENR, the LGUs, the MARINA, the PCG or port authority or their relatives with 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 and resulting in the imposition of fines or fees, or conviction of the guilty party of any of the fines or penalties, shall be rewarded a sum equivalent to ten percent (10%) of the fines or fees paid or recovered.

CHAPTER 6

Marine Pollution Adjudication Board

685 **SEC. 35. Marine Pollution Adjudication Board.-** There is hereby
686 constituted a Marine Pollution Adjudication Board (MPAB) vested with quasi-
687 judicial powers under the Office of the DOT Secretary. The Board shall have sole
688 and exclusive jurisdiction over all marine pollution cases as provided for in Section
689 17 of this Act. It shall be composed of the following members:

690

691 (a) Secretary of the DENR, or his duly authorized permanent
692 representative; as Chairperson

693 (b) Secretary of the DENR, or his duly authorized permanent
694 representative;

695 (c) Administrator of the MARINA, or his duly authorized permanent
696 representative;

697 (d) Commandant of the PCG, or his duly authorized permanent
698 representative;

699 (e) General Manager of the PPA, or his duly authorized permanent
700 representative;

701 (f) A permanent representative endorsed by the Association of
702 Masters and Mates;

703 (g) A permanent representative endorsed by the Marine Engineers
704 Association;

705 (h) A member of the Philippine Bar duly endorsed by the Integrated
706 Bar of the Philippines (IBP); and

707 (i) A member of the Sea Transport Association.

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

710

711 **SEC. 36. Powers and Functions.-** The MPAB shall have the following powers
712 and functions:

713 (a) To hear and decide cases falling under their jurisdiction pursuant to
714 Section 17 of this Act;

715 (b) To conduct hearings on all matters within its jurisdiction, proceed to
716 hear and determine the disputes in the absence of any party thereto who
717 has been summoned or served with notice to appear, conduct its
718 proceedings or any part thereof in public or in private, adjourn its

719 hearings at any time and place, refer technical matters or accounts to
720 an expert and to accept the experts' reports thereon as evidence after
721 hearing of the parties upon due notice, direct parties to be joined in or
722 excluded from the proceedings, correct amend or waive any error,
723 defect or irregularity, whether in substance or in form, give all such
724 directions as it may deem necessary or expedient in the determination
725 of the dispute before it and dismiss the dispute as part thereof, where it
726 is trivial or where further proceedings by the Commission are not
727 necessary or desirable;

728 (c) To promulgate and adopt its own rules of procedure. It shall not be
729 strictly bound by the Rules of Court but shall proceed to hear and
730 decide all cases, disputes or controversies in a most expeditious
731 manner, employing all reasonable means to ascertain the facts of every
732 case in accordance with justice and equity and the merits of the case;

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

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

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

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

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

749 (i) To issue an *ex parte* order directing the discontinuance of the discharge
750 of substances that cause marine pollution, or the temporary suspension
751 or cessation of operation of operation of the equipment, project or
752 activity and other acts causing environmental degradation, generating

pollutants or wastes, without the necessity of a previous public hearing:
Provided, That the *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 this 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 DOT, 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) data banking; (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 DOT 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.

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

791
792 **SEC. 41. Joint Congressional Oversight Committee (JCOC).** – The Joint
793 Congressional Oversight Committee created under Section 33 of Republic Act. No.
794 9275 or the Philippine Clean Water Act of 2004 shall also monitor the
795 implementation of this Act and review the implementing rules and regulations
796 promulgated by the DOT

797
798 The JCOC shall continue to exist for a period not exceeding five (5) years from
799 the effectivity of this Act and thereafter, its oversight functions shall be exercised by
800 the Committee on Environment of the Senate and the Committee on Ecology of the
801 House of Representatives, acting separately.

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

805
806 **SEC. 42. Marine Environmental Management Fund (MEMF).** – There is
807 hereby established a Marine Environmental Management Fund (MEMF) to be
808 administered by the MPAB. The Oil Pollution Management Fund (OPMF) created
809 under Section 22 of Republic Act No. 9483, otherwise known as the Oil Pollution
810 Compensation Act of 2007, is hereby abolished. All balances, including the
811 liabilities incurred by the OPMF, shall be transferred to the MEMF. The MEMF
812 shall be sourced from the following:

813 (a) Within one (1) year following the effectivity of the Act
814 contributions of owners and operators of tankers and barges hauling oil and for
815 petroleum products in Philippine waterways and coast wise shipping routes
816 consisting of five centavos (5c) per liter for every transshipment of oil made by a
817 tanker barge or tanker hauler based on the volume it loaded for the purpose of
818 transshipment regardless of its origin or destination; thereafter, reasonable
819 amount of contribution shall be jointly determined by MARINA, other
820 concerned government agencies, and representatives from the owners of tankers

barges, tankers haulers, and ship hauling oil and/or petroleum products. In determining the amount of contribution, the purposes for which the fund was set up shall always be considered;

(b) Fees, charges and fines imposed pursuant to this Act and Republic Act. No 9483;

(c) Donations, endowments, grants and contributions; and

(d) 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 the Philippine Clean Water Act and Section 22 of the Oil Pollution Compensation Act are hereby repealed. The Toxic Substances and Hazardous and Nuclear Wastes Control Act, the Marine Pollution Control Decree of 1974 and 1976 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.

855

856 *SEC. 46. Effectivity Clause.* – This Act shall take effect fifteen (15) days after

857 its publication in the Official Gazette or in a newspaper of general circulation.

858 Approved,