

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 578



INTRODUCED BY REPRESENTATIVE JURDIN JESUS M. ROMUALDO

EXPLANATORY NOTE

This is a refiled bill of Hon. Xavier Jesus D. Romualdo of the Lone District of Camiguin and in the 18th Congress the Committee on Ecology tackled the measure and its draft Committee Report.

The bill that is filed now consists of policy proposals from the lead government agencies like DOTr, NEDA, PPA, BFAR and various civil society stakeholders that are very active in marine environment protection.

Our marine waters especially within the jurisdiction of the local government units are prone to threats of various pollutants thrown or discarded at sea or inland wastes going out to the sea and sometimes this results to irreversible damage to our marine environment as well as poses danger to the health and livelihood of nearby communities.

The Marine Pollution Decree of 1976 or P.D. No. 979 can no longer addressed the escalating and complex issues of dumping of wastes in our marine waters. It is our intent to strictly comply and implement the provisions 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".

This bill seeks to establish guidelines for the identification of harmful substances like emission of oil, noxious liquid substances and other harmful substances. It also seeks to set emission standards for ships plying Philippine seas.

A Marine Pollution Adjudication Board is hereby established with quasi-judicial powers and exclusive jurisdiction over all marine pollution cases.

Let us continue to be mindful of our marine environment as we obtain a large portion of our daily staple from our marine resources and support the livelihood of our fisherfolks.

We take this big step in that direction by the support of the Members of Congress for the early passage of this bill.

JURDIN JESUS M. ROMUALDO

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

Be it enacted by the Senate and the 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".

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

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

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

(1.) *Coastal State* refers to a State that has sovereignty which extends, beyond its land territory and internal waters and its archipelagic waters, to an adjacent belt of sea, described

as the territorial sea, including its seabed and subsoil, and sovereign rights over the continental shelf and exclusive economic zone as defined by the UNCLOS.

(2.) *Convention* refers to:

- a. The International Convention for the Prevention of Pollution from Ships 1973, as amended by the Protocol of 1978 or MARPOL 73/78;
- b. Protocol I and II of MARPOL 73/78;
- c. Annexes I, II, III, IV, V and VI, their relevant appendices, including mandatory codes 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; and,
- d. Any subsequent protocol, resolution, or code amending the Convention, which the Philippine Government may ratify necessary to advance the purposes of this Act;

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

(4.) *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;

(5.) *Master* refers to any person having command or charge of any ship, including a boat captain;

(6.) *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. 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, the State shall be included as the owner;

(7.) *Philippine ship engaged in international trade* refers to any ship registered under the laws of the Philippines for international trade, and entitled to fly its flag wherever the ship may be;

(8.) *Philippine maritime zones* refer to the internal waters, archipelagic waters, territorial sea, contiguous zone, continental shelf, and exclusive economic zones;

(9.) *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 the vessel;

(10.) *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,

(11.) *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

Application of this Act

SEC. 4. *Implementation of the Convention.* – Unless otherwise provided in this Act, the provisions of the Convention shall be applied with the intention of protecting public health and preserving the coastal and marine environment and its resources, through the complete elimination of pollution by harmful substances identified pursuant to this Act, and the minimization of accidental discharge of these substances.

SEC. 5. *Ships Covered.* – Unless otherwise specified herein, this Act shall apply to:

- (a) All Philippine ships;
- (b) All foreign-flagged ships in Philippine maritime zones, whether or not these are registered with State parties to the Convention in accordance with the norms of international law; and,
- (c) All other ships operating within Philippine maritime zones.

SEC. 6. *Exempted Ships.* – This Act shall not apply to warships, naval auxiliary ships, man-of-war vessels, and government ships engaged in non-commercial activities: *Provided,* That the Department of Transportation (DOTr), 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, as far as is reasonable and practicable, in a manner consistent with this Act: *Provided, further,* That the measure will not impair the operational capabilities of these ships.

CHAPTER 3

Exercise of Jurisdiction Over Ships

SEC. 7. *Powers and Functions of the Department of Transportation (DOTr).* - The DOTr 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 DOTr 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), Department of Agriculture (DA), Department of Interior and Local Government (DILG), Department of Energy (DOE), port authorities and other relevant agencies and stakeholders;

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

(d) Designate, upon recommendation of the PCG Commandant, a District Hearing Officer (DHO) for each district of the PCG pursuant to Section 43 of this Act;

(e) 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;

(f) Administer the Marine Environmental Management Fund (MEMF) established under Section 51 of this Act, and provide guidelines for its immediate access for the containment, removal and clean-up operations of the PCG in all marine pollution cases under the Convention; and,

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

SEC. 8. Powers and Functions of the Maritime Industry Authority (MARINA) - The 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 these 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 a 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 the 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
 4. Withdraw any statutory certificate if the appropriate corrective action is not undertaken by the Philippine ship;
- (i) Provide the International Maritime Organization (IMO) with a list of recognized organizations authorized to act on behalf of the Philippines, together with the specific responsibilities that they are empowered to perform and the conditions of the authority delegated to them;
- (j) Impose, fix, collect and receive, in accordance with the duly approved schedules, the fees necessary for the survey and certification of ships pursuant to this Section. The 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;
- (k) Issue rules and regulations necessary to implement the provisions of this Section: *Provided*, That the rules 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;
- (l) Provide its officers and personnel with adequate training and continuing education to ensure an efficient and professional pollution regulatory machinery;
- (m) Impose and collect fees and charges in connection with the performance of its functions under this Section, which fees and charges shall accrue to the MEMF: *Provided*, That the 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, further*, That excessive fees, multiple fees and duplicative fees shall at all times be avoided;
- (n) Hear, adjudicate and impose such fines and penalties on Philippine ships that fail to comply with the rules and 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.

SEC. 9. Powers and Functions of the Philippine Coast Guard (PCG). – Unless otherwise provided in this Act, the 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 maritime zones, 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 this Act;
- (a) 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;
- (b) Investigate any complaint involving the alleged violation of the Convention committed by a ship, regardless of the 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;
- (c) Request the assistance of any other State whose cooperation may be useful to the investigation against a ship;
- (d) Detain a ship pursuant to Section 25 of this Act;
- (e) 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;
- (f) Apprehend and initiate proceedings against any person for violation of this Act when sufficient evidence exists with respect to the alleged violation;
- (g) Inform the complainant and the IMO of the results of the investigation and any action taken against the foreign-flagged ship in respect of any alleged violation;
- (h) 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;
- (i) 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;
- (j) Inspect, verify and investigate a ship if it has discharged any harmful substance into the marine environment under any of the following circumstances:
 - 1. It has reasonable grounds to believe that a discharge has occurred in Philippine maritime zones;
 - 2. It receives a report from another coastal State; or,
 - 3. It receives a request from the flag State.
- (k) 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;

- (l) Immediately inform any affected coastal State of the discharge;
- (m) Ensure that the ship is not unduly delayed or detained;
- (n) 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;
- (o) 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;
- (p) Require all ships and aircrafts registered under the Philippine flag to immediately report any marine casualty witnessed while navigating;
- (q) Impose and collect fees and charges in connection with the performance of its functions under this Section, which fees and charges shall accrue to the MEMF: *Provided*, That the 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, further*, That excessive fees, multiple fees and duplicative fees shall at all times be avoided;
- (r) Hear and adjudicate violations through the District Hearing Officer pursuant to Section 43 of this Act;
- (s) Investigate and issue notice of violations to erring ships;
- (t) Cooperate with the government of other States that are members of the international organization 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, and adequate procedures for reporting and accumulation of evidence;
- (u) Provide its officers and personnel with adequate training and continuing education to ensure and efficient and professional pollution regulatory machinery;
- (v) Adopt a continuing information campaign on marine resources protection, and developing public awareness on the health hazards and other adverse effects of ship pollution;
- (w) Issue such rules and regulations necessary to implement the provisions of this Act: *Provided*, That the 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,
- (x) Exercise powers and perform other functions as may be necessary to carry out its duties and responsibilities under this Act.

SEC. 10. *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 under the International Maritime Dangerous Goods (IMDG) Code, in coordination with the PCG, PPA and other port authorities;

- (c) In coordination with MARINA & PCG, set effluent and emission standards for ships in accordance with the requirements of the Convention; and,
- (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, in consonance with Section 4 of this Act, Republic Act No. 9003, otherwise known as "the Ecological Solid Waste Management Act of 2000".
- (e) *Establish criteria and guidelines for the siting, design, operation, and maintenance of port waste management facilities.* "

CHAPTER 4

Prevention of Pollution by Harmful Substances

SEC. 11. *Prohibition of Discharge or Emission of Substances under the Convention.* - The discharge or emission of harmful substances from any ship into the Philippine maritime zones shall be prohibited, pursuant to the following Annexes of the Convention:

- (a) Annex I - Oil, whether carried as cargo or as bunker, or oily mixture, whether generated from cargo operations or from machinery spaces;
- (b) Annex II - Noxious liquid substances or mixtures containing a noxious liquid substance, being a substance or mixture carried as cargo or part cargo in bulk;
- (c) Annex III - Harmful substances in packaged form;
- (d) Annex IV - Sewage;
- (e) Annex V - Garbage; and
- (f) Annex VI - Air pollutants, whether or not generated during the operation of the ship.

SEC. 12. *General Exemptions Applicable to the Discharge or Emission of Harmful Substances* - The provisions of Section 11 shall not apply in the following cases:

- (a) 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;
- (b) The discharge is a result from unintentional damage to the ship or its equipment, and all reasonable precautions to prevent or minimize the escape or harmful substances have been taken after the occurrence of the damage or the discovery of the discharge: *Provided, however, That the*

owner, master, agent, or manager of the ship was not negligent, nor acted either with intent to cause damage or recklessly and with knowledge that damage would probably result: *Provided, further,* That the damage to the ship or its equipment is not a result of deterioration or defects resulting from failure to maintain the ship or equipment; or,

- (c) in cases of substances under paragraphs (a) and (b) of Section 11 of this Act, the discharge is for the purpose of combating specific pollution incidents in order to minimize the damage from pollution as may be approved by the PCG.

SEC. 13. *Exemptions Applicable to Discharge of Oil or Oily Mixture* – In addition to the exemptions provided under Section 12, Section 11 shall not apply to the discharge of oil or oily mixture under Annex I of the Convention when all of the following conditions are satisfied:

- (a) the ship is proceeding *en route* by:
 - 1. in case of oil tanker of any tonnage, more than 50 nautical miles from the nearest land, and the instantaneous rate of discharge does not exceed 30 liters per nautical mile; and,
 - 2. in case of ship of 400 tons gross tonnage and above, more than 15 nautical miles from the nearest land;
- (b) the discharge is processed through an oil filtering, oily-water separating equipment and oil discharge monitoring, system and methods or devices as may be prescribed by the DOTr;
- (c) the total quantity of oil discharged into the sea does not exceed one part in 15,000 per million, or of the parts of the total quantity of the cargo of oil of which the oil discharged formed a part, whichever is higher; and,
- (d) in case of ship of less than 400 tons gross tonnage:
 - 1. the oily mixture does not originate from cargo pump room bilges on tankers; and,
 - 2. in case of oil tanker, the oily mixture is not mixed with oil cargo residues.

SEC. 14. *Exemptions Applicable to the Discharge of Noxious Liquid Substances Carried in Bulk* – In addition to the exemptions provided under Section 12, Section 11 shall not apply to the discharge of noxious liquid substances or mixtures containing a noxious liquid substance, being a substance or mixture carried as cargo or part cargo in bulk under Annex II of the Convention when the following conditions are satisfied:

- (a) the discharge is made when the ship is proceeding *en route* at a speed of:
 - (1) at least 7 knots, where the ship is self-propelled; or
 - (2) at least 4 knots, where the ship is not self-propelled;
- (b) the discharge is made when the ship is at a distance of not less than 15 nautical miles from the nearest land and is in a depth of water of not less than 25 meters; and,
- (c) the discharge is made below the water line of the ship taking into account the location of the seawater intakes.

The conditions under this Section shall not apply to a mixture that contains liquid substances not harmful to marine resources, human health, amenities or other legitimate use of the sea as referred to under Regulation 6.1.4 of Annex II of the Convention.

SEC. 15. *Exemptions Applicable to the Discharge of Harmful Substance in Packaged Form.*

- In addition to the exemptions provided under Section 12, Section 11 shall not apply to the discharge by jettison of harmful substance, being a substance carried as cargo in packaged form under Annex III of the Convention, on account of a leakage of the substance, when the substance was washed overboard from the ship in accordance with requirements made pursuant to Section 4 of this Act, and unless these requirements impair the safety of the ship or of persons on board the ship.

SEC. 16. *Exemptions Applicable to the Discharge of Sewage* – In addition to the exemptions provided under Section 12, Section 11 shall not apply to the discharge of sewage under Annex IV of the Convention when the following conditions are satisfied:

(a) Untreated, Non-comminuted and Non-disinfected Sewage:

1. the ship is proceeding *en route* at a speed of not less than 4 knots;
2. the discharge is made when the ship is at a distance of not less than 15 nautical miles from the nearest land; and,
3. the untreated sewage is not discharged instantaneously but is discharged from the holding tank at a prescribed rate promulgated pursuant to Section 4 of this Act.

(b) Comminuted and Disinfected Sewage:

1. the sewage discharged has been comminuted and disinfected using a system approved in accordance with the requirements promulgated pursuant to Section 4 of this Act, giving effect to paragraph 1.2 of Regulation 9 of Annex IV to the Convention; and,
2. the ship is at a distance of more than 3 nautical miles from the nearest land.

(c) Sewage Stored in a Holding Tank or Spaces Containing Living Animals:

1. the ship is proceeding *en route* at a speed of not less than 4 knots; and,
2. the discharge is not instantaneously but is discharged at a prescribed rate promulgated pursuant to Section 4 of this Act.

(d) Treated Sewage:

1. the sewage has been treated in a sewage treatment plant on the ship;
2. the PCG has certified that the sewage treatment plant is being operated to meet the requirements promulgated pursuant to Section 4 of this Act, giving effect to paragraph 1.1 or 2.1 of Regulation 9 of Annex IV of the Convention;
3. the discharge is made when the ship is as far as practicable from the nearest land; and,
4. the effluent does not produce visible floating solids nor causes discoloration of marine water.

SEC. 17. Exemptions Applicable to the Discharge of Garbage – In addition to the exemptions provided under Section 12, Section 11 shall not apply to the discharge of garbage under Annex V of the Convention when the following conditions are satisfied:

(a) Food Wastes:

1. the ship is proceeding *en route*;
2. fresh fish and parts thereof discharged through a comminuter that has a screen that with an opening no greater than 25 millimeters:
 - i. the ship is at a distance of not less than 3 nautical miles from the nearest land if the ship is not alongside, or within 500 meters of, a fixed or floating platform; or,
 - ii. the ship is at a distance of not less than 12 nautical miles from the nearest land, if the ship is alongside, or within 500 meters of, a fixed or floating platform.

(b) Animal Carcasses:

1. the ship is proceeding *en route* at a distance of not less than 12 nautical miles from the nearest land; and,
2. the ship is not alongside, or within 500 meters of, a fixed or floating platform.

(c) Cargo Residues:

1. the ship is proceeding *en route* at a distance not less than 12 nautical miles from the nearest land;
2. the ship is not alongside, or within 500 meters of, fixed or floating platform; and, the
3. garbage is cargo residues that cannot be recovered using commonly available methods for unloading that are not harmful to the marine environment.

SEC. 18. Use or Carriage of Fuel Oil With Violative Sulfur Content – In case of fuel oil with a sulfur content exceeding the standards set pursuant to Annex VI of the Convention, its use as fuel on board a ship, or its carriage on board for the said purpose shall be prohibited.

In addition to exemptions under Sec. 12, the prohibition shall not apply when the following conditions are satisfied:

- (a) the ship is operating an Annex VI equivalent fitting, material, appliance, apparatus, pollution control device, or other compliance methods designed to meet emission standards set pursuant to Section 4 of this Act;
- (b) the Annex VI equivalent is approved by the DOTr, and operating in accordance with requirements promulgated pursuant to Annex VI of the Convention; and,
- (c) the emission from the approved equivalent is within the emission standards set pursuant to Annex VI of the Convention.

SEC. 19. *Other Applicable Conditions or Requirements.* - The application of the exemptions under this Chapter shall be subjected to additional conditions or requirements that may be promulgated by the DOTr pursuant to the Convention in light of the intention of Section 4 of this Act.

Moreover, the provisions of the Convention setting forth technical requirements that Philippine-flagged ships must meet, which are inapplicable or impractical in Philippine domestic setting, may be suspended: *Provided*, That subject to public consultation with concerned agencies and stakeholders, the DOTr shall prescribe appropriate equivalents or standards for these ships to protect the marine environment: *Provided, further*, That nothing herein shall prevent the enactment of any law providing for standards, requirements or regulations higher than those provided for by the Convention.

SEC. 20. *Immediate Report of Discharge of Harmful Substances.* - If any actual or probable discharge of any harmful substance occurs from any ship while it is operating in Philippine maritime zones, the master of the ship, shall immediately report the incident to the PCG. The PCG shall immediately inform the flag State of the ship. If any actual or probable discharge occurs from any Philippine ship into any other part of the sea or atmosphere, the master shall immediately report the incident to the nearest affected coastal State and to the PCG.

If the master of the ship is unable or fails to report the incident, or the discharge occurs in circumstances where the ship is abandoned, the owner, agent or manager of the ship shall without delay, report the incident to the concerned agencies under this Section.

SEC. 21. *Record Books.* - Philippine ships and all ships operating within Philippine maritime zones shall maintain on board record books in the English language, whether as part of their official logbook or not. For this purpose, the details of the content of the record book shall be pursuant to the Convention.

SEC. 22. *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 the following substances under the annexes of the Convention:

- (a) oily bilge water; oily residues (sludge); oily tank washings (slops); dirty ballast water; and scale and sludge from tank cleaning under Annex I;
- (b) cargo residues containing noxious liquid substances as defined in MARPOL Annex II, or ballast water, tank washings or other mixtures containing such substances under Annex II;
- (c) sewage under Annex III;
- (d) garbage, including plastics, food wastes, domestic wastes, cooking oil, incinerator ashes, operational wastes, animal carcasses, fishing gear, E-waste, cargo residues not harmful to the marine environment and cargo residues harmful to the marine environment under Annex V; and,

- (e) ozone-depleting substances and equipment containing such substances, and exhaust gas cleaning residues under Annex VI

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 compliant with Republic Act No. 9003 otherwise known as the “Ecological Solid Waste Management Act of 2009” and Republic Act No. 6969 “_____” 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 host local government units (LGUs) on the proper handling and disposal of wastes collected at ports.

Port authorities may enter into agreements with private entities which were selected through public bidding processes 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 pursuant to the Convention.

SEC. 23. *Use of Reception Facilities.* – Pursuant to the regulations issued by the DOTr, all ships entering or availing the services of ports, terminals and repair ports shall use reception facilities established pursuant to Section 22, subject to the integrated waste management system to be established by port authorities.

PPA shall establish infrastructure and sanitary facilities for on-shore requirements and formulate a proper waste management system that can be operated and managed sustainably.

Regulations shall consider the fast turnover, or undue delay of ships in order to determine the necessity of the use of facilities in any port or terminal.

SEC. 24. *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. 25. *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 to 35 and 38 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 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 may be released pursuant to Section 43 of this Act.

CHAPTER 5

FINES, PENALTIES, AND LIABILITIES

SEC. 26. *Imposition of Fines, Penalties and Liabilities.* - Except for fines and penalties for violations under Section 36 and 37 of this Act, all fines and penalties shall be imposed pursuant to Section 43 of this Act on the owner, master, agent or manager of the ship found to be liable under this Chapter. The owner, master, agent or manager of the ship responsible shall be jointly and severally liable.

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, agent or manager of the ship, their history of noncompliance, gross tonnage of the ship, and the gravity of the damage caused by the ship to the environment.

SEC. 27. *Discharge of Emission of Harmful Substances.* - A ship that is found to have discharged or emitted harmful substances under Section 11 of this Act, shall be liable for the following fines:

(a) In the case of a Philippine ship –

- 1. For oil under paragraph (a) of Section 11 of this Act - not less than Two hundred thousand pesos (PHP 200,000.00 but not more than Ten million pesos (PHP 10,000,000.00);
- 2. For noxious liquid substances or harmful substances in packaged form under paragraphs (b) and (c) of Section 11 of this Act – not less than Two hundred thousand pesos (PHP 200,000.00) but not more than Ten million pesos (PHP 10,000,000.00);

3. For sewage or garbage under paragraphs (e) and (f) Section 11 of this Act - not less than One hundred thousand pesos (PHP 100,000.00) but not more than Five million pesos (PHP 5,000,000.00); and,
4. For other harmful substances as defined in this Act – not less than Two hundred thousand pesos (PHP 200,000.00) but not more than Ten million pesos (PHP 10,000,000.00).

(b) In the case of Philippine ship engaged in international trade and foreign-flagged ship:

1. For oil or oily mixture under paragraph (a) of Section 11 of this Act - not less than Fifty Thousand US Dollars (USD 50,000.00) but not more than Five Million US Dollars (USD 5,000,000.00), or its equivalent in Philippine pesos;
2. For noxious liquid substances or harmful substances in packaged form under paragraphs (b) and (c) of Section 11 of this Act - not less than Fifty thousand US dollars (USD 50,000.00) but not more than Three Million US dollars (USD 3,000,000.00), or its equivalent in Philippine Pesos;
3. For sewage or garbage under paragraphs (d) and (e) of Section 11 of this Act – not less than Ten thousand US dollars (USD 10,000.00) but not more than One million US dollars (USD 1,000,000.00), or its equivalent in Philippine pesos; and,
4. For air pollutants of Section 11 in this Act – not less than Fifty thousand US dollars (USD 50,000.00) but not more than Five million US dollars (USD 5,000,000.00), or its equivalent in Philippine pesos.

The owner, master, agent or manager of the ship responsible for the discharge or emission under this Section, shall be held jointly and severally liable.

SEC. 28. *Failure to Maintain Record Books.* – A ship that operates without record books required under Section 21 of this Act or fails to properly maintain said record books on board, shall be liable to pay a fine of Two hundred thousand pesos (PHP 200,000.00).

SEC. 29. *Refusal to Use Reception Facilities.* – A ship that unjustifiably refuses to use reception facilities, shall be liable to pay a fine of not less than Fifty thousand pesos (PHP 50,000.00) but not more than One million pesos (PHP 1,000,000.00): *Provided*, That disposal of oil in reception facilities shall be required upon determination by the PCG.

SEC. 30. *Absence of and Noncompliance with a Shipboard Garbage Management Plan.* - A ship that operates without a shipboard garbage management plan as required under the Convention or fails to operate in accordance with such plan, shall be liable to pay a fine of not less than Fifty thousand pesos (PHP 50,000.00) but not more than Five hundred thousand pesos (PHP 500,000.00).

SEC. 31. *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 with a fine of not more than Fifty thousand pesos (PHP 50,000.00) but not more than Two hundred thousand pesos (PHP 200,000.00).

SEC. 32. *Operating Without the Required Certification.* – A ship that is operated or is allowed to operate without the certification required under this Act or the Convention, shall be detained and shall be liable to pay a fine of not less than Ten thousand pesos (PHP 50,000.00) but not more than One million pesos (PHP 1,000,000.00).

SEC. 33. *Violation of Detention Order.* – A ship that proceeds to sea in violation of a detention order issued pursuant to Section 25 hereof, shall be liable to pay for the following fines:
Philippine ship – not less than Fifty thousand pesos (PHP 50,000.00) but not more than One million pesos (PHP 1,000,000.00); and, Philippine ship engaged in international trade and foreign-flagged ship – Not less than Five million US dollars (USD 5,000,000.00), or its equivalent in Philippine pesos.

SEC. 34. *Continuing Violation.* – A ship that continuously discharges or emits harmful substances in violation of Section 11 of this Act, shall be held liable for the fines stipulated under Section 27. Likewise, it shall be made liable to pay an additional fine of not less than Fifty thousand pesos (PHP 50,000.00) but not more than Five hundred thousand pesos (PHP 500,000.00) for every day or part thereof during which the violation continues to be committed.

SEC. 35. *Obstruction of Investigation.* – Any person who, without justifiable reason, obstructs or hampers the conduct of an investigation of a violation of this Act, shall be liable to pay a fine of not less than Fifty thousand pesos (PHP 50,000.00) but not more than Five hundred thousand pesos (PHP 500,000.00).

SEC. 36. *Neglect of Duty.* – Any government official or employee tasked 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. 37. *Connivance in Violation of this Act.* – Any government official or employee tasked with the responsibility of enforcing and/or implementing any provision of this Act who connives with the ship owner, master, agent or manager 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. 38. *Violations of Administrative Regulations.* – A ship that 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 27 to 35 hereof, shall be liable to pay the following fines:

(a) Philippine ship:

1. First violation – a fine of not less than Ten thousand pesos (PHP 10,000.00) but not more than One hundred thousand pesos (PHP 100,000.00);
2. Second violation – a fine more than One hundred thousand pesos (PHP 100,000.00) but not more than Two hundred thousand pesos (PHP 200,000.00); and,
3. Third violation – a fine more than Two hundred thousand pesos (PHP 200,000.00) but not more than One million pesos (PHP 1,000,000.00) and the suspension of vessel safety certificate for six (6) months to one (1) year.

(b) Philippine ship engaged in international trade and foreign-flagged ship – One thousand US dollars (USD 1,000.00) to Four million US dollars (USD 4,000,000.00)

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 and regulations of the MPAB issued pursuant to this Act.

SEC. 39. *Automatic Adjustment of Penalties and Fines.* – The fines prescribed in this Act shall be periodically reviewed and any changes or increases will be approved by the MPAB prior to its implementation.

SEC. 40. *Clean-up Operations.* – In the event harmful substances, under Section 11 of this Act are discharged or emitted from any ship into Philippine maritime zones or into any part of the sea or waters outside Philippine maritime zones but such substances subsequently flowed or drifted into Philippine maritime zones, 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*, That 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.

Local government units affected by these discharges shall be informed and assisted by the DOTr.

SEC. 41. *Cost Liability for the Discharge or Emission of Harmful Substances.* – The owner of the ship liable for the discharge of harmful substances under Section 40 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 Section 40; 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 held 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. 42. Informer's Reward. – Any person, with the exception of officials or employees of the DOTr, DENR, LGUs, MARINA, PCG, and port authority, 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 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

Adjudication of Marine Pollution Cases

SEC. 43. Filing of Complaint. – Within a reasonable period following an apprehension, or a discovery or determination of violations under Sections 27 to 35 and 38 of this Act, appropriate complaint, with recommended fine, shall be filed with the DHO of the PCG against an owner, master, agent or manager of the ship. The DHO shall issue the Resolution on the complaint, in summary proceeding, upon receipt thereof.

All Resolutions of the DHO shall be immediately executory: *Provided*, That all resolutions of the DHO may be appealed to the MPAB within fifteen (15) days from the receipt thereof: *Provided, further*, That under exceptional circumstances, the MPAB may, at its own instance, review or determine whether the fine imposed in the Resolution of the DHO is fair to the government, and, henceforth, issue an Order imposing the appropriate fine.

Pending review or appeal of the Resolution of the DHO, the ship may be released pursuant to Section 25 of this Act when any of the following conditions are satisfied:

- (a) the ship has paid the fines imposed by the DHO;

- (b) the ship has posted adequate cash bond, insurance guarantee, or protection indemnity guarantee or a combination thereof to cover the liability of the owner, master or agent of the ship as approved by the DHO is posted with the Office of the DHO;
- (c) the ship has issued an undertaking that the fines imposed by the MPAB shall be forthwith settled in the event the MPAB determined the payment of a higher fine; and,
- (d) the ship has complied with the regulation, or employed appropriate method, device, or structural remedies that will prevent the causes of pollution as certified by the PCG.

For this purpose, the DOTr shall designate a District Hearing Officer (DHO) for each district of the PCG: *Provided*, That the person to be designated is a commissioned officer of the PCG and a Member of the Philippine Bar engaged in the practice of law for at least five (5) years: *Provided, further*, That the DHO shall have a rank with a pay grade of at least an Officer-5 upon appointment or within three (3) years following the effectivity of this Act, pursuant to the transitory guideline issued therefor by the DOTr: *Provided, finally*, That the hearing officer when acting as such shall follow the canons of judicial conduct *mutatis mutandis*.

SEC. 44. Marine Pollution Adjudication Board. - There is hereby constituted a Marine Pollution Adjudication Board (MPAB) vested with quasi-judicial powers under the Office of the DOTr Secretary. It shall be composed of the following members:

- (a) Secretary of the DOTr, or his duly authorized permanent representative, as Chairperson;
- (b) Commandant of the PCG, or his duly authorized permanent representative;
- (c) Administrator of the MARINA, or his duly authorized permanent representative;
- (d) General Manager of the PPA, or his duly authorized permanent representative;
- (e) Director of the Environmental Management Bureau of the DENR, or his duly authorized permanent representative;
- (f) A permanent representative from the Bureau of Fisheries and Aquatic Resources
- (g) A private sector representative endorsed by MARINA from the existing accredited association of master/mates and marine engineer's association
- (h) A member of the sea transport association; and,
- (i) A representative of civil society with recognized advocacy on the protection of marine environment.

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

SEC. 45. Powers and Functions. - The MPAB shall have the following powers and functions:

- (a) Review Resolutions of the DHO pursuant to Section 43 of this Act;
- (b) Conduct hearings whenever necessary, even in the absence of any party thereto who has been summoned or served with notice to appear, 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, and give all such directions as it may deem necessary or expedient in the determination of the cases before it;

- (c) Promulgate and adopt its own rules of procedure under this Chapter. It shall not be strictly bound by the Rules of Court but shall proceed to hear and decide cases 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) Summon witnesses, administer oaths, take testimony, require submission of reports, compel the production of books and documents and answers to interrogatories and issue *subpoena duces tecum* and to enforce its writs through sheriffs or other duly deputized officers;
- (e) Punish direct contempt in the same manner and subject to the same penalties as provided in the Rules of Court;
- (f) Enjoin any or all acts involving or arising from any case depending 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) Issue orders and decisions to compel compliance with the provisions of this Act and the Convention and issuances or decisions of the MPAB;
- (h) Deputize in writing or request assistance to appropriate government agencies or instrumentalities for the purpose of enforcing its decisions;
- (i) Issue an *ex parte* order directing the discontinuance of the discharge of substances the cause marine pollution, or the temporary suspension or cessation of operation of operation of the equipment, project or 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; and
- (j) Periodically review and approve the proposed changes in the fines and penalties imposed under this Act.

SEC. 46. Finality of Determination. – Any case or controversy before the MPAB shall be decided by a 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. 47. Appeals on the Judgement of MPAB. - Decision, final order or judgment of the MPAB may be appealed to the Court of Appeals under Rule 43 of the Rules of Court of the Philippine

CHAPTER 7

Miscellaneous Provisions

SEC. 48. *Ship Pollution Prevention Program.* – The DOTr, in coordination with concerned agencies and stakeholders, shall establish and lead the implementation of a ship pollution prevention program that can be funded by the MEMF to effectively and sustainably prevent pollution from ships and ensure compliance with the regulations under MARPOL. The program shall include, among others: (a) awareness building and capacity building; (b) data base development and management; (c) establishment and operation of reception facilities; (d) implementation of marine environment protection activities; and (e) research and development.

SEC. 49. *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 DOTr 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. 50. *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 DOTr.

The JCOC shall continue to 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 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. 51. *Marine Environmental Management Fund (MEMF).* – There is hereby established a Marine Environmental Management Fund (MEMF) to be administered by the DOTr. The MEMF shall be sourced from the following:

- (a) Fees, charges and fines imposed pursuant to this Act;
 - (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:

- (a) Containment, removal and clean-up operations of the PCG in all marine pollution cases under the Convention;
- (b) 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;
- (c) Capability building activities and initiatives of implementing agencies under this Act;
- (d) Ship Pollution Prevention Program; and
- (e) Marine Environment Monitoring Program to determine the effects of emissions, effluents and wastes in Philippine waters.

SEC. 52. 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. 53. 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. 54. Repealing Clause. - Paragraph (a) of Section 22 of Republic Act No. 9483, otherwise known as Oil Pollution Compensation Act is hereby repealed. Presidential Decree No. 6969, otherwise known as The Toxic Substances and Hazardous and Nuclear Wastes Control Act, and Presidential Decree No. 979, otherwise known as the Marine Pollution Control Decree of 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.

SEC. 55. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.