

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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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;

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

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

(d) *Convention* refers to:

 - (1) The International Convention for the Prevention of Pollution from Ships 1973, as amended by the Protocol of 1978 or MARPOL 73/78;
 - (2) Protocol I and II of MARPOL 73/78;
 - (3) Annexes I, II, III, IV, V and VI, their relevant appendices, any technical code referred to, as well as any amendment to any of these documents which may enter into force in accordance with the procedure referred to in Article 16 of MARPOL 73/78;
 - (4) Any subsequent protocol of and amendment to the Convention which the Philippine Government may ratify necessary to advance the purposes of this Act; and
 - (5) Any mandatory Code referred to in the Convention or any subsequent protocol to the Convention which the Philippine Government may ratify or any amendment which may enter into force in accordance with Article 16 of the Convention;

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

 - (1) Release of harmful substances directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources; or
 - (2) Release of harmful substances for purposes of legitimate scientific research on pollution abatement or control;

(f) *Dirty ballast* refers to water carried in the cargo tank;

(g) *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;

- 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 be 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

- Annex II of the Convention, and including substances listed under Annex I of the Convention;

(p) *Oily mixture* refers to a mixture with any oil content;

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

(r) *Other harmful substances* refers to any substance other than oil, noxious liquid substances, harmful substances in package form, garbage, and sewage, which, if introduced in the sea, is liable to create hazards to human health, harm living resources and marine life, damage amenities or to interfere with other legitimate uses of the sea, and includes atmospheric discharges and other substances identified as marine pollutants in the Convention, which may be subject to control pursuant to the provisions of this Act and other relevant environmental laws of the Philippines;

(s) *Owner* refers to the person registered as the owner of the ship or who assumes the operation of the ship, or, in the absence of registration, the person owning the ship or the bareboat charterer of the ship, and, in the case of a ship owned by a State and operated by a company which in that State is registered as the ship's operator, "owner" shall include State;

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

(u) *Philippine waters* refers to the internal waters, archipelagic waters, territorial seas, waters within the contiguous and exclusive economic zones;

(v) *Port state* refers to the relationship of the Philippines to a foreign flagged-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;

(w) *Sewage* refers to:

(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

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

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

132 (b) All foreign-flagged ships in Philippine waters, whether or not they are

133 registered with State parties to the Convention; and

134 (c) All other ships operating within Philippine waters: *Provided*, That the

135 provisions of the Convention setting forth technical requirements that

136 ships must meet which are inapplicable or impractical in Philippine local

137 setting may be suspended or equivalents prescribed therefor upon

138 determination by the Department of Transportation (DOT), subject to

139 public consultation: *Provided, further*, That nothing herein shall prevent

140 the enactment of any law providing for standards,

141 requirements or regulations higher than those provided for the by the

142 Convention.

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

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

152 CHAPTER 3

153 Exercise of Jurisdiction Over Ships

154 **Section 6. Powers and Functions of the Department of Transportation
(DOT).** - The DOT shall be the principal government agency responsible for the
155 overall implementation and enforcement of this Act and any requirement of the
156 Convention. For this purpose, the Secretary of the DOT shall exercise the following
157 general powers and functions:

- 159 (a) Oversee the implementation of this Act and coordinate the efforts
160 of concerned agencies;
- 161 (b) Formulate a comprehensive program to prevent or minimize
162 marine pollution from ships in coordination with the Department
163 of Environment and Natural Resources (DENR), the Department
164 of Agriculture (DA), the Department of Interior and Local
165 Government (DILG), the Department of Energy (DOE), port
166 authorities and other relevant agencies and stakeholders;
- 167 (c) Constitute the Marine Pollution Adjudication Board (MPAB);
- 168 (d) Reorganize or streamline the functions of its different line, staff,
169 and attached or bureaus, authorities, or agencies for purposes of
170 the effective and efficient implementation of the provisions of this
171 Act; and
- 172 (e) Exercise powers and perform other functions as may be necessary
173 to carry out its duties and responsibilities under this Act.

174 **Section 7. Powers and Functions of the Maritime Industry Authority**

175 **(MARINA)** - The MARINA shall have the sole and exclusively authority and
176 responsibility to ensure that environmental and pollution regulations and standards
177 for the construction and equipment of Philippine vessels, before they are allowed to
178 fly the Philippine flag, and/or as part of their registration, are complied with. For this
179 purpose, the MARINA shall have the following duties and functions:

- 180 (a) Ensure that all Philippine ships are constructed and equipped
181 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) Accredit, 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;

- (i) Inform the complainant and the IMO of the results of the investigation and any action taken against the ship operator of the Philippine ship in respect of any alleged violation;
 - (j) Deny entry of a foreign-flagged ship to any Philippine port or terminal facility if it fails to comply with the requirements of the Convention;
 - (k) Coordinate with, and inform, the diplomatic representative of the State, or the flag state administration, of any violation of the foreign ship and any action taken against the ship;
 - (l) Inspect, verify and investigate a ship if it has discharged any harmful substance into the marine environment under any of the following circumstances:
 1. It has reasonable grounds to believe that a discharge has occurred in Philippine waters;
 2. It receives a report from another coastal State; or
 3. It receives a request from the flag State.
 - (m) Forward the report of any violation committed by the ship, with respect to any discharge of harmful substances into marine environment, to the ship's flag state administration, together with any evidence it may have;
 - (n) Immediately inform any affected coastal State of the discharge;
 - (o) Ensure that the ship is not unduly delayed or detained;
 - (p) 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;
 - (q) 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;
 - (r) Require all ships and aircrafts registered under the Philippine flag to immediately report any marine casualty witnessed while navigating;

- (s) Upon inquiry or investigation, cause or recommend regulatory or other appropriate actions to be taken in connection with any violation of the provisions of this Act;
 - (t) Cooperate with the government of other States which are members of 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, 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 aimed at developing public awareness of the health hazards and other adverse effects of ship pollution;
 - (w) Administer the MEMF;
 - (x) 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
 - (y) Exercise powers and perform other functions as may be necessary to carry out its duties and responsibilities under this Act.

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;

- 347 (d) The floating crafts, drilling rigs and fixed or floating platforms, and
348 vessels which primarily operate or undertake business, commercial, or
349 industrial activities while anchored, the DENR shall enforce, in
350 coordination with the PCG, the applicable provisions of Presidential
351 Decree No. 1586, otherwise known as the Environmental Impact
352 Statement System law; Republic Act No. 8749, otherwise known as the
353 Philippine Clean Air Act of 1999; and Republic Act No. 9275, otherwise
354 known as the Philippine Clean Water Act of 2004; and
355 (e) Monitor, in coordination with the PCG, hazardous and radioactive wastes
356 being transported by ships in the country, and prevent the disposal
357 thereof and/or the entry of ships carrying the same.

358

359 CHAPTER 4

360 **Prevention of Pollution From Ships**

361 **Section 10. Prohibition of Discharge or Emission of Harmful Substances.**

362 – It shall be unlawful for any person to discharge or emit the following substances
363 from any Philippine ship, or from any other ship while it is within Philippine waters:

- 364 (a) Oil, whether carried as cargo or as bunker;
365 (b) Oily mixture, whether generated from cargo operations or from
366 machinery spaces;
367 (c) Noxious liquid substances carried in bulk;
368 (d) Harmful substances in packaged form;
369 (e) Sewage;
370 (f) Garbage; and
371 (g) Other harmful substances, whether generated during the operation of the
372 ship or not.

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

- 374 (1) The discharge or emission is necessary for the purpose of securing the
375 safety of a ship and those on board or saving life at sea; or
376 (2) The discharge result from unintentional damage to the ship or its
377 equipment, and all reasonable precautions have been taken after the
378 occurrence of the damage or the discovery of the discharge, unless the
379 master, owner or agent of the ship acted either with intent to cause

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

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

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

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

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

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

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

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 nor. For this purpose:

- (a) Every oil tanker which is one hundred fifty (150) gross tonnage or more and every ship, other than an oil tanker which is four hundred (400) gross tonnage or more shall be provided with, and shall be required to maintain, an Oil Report Part I for Machinery Space Operations in accordance with the requirements of the Convention;

- (b) Every oil tanker which is one hundred fifty (150) gross tonnage or more shall be provided with, and shall be required to maintain, an Oil Record Book Part II for Cargo/Ballast Operations in accordance with the requirements of the Convention;
 - (c) Every chemical tanker shall be provided with, and shall be required to maintain, a Cargo Record Book in accordance with the requirements of the Convention; and
 - (d) Every ship which is four hundred (400) gross tonnage or more and every ship which is certified to carry fifteen (15) persons or more shall be provided with, and shall be required to maintain a 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
equipped with facilities to meet the needs of ships for the reception of their oily
wastes, oily mixtures, dirty ballast, tank washing water, noxious liquid substances,
garbage, ozone depleting substances, and equipment containing these
substances, and for cleaning of exhaust gases in consonance with this Act and the
international requirements on the Convention.

433 For this purpose, port authorities shall : (a) determine and establish the most
434 effective and efficient means for meeting internationally –accepted requirements with
435 respect to reception facilities in public and private ports without causing such ships
436 undue delay; (b) formulate and implement an integrated waste management system
437 for the use and operation of reception and treatment facilities in coordination with
438 the DENR and the PCG; and (c) coordinate with the DENR and concerned local
439 government units (LGUs) on the proper handling and disposal of wastes collected at
440 ports.

441 Port authorities may accredit or enter into agreements with private entities
442 in relation to the establishment and operation of reception and treatment facilities
443 upon verification of compliance with standards established for said facilities by the
444 DENR and PCG.

445

446 *SEC. 14. Use of Reception Facilities.* – All ships entering or availing the
447 services of ports, terminals and repair reports shall use reception facilities established

448 pursuant to the immediately preceding section, subject to the integrated waste
449 management system to be established by port authorities.

450

451 ***SEC. 15. Denial of Entry.*** – Should there be a probability that a foreign-
452 flagged ship has violated or may violate the requirements of this Act, or the rules and
453 regulations promulgated therefor, the ship may be denied entry to any port in the
454 Philippines.

455

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

- 458 (a) The fine or fines imposed on ship, owner or operator of the ship pursuant to
459 Chapter 5 of this Act, except those imposed for violations of administrative
460 regulations under Sections 127, 28 and 29 of this Act, have not been paid;
- 461 (b) The condition of the ship does not substantially correspond with what is stated
462 in the ship's certificates;
- 463 (c) The ship does not hold valid ship certificates;
- 464 (d) There are reasonable or probable grounds to believe that:
465 (1) the ship incurred a pollution cost liability under Section 33 of this Act;
466 (2) the ship violated any of the requirements of this Act or rules and
467 regulations promulgated therefore; and
468 (3) the ship caused harm or damage or exhibited a reasonable environmental
469 threat to the marine environment.

470

471 A ship detained under paragraph (d) of this section may be released after the
472 owner of the ship posts with the Marine Pollution Adjudication Board (MPAB)
473 established under Section 35 of this Act, an adequate cash bond, insurance guaranty,
474 or protection indemnity guaranty or a combination thereof, as approved by the
475 MPAB, to cover the liability of the owner, master or agent of the ship under this Act.

476

CHAPTER 5

FINES, PENALTIES, AND LIABILITIES

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

482 Chapter, or the Philippine Clean Air Act and the Philippine Clean Water Act,
483 whenever applicable, shall be imposed by the MPAB established pursuant to Section
484 35 of this Act.

485

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

490

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

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

496

497 (1) For oil or oily mixture under paragraphs (a) and (b) of Section 10 of
498 this Act – not less than Two Hundred Thousand Pesos (Php
499 200,000.00) but not more than Ten Million Pesos (Php10,000.00);

500 (2) For noxious liquid substances or harmful substances in packaged form
501 under paragraphs (c) and (d) of Section 10 of this Act – not less than
502 Two Hundred Thousand Pesos (Php200,000.00) but not more than Ten
503 Million Pesos (Php10,000,000.00);

504 (3) For sewage or garbage under paragraphs (e) and (f) Section 10 of this
505 Act- not less than Fifty Thousand Pesos (Php50,000.00) but not more
506 than Two Million Pesos (Php2,000,000.00); and

507 (4) For other harmful substances as defined in this Act – not less than
508 Two Hundred Thousand Pesos (Php200,000.00) but not more than Ten
509 Million Pesos (PHP10,000,000.00).

510

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

512 (1) For oil or oily mixture under paragraphs (a) and (b) of Section 10 of
513 this Act not less than Fifty Thousand US dollars (US\$50,000) but not
514 more than Five Million US dollars (US\$5,000,000), or its equivalent
515 in Philippine pesos;

- (2) For noxious liquid substances or harmful substances in packaged form under paragraphs (c) and (d) of Section 10 of this Act – not less than 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 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

550 Thousand Pesos (Php10,000.00) but not more than Five Hundred Thousand Pesos
551 (Php500,000.00): *Provided*, That disposal of oil in reception facilities shall be
552 required upon determination by the PCG.

553

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).

559

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).

566

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).

572

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:

576

577 (Php10,000.00) but not more than One Million Pesos
578 (Php1,000,000.00); and
579 (b) Foreign-flagged ship – Not less than Five Million US dollars
580 (US\$5,000,000.00), or its equivalent in Philippine pesos.

581

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

584 the fines stipulated under Section 18. Likewise, it shall be made liable to pay an
585 additional fine of not less than Ten Thousand Pesos (Php10,000.00) but not more
586 than Two Hundred Thousand Pesos (Php200,000.00) for every day or part thereof
587 during which the violation continues to be committed.

588

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).

593

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

598

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

605

606 *SEC. 29. Violations of Administrative Regulations.* – Any person who
607 commits or omits acts in violation of rules and regulations issued by concerned
608 agencies pursuant to this Act, unless the violations are otherwise covered under
609 Section 19 to 28 hereof, shall be liable to the following fines:

610

(a) First violation – a fine of not less than One Thousand Pesos

611

(Php1,000.00) but not more than One Hundred thousand Pesos
(Php100,000.00);

613

(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

616

(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,

652 tourist and fishing industries, public and private properties: *Provided*, The necessary
653 initial cleanup and containment shall be made by the owner of the ship which
654 discharged or cause the discharge of such harmful substances.

655

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

- 659 (a) Reasonable expenses that the PCG and other agencies concerned
660 may reasonably undertake or has undertaken pursuant to the
661 immediately preceding section; and
662 (b) Environmental damages and/or other reasonable measures taken
663 for environmental rehabilitation.

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

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

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

673

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

682

CHAPTER 6

683

Marine Pollution Adjudication Board

684

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 the 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.

760 ***SEC. 37. Finality of Determination.*** – Any case or controversy before the
761 MPAB shall be decided by majority of all its members within thirty (30) days after it
762 is submitted for resolution. Only one (1) motion for reconsideration shall be
763 allowed. Unless as appeal is perfected and a cash bond equivalent to the fine
764 imposed is deposited, any order, decision or ruling issued by the MPAB shall be final
765 and executory.

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

CHAPTER 7

Miscellaneous Provisions

774 ***SEC. 39. Ship Pollution Prevention Program.*** – The DOT, in coordination with
775 concerned agencies and stakeholders, shall establish a Prevention of Ship Pollution
776 Program to enhance government implementation of this Act particularly on: (a)
777 awareness building and capacity building; (b) data banking; (c) development of
778 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 or 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

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

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

829 The MEMF shall be utilized for the following activities:

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

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

844
845 **SEC. 44. Separability Clause.** - In the event that any provision of this Act is
846 declared unconstitutional, the validity of the remainder shall not be affected thereby.

847
848 **SEC. 45. Repealing Clause.** - The fifth paragraph of Section 28 of the
849 Philippine Clean Water Act and Section 22 of the Oil Pollution Compensation Act
850 are hereby repealed. The Toxic Substances and Hazardous and Nuclear Wastes
851 Control Act, the Marine Pollution Control Decree of 1974 and 1976 are hereby
852 amended and modified accordingly. All laws, decrees, rules and regulations and
853 executive orders contrary to or inconsistent with this Act are hereby repealed or
854 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,