

SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

HOUSE BILL NO. 456

HOUSE OF REPRESENTATIVES	
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REGISTRATION UNIT BILLS AND INDEX SERVICE	

Introduced by ANGKLA Party-list Representative JESULITO A. MANALO

**An Act Providing For a Maritime Code for the
Full and Effective Implementation and Enforcement of
The International Convention for the Safety of Life at Sea, 1974 and its
Protocol of 1988,
The International Convention for the Prevention and Pollution from Ships,
1973, its Protocol of 1978 and its Protocol of 1997,
The Convention on the International Regulations for Preventing Collisions at
Sea 1972,
The International Convention on Load Lines 1966 and its Protocol of 1988, as
amended in 2003,
The International Convention on the Tonnage Measurement of Ships 1969,
And for Other Purposes**

EXPLANATORY NOTE

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

volunteered for, showed as one of its findings, the inability of the Philippines to effectively implement and enforce international maritime conventions.

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

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

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

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

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


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

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

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

commitments of the Philippines when it ratified the original conventions and partake the nature of executive agreements.

Early passage of this bill is recommended.



JESULITO A. MANALO
Party-list Representative
ANGKLA Party-list

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

**Chapter I
General Provisions**

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

Section 2. *Scope of the Act.* - Unless otherwise indicated, this Act shall apply to:

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

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

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

Section 3. *Purposes of the Act.* -

a. To ensure full and effective implementation and enforcement of the following conventions of the International Maritime Organization on all ships covered by this Act:

1. The International Convention for the Safety of Life at Sea, 1974 and its Protocol of 1988 (SOLAS 74);
2. The International Convention for the Prevention and Pollution from Ships, 1973, its Protocol of 1978 and its Protocol of 1997 (MARPOL 73/78);
3. The Convention on the International Regulations for Preventing Collisions at Sea 1972 (COLREGS);
4. The International Convention on Load Lines 1966 and its Protocol of 1988, as amended in 2003 (LOAD LINES);
5. The International Convention on the Tonnage Measurement of Ships 1969 (TONNAGE); and
6. All other international instruments, recommendations and guidelines implementing or applying these conventions.

b. To provide for a platform for the adoption of regulations implementing the technical annexes, provisions and requirements of these international conventions as well as future amendments to such technical provisions and requirements as the State Parties to these Conventions may adopt from time to time;

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

d. To provide for the framework by which it may consistently carry out its obligation to conduct port State control inspections on ships of other States, whether parties to the Conventions or not, when these are within the waters, ports, harbors and offshore terminals of the Philippines.

Section 4. *Powers and functions of the MARINA.* - For purposes of this Act, the MARINA shall have the following powers and functions which shall be in

addition to its mandate under Presidential Decree No. 474 and Executive Orders Nos. 125 and 125-A series of 1987 as amended:

a. Act as the single and central maritime administration, and exercise all powers and functions relative to the compliance with, and effective implementation and enforcement of, the following international conventions of the International Maritime Organization:

1. The International Convention for the Safety of Life at Sea, 1974 and its Protocol of 1988 (SOLAS 74);
2. The International Convention for the Prevention and Pollution from Ships, 1973, its Protocol of 1978 and its Protocol of 1997 (MARPOL 73/78);
3. The Convention on the International Regulations for Preventing Collisions at Sea 1972 (COLREGS);
4. The International Convention on Load Lines 1966 and its Protocol of 1988, as amended in 2003 (LOAD LINES);
5. The International Convention on the Tonnage Measurement of Ships 1969 (TONNAGE); and
6. All other international instruments, codes, recommendations, procedures, and guidelines implementing or applying these conventions.

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

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

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

e. Determine the minimum standards and requirements, and issue rules and regulations applicable to particular types of ships, considering their size, type, motive capacity, trading limits and other physical and technical attributes without deviating in any material degree from the requirements of the Conventions;

f. Determine which ships shall be excluded or exempted from the coverage of relevant regulations, and establish equivalent technical standards where

appropriate in consideration of the ship's size, type, motive capacity, or trading limits without compromising the safety of the ship, the crew, passengers and cargo, and without exposing the marine environment to the risk of damage from ship-sourced pollution;

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

h. Where applicable, delegate authority through a written formal agreement setting forth the extent of the delegated authority to allow for the initial and periodic inspections, surveys and certification of ships in the Philippine registry to a duly accredited recognized organization;

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

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

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

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

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

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

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

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

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

r. Act as competent authority to the International Maritime Organization (IMO);

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

Section 5. *Power to adopt regulations to conform to amendments to international maritime conventions.* - The MARINA with the concurrence of the Department of Transportation, through its Secretary, shall recommend to the Department of Foreign Affairs the adoption of international maritime conventions so that the appropriate recommendation can be made, and the relevant instrument of ratification may be issued by the President and the concurrence of the Senate of the Philippines may be obtained; Provided that in the case of any subsequent amendment to any technical annex of any existing international convention or treaty to which the Philippines is already a party and which is deemed accepted by the State Parties to the Convention after the lapse of the specified time, the MARINA is hereby empowered and authorized to amend and revise its rules and regulations to conform with the amendments to the relevant convention or treaty without need of further legislative or executive authorization.

Section 6. *Reorganization of the MARINA.* - To ensure the proper implementation and enforcement of the Conventions, the Maritime Industry Board

constituted through Presidential Decree NO. 474 is hereby authorized to reorganize the MARINA and create such additional offices and positions necessary to address the requirements of the Conventions. For this purpose, Presidential Decree No. 474 creating the MARINA and Executive Orders Nos. 125 and 125-A series of 1987 are hereby amended accordingly.

Section 7. *Appropriations.* - The Secretary of Transportation, through the MARINA, shall immediately include in its programs the operationalization requirement of the services created for the effective implementation of the Conventions, the initial funding of which shall be charged against the savings or current year's appropriations of the Authority. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

Section 8. *Implementing Rules and Regulations.* - The MARINA shall issue the implementing rules and regulations for each of the Conventions within six (6) months from the effectivity hereof.

Section 9. *Transitory Provisions.* - All ship certificates issued prior to the effectivity of this Act shall be deemed valid and effective without necessity of revalidation or reissuance until the respective dates of expiration as stated in such certificates unless sooner revoked for cause by the MARINA. Thereafter, new certificates shall be issued in accordance with the implementing rules and regulations issued pursuant to this Act, in conformity with the requirements of the relevant Convention.

Section 10. *Severability Clause.* - If, for any reason, any section, subsection, clause or term of this Act is held to be illegal, invalid, or unconstitutional, such parts not affected by such declaration shall remain in full force and effect.

Section 11. *Amendatory Clause.* - The provisions of Presidential Decree No. 474 and Executive Order No. 125 and 125-A series of 1987 which are otherwise inconsistent with the provisions of this are hereby amended or repealed. All existing laws, orders, decrees, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby amended, modified or repealed accordingly.

Section 12. *Effectivity Clause.* - This Act shall take effect fifteen (15) days from its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,