

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 1139

Introduced by **MAGDALO Party-List Representative**
HON. GARY C. ALEJANO

EXPLANATORY NOTE

Various factors can provide explanation why accidents at sea are common in the Philippines. Apart from storms and typhoons, negligence and unsafe state of passenger vessels play crucial role in these accidents.

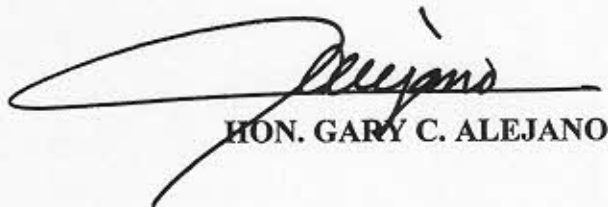
According to government records, the country has a very poor maritime safety record with an average of more than 200 accidents every year. Sea accidents in the past have been blamed specifically on overloaded and poor maintenance of ships or ferries, lack of warning about bad weather and ship's crew incompetence.¹¹

In the country, under Republic Act No. 5173, the Philippine Coast Guard (PCG) was created and mandated particularly to inspect and approve vessels for operation, and enforce provisions for the safety of life and property on vessels. The Domestic Shipping Development Act of 2004 (R.A. 9295), however, provided for the complete transfer of these functions to the Maritime Industry Authority (MARINA).

Although the recently-passed Philippine Coast Guard Law of 2009 or Republic Act No. 9993 gave the PCG the authority to conduct inspections on all merchant ships and vessels to ensure compliance with ship safety standards, the said law did not provide for clear-cut provisions regarding ship safety inspection services and penalties concerning the same.

This bill puts the maritime safety administration in the right perspective by giving the responsibility of ship safety inspection solely to the PCG, with the end in view of preventing the loss of thousands of lives and property caused by sea accidents every year, and putting a halt on the blaming game among government agencies.

In view of the foregoing, approval of this bill is highly recommended.


HON. GARY C. ALEJANO

HOUSE OF REPRESENTATIVES

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DATE: 05 JUL 2016

TIME: 3:20 P

BY: [Signature]

REGISTRATION UNIT
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¹¹ Asia-Pacific Features. *Ferry sinking highlights spotty safety in Philippines*, Jun 23, 2008. Data retrieved at <http://www.monstersandcritics.com/news/asiapacific/features> on 6/26/2013.

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AN ACT

TO RESTORE THE PHILIPPINE COAST GUARD (PCG) OF ITS AUTHORITY AND RESPONSIBILITY TO PERFORM SHIP SAFETY INSPECTION SERVICES AND CARRY OUT OTHER SHIP SAFETY ENFORCEMENT FUNCTIONS, AMENDING FOR THIS PURPOSE REPUBLIC ACT NUMBERED 9993, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER PURPOSES

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

1 **SECTION 1. *Short Title.*** - This Act shall be known as the "*Maritime Safety Act of*
2 *2016.*"

3
4 **SEC. 2. *Declaration of Policy.*** - It is hereby declared the policy of the State to adopt
5 measures that ensure safe and convenient sea travel and/or transport.

6
7 **SEC. 3. *Definition of Term.*** As used in this Act, ship or vessel shall refer to:

- 8 a) any kind, class or type of craft or artificial contrivance capable of floating in water,
9 designed to be used, or capable of being used as means of water transport under the
10 maritime jurisdiction of the Philippines for the purpose of transporting passengers
11 and/or cargo, for fishing and other commercial purposes utilizing its own motive
12 power or that of another;
- 13 b) a vessel of any type whatsoever not permanently attached to the sea-bed, including
14 dynamically supported craft, submersibles, or any other floating craft.

15
16 **SEC. 4. *Objectives of the Act.*** - This Act shall have the following objectives:

- 17 a) to ensure the safe and responsible operation of vessels within the maritime
18 jurisdiction of the country;
- 19 b) to promote the safety of life and property at sea .and to protect all users of the sea
20 within the marine jurisdiction of the country;

- 1 c) to authorize the Philippine Coast Guard to undertake the enforcement activities prior
2 to a ship's departure, and while the ship is under way; and
3 d) to provide for the investigation of marine accidents and for appropriate action
4 following any such investigation.
5

6 **SEC. 5. Authority and Responsibility of Performing Ship Safety Inspection Services.-**

7 The Philippine Coast Guard (PCG) shall be restored of its authority and responsibility to perform
8 ship safety inspection services, issuance of Special Permit to carry dangerous cargoes/goods,
9 performance of ship safety enforcement functions and marine casualty investigation for
10 Philippine-registered ships engaged in domestic operations.
11

12 **SEC. 6. Ship Safety Inspection Services/Functions.** - The PCG, in order to promote
13 safety of life and property at sea and to protect all users of the sea within the marine jurisdiction

- 14 a) Comprised by the assessment of Philippine-registered ships engaged in domestic
15 trade, inspection services shall be conducted by the PCG prior to the issuance of ship
16 safety certificates, in order to determine the compliance of such ships with applicable
17 requirements of national laws, rules and regulations and international conventions:
18 Provided, That said laws, rules and regulations and international conventions are
19 within the jurisdiction of the PCG: Provided, further, That such laws, rules and
20 regulations pertain to ship safety standards;
21 b) Authorization to perform ship safety inspection services shall be based on ships home
22 ported in areas covered by the concerned maritime district or unit office of the PCG;
23 c) All ship safety certificates shall be issued by the PCG to those ships that have
24 undergone inspection;
25 d) The PCG shall issue Special Permit to carry dangerous cargoes/goods on board
26 Philippine registered ships engaged in domestic trade.
27

28 **SEC. 7. Enforcement Functions.** - The PCG shall have the authority and responsibility
29 in the following enforcement activities prior to a ship's departure, and while the ship is under
30 way:

- 31 a) Verify the validity of ship and crew documentation prior to ship's departure;
32 b) Verify compliance with all the terms and conditions of the Certificate of Public
33 Convenience (CPC), or CPC Exemption, specifically:
34 1) Approved routing patterns;
35 2) Validity of passenger insurance policy; and
36 3) Maximum authorized passenger capacity through head counting in case
37 there is clear indication of overloading/overcrowding.
38 c) Serve copies of issued Cease and Desist Order (CDO) to the Master of the ship and to

1 enforce the same;

2 d) Undertake mandatory pre-departure inspection in accordance' with PCG
3 Memorandum Circular Nos. 04-98 and 03-96, and their subsequent amendments;

4 e) Issue Maritime Violation Receipt (MVR) to the Master of the ship who fails to
5 comply with the provisions of relevant laws, rules and regulations on vessel safety.
6 When the violation warrants detention of the ship, the PCG shall request the
7 Philippine Ports Authority in writing, together with a copy of the MVR, to deny
8 departure clearance of the ship in accordance with Executive Order No. 493;

9 f) Receive, accept and forward copy of Master's Oath of Safety Departure (MOSD) to
10 the First Party on a monthly basis.

11
12 **SEC. 8. *Weather Forecasting Mechanism.*** - All ships shall be required to have their
13 own weather forecasting equipment, which shall provide real time weather information and shall
14 be independent from that of the PAGASA. Each master of the ship shall conduct proper training
15 to the ship's crew for the operation and utilization of the said equipment.

16
17 **SEC. 9. *Responsibility for Excess Passengers.*** - The responsible ship safety inspector,
18 who, in performance of his or her duty, allowed a domestic vessel to depart port, shall be held
19 accountable for every passenger in excess of the actual physical capacity of the said vessel, and
20 shall be subject to a corresponding penalty as listed in Section 13 of this Act.

21
22 **SEC. 10. *Responsibility for Excess Gross Tonnage.*** - The responsible ship safety
23 inspector shall be held accountable for every gross tonnage in excess of the actual physical
24 capacity of every domestic vessel which the said officer, in the performance of his/her duty,
25 allowed to depart port. Said erring inspector shall be subject to a corresponding penalty as listed
26 in Section 13 of this Act.

27
28 **SEC. 11. *Administrative Powers in Marine Casualties or Incidents.*** - The PCG, with its
29 function to investigate and inquire into the causes of marine accidents and casualties and marine
30 pollution incidents, shall determine appropriate administrative liabilities, fines, and penalties of
31 responsible parties. It may promulgate policies, rules and regulations necessary for the conduct
32 of the same. It shall be recognized that:

33 a) the PCG has the power and authority to hear and adjudicate any complaint made in
34 writing involving any violation of Republic Act No. 9295 or the Domestic Shipping
35 Act;

36 b) under Republic Act No. 5173, P.O. No. 601 and the 1976 Philippine Merchant
37 Marine Rules and Regulations, the PCG has the power and authority to convene the
38 Board of Marine Inquiry and Special Boards of Marine Inquiry;

- 1 c) the jurisdiction of the Board of Marine Inquiry is to conduct administrative hearings
2 to determine the causes of marine casualties or incidents upon receipt of a marine
3 protest and to review on appeal the results and findings of Special Boards of Marine
4 Inquiry;
- 5 d) the jurisdiction of the Special Boards of Marine Inquiry is to conduct administrative
6 hearings to determine the causes of marine casualties in their geographical areas of
7 jurisdiction.

8

9 **SEC. 12. *Ship Safety Inspection Services.*** - The designated ship safety inspectors of the
10 PCG shall meet the qualification requirements prescribed for ship safety inspectors under the
11 existing ship safety inspection system. Such qualified ship safety inspectors shall be fully
12 familiar with the pertinent safety rules and regulations for domestic ships, and undergo
13 orientation/training on ship safety inspection.

14 All inspectors of the PCG performing ship safety inspection services at locations outside
15 100 kilometer radius from their official stations shall be provided reimbursement of travel
16 expenses in accordance with Executive No. 298, subject to the usual accounting and auditing
17 rules and regulations.

18 In the conduct of ship safety inspection services by the PCG in areas within 100
19 kilometer radius from the official stations of their inspectors, a reasonable amount to cover
20 gasoline expenses, supported by official receipts shall be allowed for reimbursement, as
21 authorized by a valid travel order issued for the purpose.

22

23 **SEC. 13. *Penalties for Specific Violations.*** - Loss of lives and properties resulting from
24 a ship safety inspector's violation of this Act shall be punished accordingly.

- 25 a) Simple negligence - This shall be punishable by imprisonment of six (6) months to one
26 (1) year at the discretion of the court;
- 27 b) Gross dereliction of duty - This violation shall be punishable by imprisonment of one
28 (1) year to three (3) years at the discretion of the court;
- 29 c) Abandonment of post - This shall be punishable by imprisonment of three (3) years 6
30 to six (6) years at the discretion of the court;
- 31 d) Excess Passengers - This violation shall be punishable by imprisonment of one (1) year
32 to three (3) years for every passenger in excess of the actual physical capacity of the
33 vessel, at the discretion of the court;
- 34 e) Excess Gross Tonnage - This shall be punishable by imprisonment of (3) years to six
35 (6) years for every gross tonnage in excess of the actual physical capacity of the
36 domestic vessel being allowed to depart port, at the discretion of the court;
- 37 f) Payment of damages to commercial vessels operators/owners - In case a commercial
38 vessel does not sail due to failure of the designated ship safety inspectors of the PCG to

1 perform their duty, the assigned officers and/or inspectors for operational and random
2 inspections shall pay the actual damage to the said commercial vessel.

3
4 **SEC. 14. General Penal Clause.** - Any other violation of this Act by any person shall be
5 punished with a fine of not less than One hundred thousand pesos (P100,000.00) nor more than
6 Five hundred thousand pesos (P500,000.00) or by imprisonment of six (6) months to five (5)
7 years or both at the discretion of the court: Provided, That, in case the violation is committed by
8 an association or corporation, the penalty herein prescribed shall be imposed on the responsible
9 officers or directors thereof: Provided, further, That, nothing in this Act shall prevent the PCG
10 from providing administrative penalties for violation of any regulation that it promulgates.

11
12 **SEC. 15. Appropriation.** - The funds needed for this purpose shall be taken from the
13 appropriations of the Department of Transportation and Communication. Thereafter, such
14 amount necessary for the implementation of this Act shall be included in the annual General
15 Appropriations Act.

16
17 **SEC. 16. Separability Clause.** -If any provision of this Act shall at any time be found to
18 be unconstitutional or invalid, the remainder thereof not affected by such declaration shall
19 remain in full force and effect.

20
21 **SEC. 17. Repealing Clause.** - All laws, decrees, rules or regulations inconsistent with the
22 provisions of this Act are hereby repealed or modified accordingly.

23
24 **SEC. 18. Effectivity Clause.** - This Act shall take effect after fifteen (15) days following
25 its complete publication in two (2) newspapers of general circulation.

Approved,