

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 738



Introduced by MARINO Party-list Representative
SANDRO L. GONZALEZ

AN ACT
REGULATING HARBOR PILOTAGE SERVICES AND THE CONDUCT OF
HARBOR PILOTS IN ALL PORTS IN THE PHILIPPINES, AND FOR OTHER
PURPOSES

EXPLANATORY NOTE

No ship may dock in a harbor without the guidance provided by a skilled harbor pilot. Thus, the service these harbor pilots perform is of critical importance in developing a modern maritime industry which facilitates the safe and efficient transfer of people and goods from one port to another.

At present, this essential service is regulated on the basis of Presidential Decree 85, which has not stopped complaints from being raised on matters such as the quality of the pilotage service provided, the lack of proper equipment for pilotage, the overcharging of fees, and collection of unauthorized fees. To bring the regulation of harbor pilotage to world standards, a new law is necessary which will modernize pilotage as it is performed in the country.

This proposed Act will strengthen the role of the Philippine Ports Authority in regulating pilotage, define the requirements for appointment as a harbor pilot, and specify when a ship must procure pilotage services to comply with safety requirements of a modern maritime industry.

In view of the foregoing, the early passage of this proposed measure is highly recommended.

A handwritten signature in black ink, appearing to read "Sandro L. Gonzalez", written over a light gray rectangular background.

SANDRO L. GONZALEZ
Representative
MARINO Party-list

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

SECTION 1. Short Title. -This Act shall be known as the “**Pilotage Act of 2022**”

Sec. 2. Scope. - This Act shall apply to all harbor pilots and pilotage organizations providing pilotage services in all ports in the country, whether owned by the government or by private persons.

Sec. 3. Policy and Objectives. - It is hereby recognized by the State that pilotage service plays a vital and complementary role in the efficient operation of ports and the protection of marine environment. It is therefore the policy of the State to regulate, and supervise pilotage services and the conduct of pilots in all ports in the country to attain the following objectives:

- (a) To ensure safety at all times of properties, port facilities, vessels, cargoes and other port users;
- (b) To ensure effective and efficient delivery of pilotage services through rationalization of pilotage fees and charges;
- (c) To encourage healthy and friendly environment among active harbor Pilots;
- (d) To ensure the safety of life and property at sea, and the protection of marine environment;
- (e) To upgrade the skills and qualifications of harbor pilots to promote and develop professionalism among their ranks;

Sec. 4. Definition of Terms. - For the purpose of this Act, the words and phrases used herein shall be defined as follows:

- (a) **Appointment** refers to a designation by the Port Authority granted to a harbor pilot to exercise his profession and render pilotage service in a particular harbor pilotage district;
- (b) **Administration** refers to the Maritime Industry Authority (MARINA) which issues the Pilotage License after examination for a particular Pilotage district.

- (c) **Port Authority** refers to the Philippine Ports Authority (PPA) and other port authorities created under a special charter, including the ports within the economic zones and autonomous regions, having exclusive jurisdiction, supervision and control over port operation and management in a specific port in the Philippines;
- (d) **Harbor Pilot** refers to a duly licensed Master Mariner, who is not part of the regular complement of the vessel, taken on board at a particular place, and tasked to efficiently and effectively perform pilotage service within a specific pilotage district;
- (e) **Harbor Pilotage District** refers to the territorial area including all inland waters, channels, waterways, anchorages, navigable tributaries as well as port, wharves, pier, jetties delineated by latitude and longitude.
- (f) **Pilotage License** refers to the license granted by the Administration to a Master Mariner to exercise his profession and to render pilotage services in that particular pilotage district;
- (g) **Pilotage Organization** refers to an association of Harbor Pilots duly established for a particular Harbor Pilotage District as defined in this act;
- (h) **Pilotage Service** refers to the act of conducting, navigating or maneuvering a vessel to/from berth or anchorage, along rivers, channels and estuaries, including all related activities thereof;
- (i) **Recognized Umbrella Organization of Harbor Pilots** refers to a national federation or association of harbor pilots, the membership of which comprises the majority of the duly licensed harbor pilots in the Philippines duly registered with the Securities and Exchange Commission, Cooperative Development Authority or the concerned regulatory body.
- (j) **Recognized Umbrella Organization of Ship Agents** refers to a national federation or association of ship agents the membership of which comprises the majority of the ship agents in the Philippines duly registered with the Securities and Exchange Commission, Cooperative Development Authority or the concerned regulatory body.

Sec. 5. Powers and Functions of the Port Authority. – The Port Authority shall have the following powers and functions:

- (a) Exercise administrative control, regulation and supervision on pilotage and conduct of pilots in port districts under its jurisdiction;
- (b) Establish, determine and adjust rates and fees for harbor pilotage services by taking into account the current rate structure, tonnage of vessels, peculiarity and intrinsic characteristic of each port and harbor and such other important factors: Provided, That no imposition or adjustment shall be made without prior consultation with the Harbor Pilots and concerned Shipowners in a public hearing called for the purpose.
- (c) Conduct regular consultative meetings with duly established pilotage organizations and duly appointed harbor pilots in relation to improvement of services, upgrading of pilot facilities, rate restructuring and such other related concerns;
- (d) Determine and appoint the number of harbor pilots needed in a particular pilotage district in the case of PPA and in a particular port in the case of independent port authorities upon due consultation with the concerned pilotage district;
- (e) Ensure the efficient and fair handling of appointment of harbor pilots; suspend or cancel the appointment of harbor pilots for just cause, giving due notice to affected parties and after proper hearing;
- (f) Grant and issue pilotage appointment to harbor pilots;
- (g) Cancel or suspend the license of harbor pilots for any act in violation of the provisions of this Act;

- (h) Establish a comprehensive training program for pilot applicants before their final appointment as Harbor Pilots in their respective Pilotage District, and such additional and continuing pilotage education developed in cooperation with the national and local pilotage associations.
- (i) Adopt rules and regulations necessary for the enforcement and administration of pilotage operations and conduct of pilots;

Sec. 6. Establishment of Harbor Pilotage District. – Pilotage Districts shall be established throughout the Philippines to be known by the name of the principal port embraced within its limits. The Port Authority shall determine the number of pilots in a given pilotage district, and may increase or decrease the same when necessary or expedient for the purpose of providing an adequate and efficient pilotage service, economic viability and upon prior consultation with the Harbor Pilots of the concerned Pilotage District. The Philippine Ports Authority shall exercise general jurisdiction over all Pilotage Districts, except when a specific port or anchorage is under the jurisdiction of another Port Authority by Special Charter or is otherwise, located in a declared autonomous region.

Sec. 7. Provision of Pilotage Services. - Pilotage service shall be provided either directly by the Port Authority or through an established pilotage organization in a government- maintained or privately-managed ports in the country. Every vessel while navigating in any pilotage district or any part thereof shall be under pilotage and the owner, agent or master of the vessel shall comply with that requirement. A vessel while being moved within any area of the port that is, or forms part of a pilotage district shall be deemed a vessel navigating a pilotage district.

Sec. 8. Compulsory Pilotage. - Pilotage services shall be compulsory in all government and private wharves, berths, piers, jetties, or anchorage except as otherwise provided in this paragraph. Every vessel engaged in foreign trade shall always be under compulsory pilotage. Pilotage for vessels engaged in domestic trade shall likewise be compulsory unless exemption is secured by the domestic vessel as provided in this act. Chemical/Gas/Oil Tanker vessels or any other vessels carrying hazardous cargoes shall always be under compulsory pilotage. The Port Authority may, if it appears to be necessary, exempt any vessel other than tanker vessels engaged in domestic trade while navigating in any pilotage district, from being under pilotage service subject to such conditions as it may deem appropriate.

The Port Authority shall consider the following factors in determining the type of appropriate coverage for each port:

- (a) Size and type of vessels;
- (b) Physical and technical configuration of ports including mooring and berthing capabilities;
- (c) Hydrographic situation of the harbor including its channels and passageways;
- (d) Navigational capabilities of each port, safety and traffic devices and other related navigational aids;
- (e) Volume of vessel traffic or average frequency of vessel arrivals and departures; and
- (f) Such other factors which may affect the risk of vessel movements. The Port Authority may issue a Pilotage Exemption Certificate to the Master of the vessel granted exemption under this Act, provided that the Master has completed 60 inbound and outbound trips to and from the port where the vessel makes its regular port calls.

Sec. 9. Qualifications of Harbor Pilots. - A person shall be appointed as a harbor pilot if one possesses the following:

- (a) Filipino citizenship;
- (b) Sound physical and mental condition;
- (c) Good moral character;
- (d) Duly licensed by the Administration to practice one's profession within a specified port or district; and
- (e) Must have been a Master Mariner on board sea going vessels of not less than five hundred (500) gross tons for at least five (5) years

Sec. 10. Compulsory Retirement of Pilots. - Upon the effectivity of this Act, a harbour pilot shall be considered retired upon reaching the age of seventy (70): Provided, However, that all harbor pilots shall undergo annual medical and physical examinations as a requirement for the continued exercise of pilotage service profession.

Sec. 11. Appointment of Harbor Pilots. - All harbor pilots, before practicing the profession, must get an appointment from the Port Authority. The Port Authority shall appoint only a limited number of harbor pilots per district or port for efficiency purposes. The appointment will not result to an employer-employee relationship between the Port Authority and the harbor pilot-applicant.

Sec. 12. Establishment of a Pilotage Organization. - The appointed harbor pilots in each Harbor Pilotage District shall organize themselves into a corporation, partnership or cooperative. Said organizations must be duly registered with either the Securities and Exchange Commission or Cooperative Development Authority. The Port Authority shall allow only one pilotage organization in every Harbor Pilotage District, and to which all the Harbor Pilots for the said District shall all belong and be members thereof.

Sec. 13. Record. - Harbor pilot organizations shall keep a record of his or its operations and financial transactions and such other records or reports pertaining to pilotage services operations. Such records shall be made open to member-pilots and concerned government agencies for inspection and examination. The inspection and examination of records under this Act shall be limited purely to pilotage matters and operations.

Sec. 14. Operating Capital, Equipment and Facilities. - To effectively and efficiently render pilotage services, individual pilots and pilot organizations shall make available such operating capital equipment or facilities may be required by the Port Authority.

Sec. 15. Pilotage Fees as Maritime Lien. - Pilotage Fees for pilotage services actually rendered on a vessel shall constitute a maritime lien on the vessel concerned as in unpaid crew wages of the vessel, which may be enforced by a suit in rem in the Philippines or otherwise in any foreign country in which the vessel may be found. No vessel shall be granted departure clearance unless the Pilotage Fees are paid in full or a satisfactory arrangements are agreed upon for the payment of Pilotage Fees.

Sec. 16. Grounds for Suspension or Cancellation of Appointment. - The Port Authority may cancel or suspend the appointment of harbor pilots on the following grounds:

- (a) Refusal or failure to render effective and efficient pilotage service without justifiable cause;
- (b) Failure or refusal to observe and comply with safety standards and port policies;
- (c) Gross incompetence or negligence which resulted in the loss of cargoes, loss of lives and destruction of vessel and harbor properties;
- (d) Implementation of rates and fees not agreed by the parties or duly authorized by the Port Authority;
- (e) Involvement or participation in illegal activities such as smuggling and trafficking passengers;
- (f) Failure or refusal to post the required performance bond and other related fees;
- (g) Failure to comply with the substantive requirements of the Port Authority;
- (h) Failure or refusal to post the required indemnity insurance;
- (i) Intoxication and use of prohibited drugs during the performance of duties as a harbor pilot;
- (j) Fraudulent misrepresentation, including the use and submission of any false or forged documents, in obtaining the Harbor Pilot License or appointment;
- (k) Acts prejudicial to the Professional Code of Conduct for harbor pilots;
- (l) Physical or mental impediment to render pilotage services as may be determined by a physician accredited by the Department of Health; or
- (m) Failure to comply with any of the provisions of this Act and its implementing rules and regulations.

Sec. 17. Responsibility of Owner, Agent or Master of a Vessel. - The owner, agent or master of a vessel shall only employ duly licensed and appointed harbor pilots to render pilotage services in a particular district or port. A person acting in violation of this Section shall be fined in such amount as may be prescribed by the Port Authority. For this purpose, the Port Authority shall publish the list of appointed harbor pilots and their respective jurisdictions in such manner as to ensure that every owner, agent or master of a vessel is properly informed.

Sec. 18. Limitation of Pilot's Liability. - A harbor pilot licensed to act as such by the Port Authority and authorized to provide pilotage services in the different harbor pilotage districts shall serve as adviser of the master during and at the time of his engagement in the conduct and maneuver of the vessel. The master of the vessel, its owners and agents are not relieved of their responsibility for any loss or damage caused by or to the vessel even while the vessel is under compulsory pilotage. Under this act, the master retains his overriding authority and the responsibility to make decisions with respect to the safety of his crew, passengers and/or cargoes, and the environment.

A harbor pilot licensed to act as such by the Port Authority and authorized to provide pilotage services in the different harbor pilotage districts shall not be liable for damages in excess of the amount of Five Hundred Thousand Pesos (P500,000.00) for damages or loss occasioned by a pilot's errors, omissions, fault, or neglect in the performance of pilotage services, except as may arise by reason of one's willful misconduct or gross negligence.

Each harbor pilot shall post an indemnity insurance bond from the Government Service Insurance System (GSIS) or from such reputable insurance company acceptable to the Port Authority, to cover the limit of the liability. The harbor pilot shall be free from responsibility for damage, injury or death arising from the negligence of the master and crew of the vessel under pilotage, unseaworthiness of the vessel, breakdown of its machineries and equipment, force majeure or fortuitous event.

Upon actual boarding of a vessel to provide pilotage services, that pilot becomes a servant of the vessel and its owner and operator. Nothing in this Section exempts the vessel, its owner, or its operator from liability from damage or loss occasioned by that ship to a person or property on the ground that (a) the ship was piloted by a duly licensed pilot, or (b) the damage or loss was occasioned by the error, omission, fault or neglect of a pilot duly appointed by the Port Authority.

Section 19. Penal Provision. - A fine of not less than Twenty Thousand Pesos (P20,000.00) nor more than Two Hundred Thousand Pesos (P200,000.00) or imprisonment for a period of not less than one (1) year nor more than ten (10) years or both such fine and imprisonment, at the discretion of the court, shall be imposed upon:

- (a) Any person who shall render pilotage services without a valid license for that particular district issued by the Administration and without a valid appointment by Port Authority;
- (b) Any person who represents one's self as a harbor pilot for a particular pilotage district without being a member of the duly recognized pilotage organization for the said particular harbor pilotage district;
- (c) Any person who shall give any false or forged documents for the purpose of obtaining the harbor pilot license or appointment; and
- (d) Any person who shall use an expired, revoked or suspended harbor pilot license or appointment to perform pilotage services;

Sec. 17. Transitory Provisions. – Harbor pilots duly authorized to render pilotage services prior to the effectivity and implementation of this Act shall continue to exercise their profession until they reach the mandatory retirement age. They shall be given preference over new applicants as long as they have substantially complied with the requirements promulgated pursuant to this Act.

All rules, regulations, administrative orders, circulars and related issuances on pilotage services promulgated by the different port authorities shall continue to apply until otherwise updated, repealed or modified.

Sec. 18. Implementing Rules and Regulations. Following the effectivity of this Act, the Administration shall immediately convene and promulgate the necessary implementing rules and regulations of this Act within a period of ninety (90) days from its effectivity.

Sec. 19. Separability Clause. – If any part or provision of this Act is declared as unconstitutional or invalid by a court of competent authority, the remaining provisions which are not affected thereby shall continue to be in full force and effect.

Sec. 20. Repealing Clause. – Executive Order No. 1088 dated February 3, 1986 is hereby repealed. Other laws, decrees, issuances, rules and regulations, or any part thereof, which

are inconsistent with or contrary to the provisions of this Act, are hereby repealed or modified accordingly.

Sec. 21. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,