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Hanoi, 17 June 2014

LAW

**AMENDING AND SUPPLEMENTING A NUMBER OF ARTICLES
OF LAW ON INLAND WATERWAY TRANSPORT**

Pursuant to the Constitution of the Socialist Republic of Vietnam;

The National Assembly enacts the law amending and supplementing a number of articles of law on inland waterway transport.

Article 1

Amending and supplementing a number of articles of law on inland waterway transport

1. Amending and supplementing Clause 1; supplementing Clause 28 and 29 of Article 3 as follows:

"1. Inland waterway transport consists of the activities of people and vehicles participating in transport on inland waterway; development planning, construction, exploration, infrastructure protection of inland waterway transport; search and rescue and salvage of inland waterway transport and state management of inland waterway transport."

"28. Vehicle owner is organization and individuals owning the vehicles.

29. Accident of inland waterway transport is the one occurring on the inland waterway, in the port waters and inland wharves due to collisions or incidents related to the vehicles, seagoing ships, fishing boats causing damages to people, properties, obstructing the transport or causing environmental pollution ."

2. Amending and supplementing Clause 3 of Article 4 as follows:

"3. Development of inland waterway transport must be consistent with the transport development planning and national defense and security assurance.

Development of inland waterway transport infrastructure towards modernization and in harmony with channel, route, port, wharf, management technology, loading and unloading of goods, safe transport assurance, prevention and control of natural disasters, environmental protection and response to climate change.

Development of inland waterway transport must be connected in harmony with other modes of transport."

3. Supplementing Clause 5a after Clause 5; amending and supplementing Clause 8 of Article 8 as follows:

"5a. Assigning vehicles to person who is ineligible for the control of vehicle in inland waterway transport."

"8. Crew members and vehicle operator who are operating the vehicle but have blood alcohol concentration exceeding 50 miligam/100 mililliter of blood or 0.25 mg/1 liter of breath or other stimulants which are banned by law ."

4. Amending and supplementing Clause 1 of Article 9 as follows:

“1. Infrastructure of inland waterway transport includes inland waterway, safety corridor of channel, port, inland wharf, anchoring area outside port, embankment, traffic dam, inland waterway signal and other ancillary works.”

5. Amending and supplementing Article 13 as follows:

“Article 13. Inland port and wharf

1. The inland port is defined as follows:

a) The inland port is a system of works built for vehicles and ship to anchor, load and unload goods, embark and disembark passengers and carry out other supporting services. The inland port has its port land area and port waters.

The port land area is limited for the construction of quay, warehouse, open storage, workshop, head office, services facility, transportation, communication, electricity and system, installation of equipment and other ancillary works.

Port waters are limited for establishment of waters in front of quay, maneuvering area, berthing, zone of transshipment, load-lowering zone and storm shelter;

b) Inland waterway port includes general port, goods port, passenger port, special use port and is classified into port of type I, type II and type III.

2. Inland wharf is a separate and small-size works, including the land area and waters in front of wharf for the vehicles to berth, load and unload goods, embark and disembark passengers and carry out other supporting services. The inland wharf includes goods wharf, passenger wharf, general wharf, cross-river passenger wharf and special-use wharf.

3. The construction of inland port and wharf must consist with the development planning of infrastructure of inland waterway transport and comply with relevant regulations of law.

Organizations or individuals wishing to built inland port and wharf must be approved in writing of the competent state management agency of inland waterway transport.

4. Minister of Transport, Minister of Defence, Minister of Public Security shall, based on the size and scope of influence of inland waterway port under their management, provide for the criteria of port classification, announce the list of inland waterway ports; technical decentralization, technical standards for inland waterway ports and standards of inland wharves.”

6. Supplementing Point e into Clause 3, Article 15 as follows:

“e) Owner or owner’s representative of irrigational and hydropower works, upon operating the works, must inform the competent state management agency of inland waterway transport as provided for by law

7. Amending and supplementing Article 24 as follows:

“Article 24. Operating conditions of vehicles

1. For non-motorized vehicles with a gross tonnage of over 15 tons, motored vehicles with total capacity of main engine of over 15 HP, vehicles with a carrying capacity of over 12 people operating on inland waterways must ensure the following conditions:

a) Meet the standards of quality, technical safety and environmental protection as provided for in Clause 3 and 4, Article 26 of this Law;

b) Have certificate of inland waterway vehicle registration, certificate of technical safety and environmental protection; drawing or fixing of registration number, drawing of safety water line and recording of number of passengers allowed to be carried on the vehicles;

c) Having adequate crew member planning and list of crew member under regulation.

2. For motored vehicles with total capacity of main engine from 5-15 HP or with a carrying capacity of over 12 people operating on inland waterways must ensure the conditions specified at Point a and b, Clause 1 of this Article.

3. For non-motorized vehicles with a gross tonnage from 1-15 tons or with a carrying capacity from 5 -12 people, motored vehicles with total capacity of main engine of under 15 HP or with a carrying capacity of under 12 people operating on inland waterways must have certificate of inland waterway vehicle registration and ensure the following conditions:

a) Body of vehicles must be firm without leakage of water to the inside; vehicles must light a lamp with white light at an visible place if operating at night; vehicles carrying people must have adequate balancing seats and life jackets or life-saving devices for people allowed to be carried on the vehicles;

b) Engines installed on the vehicles must be firm, safe, easy to start and stably operated;

c) Vehicles must be drawn or fixed with registration number and recorded with the number of passengers allowed to be carried on the vehicles.

d) Vehicles must be painted with the safety water line and must not be submerged over the safety water line when carrying passengers or goods. The safety water line of the vehicles is painted with a color different from the color of vehicle side. The painting line is 25 mm wide and 250 mm long horizontally on both sides at the center of the greatest length of the vehicle; the upper edge of painting line is 100 mm from the edge of side for goods carrying vehicles and 200 mm for people carrying vehicles.

4. For rudimentary vehicles with a gross tonnage of under 1 ton or with carrying capacity under 5 people or raft when operating on inland waterway must ensure safe conditions specified at Point a, Clause 3 of this Article.

5. The vehicles must ensure the service life as stipulated by the Government.”

8. Amending and supplementing Clause 3, Article 25 as follows:

“3. The vehicles must be re-registered in the following cases:

a) Transfer of ownership;

b) Change of name or technical features;

c) Head office or permanent residence registration of the vehicle owner is relocated to another provincial administrative unit.

d) Change of registration from another registering agency of inland waterway vehicles.”

9. Amending and supplementing Article 28 as follows:

“Article 28. Imported vehicles

The imported vehicles must ensure the standards of quality, technical safety and environmental protection under regulations of law and ensure the service life of vehicles allowed to be imported as stipulated by the Government.”

10. Amending and supplementing Clause 1 of Article 30 as follows:

“1. Certificate of professional skills of captain, chief mechanic has a duration of 05 years and classified as follows:

a) Certificate of professional skills of captain is classified into first class, second class, third class and fourth class.

b) Certificate of professional skills of chief mechanic is classified into first class, second class and third class.”

11. Amending and supplementing Article 32 as follows:

“Article 32. Conditions of examination for upgrading the class of Certificate of professional skills of captain and chief mechanic

1. The persons attending the examination for upgrading the class of Certificate of professional skills of captain and chief mechanic must ensure the following conditions:

- a) Comply with the conditions specified at Point a and b, Clause 2, Article 29 of this Law;
- b) Have sufficient time of work according to the title corresponding to their Certificate of professional skills or trained title.
- c) Participate in the examination training course for class upgrade.

2. The Minister of Transportation has provided for in detail the work time according to the title specified at Point b, Clause 1 of this Article and conditions for attending examination for upgrading the class of Certificate of professional skills of captain, chief mechanic, except for cases specified in Clause 3 of this Article.

3. The Minister of Defence, Minister of Public Security have provided for in detail the conditions for attending examination for upgrading the class of Certificate of professional skills of captain, chief mechanic of the vehicles performing duties of national defense and security.”

12. Amending and supplementing Article 33 as follows:

“Article 33. Assumption of captain title

1. Crewman having Certificate of professional skills is entitled to assume the captain title of type of vehicles suitable with the class of Certificate of professional skills of captain.

2. Crewman having Certificate of professional skills of captain of higher class is entitled to assume the captain title of type of vehicles specified for lower captain title.

3. Crewman having Certificate of professional skills of captain is entitled to assume the mate title of the type of vehicles specified for captain title of higher than one class.

4. The Minister of Transportation has provided for in detail the crewman’s assumption of captain title, except for cases provided for in Clause 5 of this Article.

5. The Minister of Defence and the Minister of Public Security have provided for in detail the crewman’s assumption of captain title of the vehicles performing duties of national defence and security.”

13. Amending and supplementing Article 34 as follows:

“Article 34. Assumption of chief mechanic title

1. Crewman having Certificate of professional skills of chief mechanic is entitled to assume the chief mechanic title of the type of vehicles suitable with the class of Certificate of professional skills of chief mechanic.

2. Crewman having Certificate of professional skills of chief mechanic is entitled to assume the chief mechanic title of the type of vehicles specified for chief mechanic title of lower class.

3. Crewman having Certificate of professional skills of chief mechanic is entitled to assume the deputy chief mechanic title of the type of vehicles specified for the chief mechanic title above one class.

4. The Minister of Transportation has provided for in detail the crewman’s assumption of chief mechanic title, except for cases provided for in Clause 5 of this Article.

5. The Minister of Defence and the Minister of Public Security have provided for in detail the crewman's assumption of chief mechanic title of the vehicles performing duties of national defence and security."

14. Amending and supplementing Point Amending and supplementing, Clause 1 of Article 35 as follows:

"a) 18 years and over;"

15. Supplementing Article 35a after Article 35 as follows:

"Article 35a. Inland waterway report

1. The inland waterway report is a written notice of circumstances in which the vehicles, seagoing ships or fishing boats encounter and the remedial measures taken by the captain or vehicle operator to overcome the situation and limit losses in order to protect legitimate rights and interests for the owners of vehicles, seagoing ships and fishing boats and the persons concerned.

2. The inland waterway report must be made from the time the vehicles, seagoing ships or fishing boats are berthed at the first inland waterway port after the occurrence of accident or incident or within 03 working days from the time of occurrence of accident or incident at one of the inland waterway port authority, inland waterway managing unit, waterway police or People's Committee nearest to the place of accident or incident.

3. The Minister of Transport has provided for the procedures for certifying the inland waterway report."

16. Amending and supplementing Clause 2 of Article 47 as follow:

"2. Five consecutive fast short honks are signal of impossibility giving way;"

17. Amending and supplementing Clause 1 of Article 55 as follow:

"1. At night, turn on two red lights, placed vertically on the highest position of the vehicle, while moving if the vehicle inertia type A must burn more sidelights and white lights driver, vehicle type B must light add half green and half red light. If still moving by inertia, the vehicles of type A must have other lights on their side and white tail light, the vehicles of type B must have half green and half red lights;"

18. Amending and supplementing Clause 1 of Article 71 as follow:

"1. Inland waterway port authority is an agency performing the specialized state management functions of inland waterway transport at inland ports or wharves, on channels or routes upon assignment of the Minister of Transport in order to ensure the compliance with regulations of law on order and safety of inland waterway transport and environmental protection."

19. Amending and supplementing Clause 2, 3 and 4 of Article 72 as follow:

"2. Inspect the compliance with regulations of law on safety, security and environmental protection of the vehicles, seagoing ships; check the certificate of professional skills or professional certificate of crewmen and vehicle operator; license the vehicles and seagoing ships out and into inland ports and wharves.

3. Not permitting the vehicles and seagoing ships to go in and out of inland ports and wharves when the inland ports, wharves or vehicles and seagoing ships do not ensure the safety and security conditions or environmental protection or the inland ports, wharves are not eligible for operation under regulations of law.

4. Managing the channels and routes as assigned by the Minister of Transport; inform the present conditions of channel and routes to the vehicles and seagoing ships."

20. Amending and supplementing Clauses 1, 2 and 5 of Article 77 as follows:

"1. Activities of inland waterway transport include activities of business and non-business transport.

2. Business of inland waterway transport is the conditional business activities, including the passenger transport business and goods transport business.

The Government provides for the conditions of inland waterway transport.”

“5. Obligation to buy civil liability insurance in the inland waterway transport is provided for as follows:

- a) Owner of vehicle of passenger transport business must buy the civil liability insurance of the owner of vehicle for passengers and a third party;
- b) Owner of vehicle specified in Clause 1 of Article 24 of this Law must buy buy the civil liability insurance for a third party when carrying on business of goods transport.
- c) Conditions and premium shall comply with regulations of law on insurance business.”

21. Supplementing Article 98a after Article 98 as follows:

“Article 98a. Leasing of vehicle

1. Leasing of vehicle is done through a written contract between the owner of vehicles and lessee of vehicles.

2. Forms of leasing of vehicle:

- a) Leasing of vehicles without crewmen;
- b) Leasing of vehicle with crewmen.

3. Owner having vehicle to be leased is responsible for:

- a) Ensuring the vehicle is in a state of safety, conditions and standards as prescribed by law when delivering the vehicle to the lessee;
- b) In case of leasing of vehicle with crewmen, ensure the working conditions and standards of the crewmen on the vehicle, make payment of salary or wage to the crewmen and other benefits as prescribed by law.

4. The lessee of vehicle is responsible for:

- a) Using the vehicle and employing crewmen under the provisions of contract and regulations of law;
- b) Ensures the working conditions and standards of the crewmen on the vehicle, make payment of salary or wage to the crewmen and other benefits as prescribed by law in the case specified at Point a of this Article;
- c) Not re-leasing the vehicle as well as the crewmen to other parties, unless otherwise agreed in writing from the owner of vehicle; not permitted to use the leased vehicle as collateral;
- d) Taking responsibility for ensuring the safety and environmental protection during the use of vehicle, except the case where the unsafety condition and environmental pollution caused by the leased vehicle are detected, the use of such vehicle must be stopped temporarily and notify the owner of vehicle to take the remedial measures.”

22. Supplementing Chapter VIIa after Article 98 a as follows:

“CHAPTER VIIa

SEARCH, RESCUE AND SALVAGE OF INLAND WATERWAY TRANSPORT

Section 1

SEARCH AND RESCUE OF INLAND WATERWAY TRANSPORT

Article 98b. SEARCH AND RESCUE OF INLAND WATERWAY TRANSPORT

1. Search of inland waterway is the use of force, means and equipment to locate people and vehicles in distress on inland waterway, port waters and inland wharves.
2. Rescue of inland waterway is the saving of people in distress out of danger threatening their lives, including first aid and other measures to take the victims on the inland waterway, port waters and inland wharves to safe place.
3. Circumstances of search and rescue of inland waterway are incidents due to natural disasters or accidents occurring on inland waterway, port waters and inland wharves at risk or actually threatening or causing losses of people that require timely and appropriate responses to reduce to a minimum the losses that may occur.

Article 98c. Principles and organization of search and rescue of inland waterway

1. The search and rescue of inland waterway must ensure the following principles:
 - a) Information on accidents, incidents and requirements for search and rescue must be informed in a timely manner and accurately to the agencies of search and rescue of inland waterway;
 - b) Timely and urgent implementation with forces and means in place with close coordination between forces engaged in search and rescue;
 - c) Priority is given to saving of people and reduction to the minimum of losses of people and properties;
 - d) Safety must be maintained for people and means engaged in search and rescue upon carrying out the search and rescue.
2. The Ministry of Transport, the provincial People's Committee shall take charge and coordinate with the agencies of search and rescue concerned to carry out the search and rescue of inland waterway under regulations of the Prime Minister.

Article 98d. Responsibility of organizations and individuals upon occurrence of accidents of inland waterway

1. Captain or vehicle operator and people present at the place of accident of inland waterway or finding people or vehicles in distress on inland waterway must take all measures to promptly and urgently save people and vehicles, seagoing ships, fishing boats and properties in distress; inform the nearest agency of search and rescue of inland waterway, locate the place of accident or incident, protect trace or exhibits related to the accident or incident.
2. Agency of search and rescue of inland waterway, upon receiving notification, must send people and means to the place of accident or place of people in distress; have the right to mobilize people and means to rescue and save people in distress, protect properties and vehicles in distress, trace and exhibits related to the accident; ensure order and smooth traffic safety. In case the accident or incident causes damages to the environment, inform the state management agencies of environmental protection.
3. Policy agencies, upon receiving information about accident on inland waterway, must promptly deploy forces to conduct the search and rescue, investigation and handling under regulations of law.
4. Communal People's Committees where the accident occurs or people in distress are found are responsible for directing or mobilizing forces to ensure the order and security and assist people in distress. In case of unidentified dead, without relatives or relatives unable to carry out the burial or cremation, the communal People's Committees are responsible for burial or cremation after the competent state agencies complete the procedures as prescribed by law.

Article 98dd. Ensuring conditions for search and rescue of inland waterway

1. The agencies of search and rescue of inland waterway are equipped with special use means and equipment of rescue for requirement and duties of rescue under decision of the Prime Minister.
2. The organizations and individuals having means involved in search and rescue are paid and funded under regulations of law.
3. Financial sources for search and rescue of inland waterway include:
 - a) State budget;
 - b) Funding, support, aid and voluntary contribution of organizations and individuals for search and rescue;
 - c) Other legal sources.

Section 2

RESCUE OF INLAND WATERWAY

Article 98e. Rescue of inland waterway

1. Rescue of inland waterway transport is the saving of vehicles, seagoing ships or fishing boats or properties on the vehicles, seagoing ships or fishing boats out of danger or assistance activities including pulling or pushing vehicles, seagoing ships or fishing boats in danger on inland waterway, port waters and inland wharves.
2. Rescue of inland waterway transport is done on the basis of agreement between organizations and individuals carrying out the rescue (hereafter referred to as rescuing party) and owner of rescued vehicles, seagoing ships or fishing boats (hereafter referred to as rescued party).
3. The settlement of dispute over payment of rescue remuneration is done under regulations of civil law.

Article 98g. Obligations of rescuing party and rescued party

1. The rescuing party has the following obligations:
 - a) Complies with rescue agreement;
 - b) Carries out the rescue actively;
 - c) Take appropriate measures to limit to a minimum of loss of vehicles and properties and prevention of environmental pollution;
 - d) Requests the support of other rescuing organizations and individuals in case of necessity;
 - dd) Accepts rescuing activities of other rescuing organizations and individuals upon rational request of the rescued party.
2. The rescued party has the following obligations:
 - a) Complies with rescue agreement;
 - b) Cooperates with the rescuing party during the rescue;
 - c) Prevents environmental pollution while being rescued.”

23. Supplementing Article 98 h in Chapter VIII and before Article 99 as follows:

“Article 98h. Contents of state management of inland waterway transport

1. Formulate, direct and implement strategy, planning, plan, development policies and ensure the safety of inland waterway transport.

2. Issue and implement the legal normative documents, standards and technical regulations on inland waterway transport.
3. Propagate, disseminate, educate law on inland waterway transport, provide instructions and inspect the implementation of measures to ensure the safety of inland waterway transport.
4. Carry out the management, maintenance and protection of inland transport infrastructure.
5. Implement the registration and register of inland waterway vehicles, issuance and revocation of certificate of registration, certificate of technical safety and environmental protection of inland waterway vehicles.
6. Perform the management, issuance, renewal and revocation of certificate of professional skills of crewman and operator of inland waterway vehicles.
7. Manage the activities of inland waterway transport.
8. Perform work of prevention and control of natural disasters and response to climate change, search, rescue and salvage of inland waterway transport.
9. Protect environment in activities of inland waterway transport.
10. Do research and apply science and technology and carry out the training of human resources in the field of inland waterway transport.
11. Implement the inspection, examination, settlement of complaint, denunciation and handling of violation of law on inland waterway transport.
12. Implement international cooperation on inland waterway transport.”

24. Supplementing Clause 3a after Clause 3 of Article 99 as follows:

“3a. The Ministry of Defense shall coordinate with the Ministry of Transport, Ministry of Public Security and Ministry of Agriculture and Rural Development to perform the state management of inland waterway transport in the field of national defense and security under the provisions of this Law and relevant laws.”

25. Supplementing Article 101a into Chapter IX and before Article 102 as follows:

“Article 101a. Application of law to the activities of vehicles outside the range of channel and waters which are not under management and exploitation of transport

Activities of vehicles outside the range of channel and waters which are not under management and exploitation of transport must comply with the provisions of this Law on inland waterway vehicles, crewman, vehicle operator, rules of transport and signals of vehicles, inland water transport, accidents of inland water transport and search, rescue and salvage of inland water transport and relevant laws.

Provincial People’s Committees are responsible for warning in dangerous areas for activities of vehicles outside the channel and waters which are not under management and exploitation of transport.”

Article 2

1. Amending a number of words of the Law on inland waterway transport as follows:

- a) Replacing the word “horsepower” with “horsepower” in Clause 18, 19 and 20 of Article 3; Clause 1 and 2 of Article 35; Clauses 1, 2 and 4 of Article 49; Article 80;
- b) Replacing the word “by” with the word “certificate of professional skills” in Clause 6, Article 8, Point c, Clause 2, Article 29; name of Article and Clause 3 of Article 30; name of Article and Clauses 2, 3 and 4 of Article 31;
- c) Replacing the phrase “flood, storm” with the word “natural disasters” in Clause 1, Article 10; Article 11; Clause 2 of Article 22 and Clause 5 of Article 99;

- d) Replacing the phrase “Provincial People’s Committee” with the phrase “People’s Committee at all levels” in Clause 8 of Article 25.
 - dd) Replacing the word “approval” with the word “assessment” at Point a, Clause 1 of Article 26; replacing the word “approval” with the word “assessment” in Clause 2 of Article 27;
 - e) Replacing the phrase “Vietnam standard, industry standard” with the phrase “National standard, national technical regulation” in Clause 2 of Article 26;
 - g) Replacing the phrase “ Waterway transport police” with the phrase “Waterway police” at the extracting paragraph of Article 65 and 66 and Clause 3 of Article 99;
 - h) Replacing the phrase “ Ministry of Fisheries” with the phrase “Ministry of Agriculture and Rural Development” in Clause 3 and 4 of Article 99;
 - i) Replacing the phrase “about inland waterway transport” with the phrase “on inland waterway transport” in Clause 3 of Article 99.
2. Replacing the phrase “ vehicle lessee” after the phrase “ owner of vehicle” in Clause 1 of Article 29.
 3. Supplementing the phrase “certificate of professional skills” after the phrase “various types” in Clause of Article 31.
 4. Supplementing the phrase “fishing boat” after the phrase “seagoing ship” in Clause 2 of Article 36.
 5. Supplementing the phrase “narrow channel, limited channel” after the phrase “bending channel” in the name of Article 37, Clause 2 of Article 37 and Clause 4 of Article 44.
 6. Deleting the phrase “flood, storm” at Point b, Clause 1 of Article 21.
 7. Deleting the phrase “Minister of Fisheries” in Clause 6 of Article 25; Clause 4 of Article 26, Clause 5 of Article 29, Clause 4 of Article 31 and Clause 5 of Article 69.
 8. Deleting the phrase “fishing boat” in Clause 6, Article 25; Clause 4 of Article 26, Clause 5 of Article 29 and Clause 4 of Article 31.
 9. Deleting the phrase “fishing port, fishing wharf” in Clause 5 of Article 69.
 10. Annuling Article 7.

Article 3

1. This Law takes effect from 01 January 2015.
2. The Certificate of captain and chief mechanic issued before 01 January 2015 shall be used by the end of 31 December 2019.
3. The Government stipulates in detail the articles and clauses in this Law.

This law was passed by the XIIIth National Assembly of the Socialist Republic of Vietnam at its 7th Session on 17 June, 2014.

CHAIRMAN OF NATIONAL ASSEMBLY

Nguyen Sinh Hung