

The Ship Master's Legal Responsibility for Navigational Safety under Law Number 17 of 2008 on Shipping

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ABSTRACT

Maritime transport is central to Indonesia's logistics system, but shipboard operations expose passengers, crews, cargo, and the marine environment to substantial safety risks. This article examines the ship master's legal responsibility for navigational safety under Law Number 17 of 2008 on Shipping, as amended, and identifies the forms of liability that may arise when safety duties are breached. It applies normative legal research using statutory and conceptual approaches. Primary legal materials include the Shipping Law, the Indonesian Civil Code, and relevant international maritime instruments, particularly SOLAS and STCW, while secondary materials comprise maritime-law scholarship and earlier studies. The analysis finds that the ship master's authority is inseparable from a personal duty to verify seaworthiness, adequate crewing, navigational and communication equipment, safety appliances, cargo conditions, weather information, and operational readiness before departure and throughout the voyage. A breach may generate administrative sanctions, civil liability, or criminal responsibility, depending on the violated norm, the existence of fault, causation, and the resulting harm. These regimes may operate concurrently, although personal liability must be distinguished from the responsibilities of the shipowner or shipping company. Effective enforcement therefore requires a fact-sensitive attribution of fault rather than an automatic assignment of every maritime casualty to the ship master.



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INTRODUCTION

Ships perform a strategic function in Indonesia's national logistics chain, yet shipboard work remains inherently hazardous. Weather volatility, confined working spaces, heavy equipment, cargo-handling operations, and navigational demands create risks that cannot be managed through technical compliance alone. Within this operational structure, the ship master occupies the highest command position and exercises authority over persons and activities on board. Article 1 point 41 of Law Number 17 of 2008 on Shipping (the Shipping Law) defines the master as a crew member who holds the highest command on board and possesses powers and responsibilities prescribed by legislation. The master's orders must therefore be obeyed insofar as they are directed toward navigational safety, security, and order, including by the shipowner or operator when present on board (Setiawati, 2018; Santosa & Sinaga, 2019).

The legal significance of this authority becomes clearest before departure and when an emergency develops. A master must not commence a voyage unless the vessel satisfies seaworthiness requirements, carries adequate equipment, and is properly crewed. The duty extends to the protection of passengers, crew members, cargo, and the vessel itself. Article 245 of the Shipping Law classifies ship casualties as sinking, fire, collision, and grounding. That classification does not, by itself, make the master liable for every casualty. Liability depends on the legal duty engaged, the master's conduct,

the applicable standard of care, causation, and the allocation of responsibility within the shipping enterprise. Earlier Indonesian studies recognize the master's central safety role but also show that maritime safety is institutionally shared with shipowners, operators, harbourmasters, and other authorities (Adinugroho & Tjahja, 2019; Badaruddin et al., 2021; Baktiar et al., 2025). This article examines the scope of the master's legal responsibility under the Shipping Law, as most recently amended by Law Number 66 of 2024, and evaluates the administrative, civil, and criminal consequences of violating navigational-safety duties.

RESEARCH METHODS

This study employs *normative legal research* to examine the rules, principles, and legal concepts governing the ship master's responsibility for navigational safety. The *statutory approach* is directed primarily to Law Number 17 of 2008 on Shipping and its amendments, the Indonesian Civil Code, and implementing regulations relevant to seaworthiness and maritime safety. International standards incorporated into Indonesia's maritime regulatory framework, particularly the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), are used to clarify the professional and operational standards expected of a master.

The legal materials consist of primary, secondary, and tertiary sources. Primary materials comprise legislation and international maritime instruments. Secondary materials include books, journal articles, previous studies, and scholarly opinions on maritime law, shipboard leadership, seaworthiness, and casualty responsibility. Dictionaries and encyclopaedic sources serve a supporting function. The materials are analysed qualitatively through legal interpretation, conceptual classification, and systematic comparison. Particular attention is given to separating a safety obligation from the legal consequences of its breach, because proof that a casualty occurred is not equivalent to proof that the master personally committed an administrative violation, civil wrong, or criminal offence.

RESULTS AND DISCUSSION

The ship master's legal responsibility under shipping law

The Shipping Law connects command authority with a non-delegable supervisory responsibility. Article 138 requires the master, after confirming that the vessel is seaworthy and safe to operate, to sign a declaration confirming that obligation before sailing. In substantive terms, this responsibility covers the vessel's condition, navigational and communication systems, safety appliances, cargo and loading arrangements, and crew readiness. If a material defect or operational deficiency compromises safety, the master must delay or refuse departure. This is more than an administrative formality. It is a preventive legal duty designed to interrupt the causal sequence that may otherwise develop into a maritime casualty (Baktiar et al., 2025; Adinugroho & Tjahja, 2019).

The obligation continues throughout the voyage. The master must respond to route conditions, weather information, load limitations, navigational risks, and emergency procedures while maintaining discipline on board. Professional authority consequently carries a corresponding standard of care. The greater the master's capacity to control shipboard decisions, the stronger the justification for attributing responsibility when a casualty results from a decision within that sphere of control. Even so, attribution cannot rest on rank alone. Mechanical defects concealed from the master, failures attributable to the shipowner, inaccurate port information, or other intervening causes may affect whether fault and causation are established. A legally sound assessment must distinguish command responsibility from strict liability and must identify the conduct that transformed an operational risk into legally attributable harm (Susetyo, 2010; Gonallyansyah et al., 2024).

National duties are reinforced by international maritime standards. SOLAS establishes minimum requirements for ship construction, equipment, and safe operation, while STCW prescribes competence, certification, and watchkeeping standards for seafarers. These instruments do not displace domestic rules on liability. They inform the professional benchmark against which the master's conduct may be assessed. Compliance therefore requires both formal certification and competent decision-making in actual operating conditions. Studies of shipboard leadership and occupational accidents similarly indicate that safety outcomes depend on disciplined supervision, communication, and adherence to operational procedures, rather than on documentary compliance alone (Setiawati, 2018; Suaib, 2025).

Forms of legal responsibility for navigational-safety violations

Administrative responsibility

Administrative responsibility arises when the master violates regulatory requirements governing navigation, documentation, seaworthiness, crewing, or prescribed safety procedures. The relevant response may include a written warning, suspension or revocation of a certificate, restriction of professional authority, or a prohibition on sailing, depending on the governing provision and the seriousness of the breach. Its principal function is preventive and regulatory. Administrative enforcement seeks to restore compliance and remove an unsafe person or vessel from operation before further harm occurs. Because the master and the shipping company may be subject to different licensing and certification regimes, the authority imposing a sanction must specify whose legal obligation was breached and why the selected measure is proportionate.

Civil liability

Civil liability may arise when the master's act or omission causes compensable loss to another party. Article 1365 of the Indonesian Civil Code provides the general basis for liability for an unlawful act. In a maritime casualty, recoverable loss may include damage to the vessel or cargo, personal injury, death-related loss, and other economic consequences. Establishing liability requires more than proof of loss: the claimant must connect the loss to unlawful and culpable conduct. The shipping company may also bear responsibility because it employs the master and controls important dimensions of vessel maintenance and commercial operation. Personal liability remains possible where the evidence establishes the master's own fault, but it should not obscure the separate duties of the shipowner, operator, or other actors within the maritime enterprise (Adinugroho & Tjahja, 2019; Susetyo, 2010).

Criminal responsibility

Criminal responsibility is the most coercive form of legal accountability and therefore requires strict proof of every element of the applicable offence. A master may face criminal consequences where an intentional act or negligent breach of a statutory duty causes a ship casualty, loss of life, serious injury, or marine pollution. The decisive inquiry concerns culpability, expressed through intent or negligence, together with a legally sufficient causal relationship between the breach and the prohibited consequence. A casualty is evidence that demands investigation, not a presumption of guilt. Investigators and courts must evaluate the master's knowledge, available alternatives, compliance with professional standards, emergency conditions, and the conduct of other responsible actors. This element-based approach protects navigational safety while preventing command status from becoming a substitute for proof.

CONCLUSION

The ship master's legal responsibility for navigational safety rests on the relationship between command authority and the duty to exercise competent control over a vessel. Law Number 17 of 2008 on Shipping, as amended, requires the master to verify seaworthiness and operational safety before departure and to maintain safe navigation throughout the voyage. SOLAS and STCW reinforce the professional standard applicable to that duty. A breach may lead to administrative sanctions, civil liability, criminal responsibility, or a combination of these consequences. Their application nevertheless depends on the particular norm violated, personal fault, causation, and the harm produced. The master cannot avoid responsibility for decisions within the sphere of command, but neither should every casualty be attributed automatically to the master. Effective maritime enforcement requires a differentiated assessment that also accounts for the duties of shipowners, shipping companies, harbour authorities, and other actors whose conduct may contribute to an unsafe voyage.

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