

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

House Bill No. 5723



Introduced by Representatives Mariano Michael M. Velarde Jr. and Irwin C. Tieng
(BUHAY Party List)

EXPLANATORY NOTE

Underwater cultural heritage is an integral part of the Filipinos' national pride. It is particularly an important element not only in our history, but in our relationship with other countries as well.

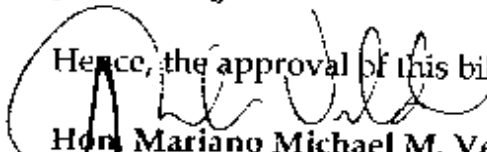
Experts, however, calculate that indiscriminate diggings and underwater explorations have exposed our cultural and historical sites to desecration and our priceless cultural artifacts to destruction.

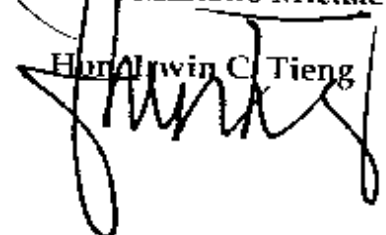
This bill, therefore, seeks to protect and conserve future underwater archeological discoveries by providing a statutory mechanism for a permit system on underwater exploration and excavation and assigning the National Museum as the lead agency in implementing the provisions of this Act.

Some salient features of this bill are as follows:

1. The Director of the National Museum shall be given powers to implement guidelines and issue permits to explore or excavate any underwater site for protected underwater cultural properties in Philippine Waters.
2. This measure outlaws diving, use of explosives, and use of a pressure air hose, water hose or vacuum hose within a protected zone or a non-protected zone to recover objects of underwater cultural heritage.
3. Any person who discovers, by chance, any object of underwater cultural heritage is obliged to report his/her find to the National Museum or any of its branches within seven days from knowledge of its potential scientific, cultural, archaeological, paleontological or historical value.

Hence, the approval of this bill is earnestly requested.


Hon. Mariano Michael M. Velarde Jr.


Hon. Irwin C. Tieng

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**AN ACT PROVIDING FOR THE PROTECTION AND CONSERVATION OF ALL
OBJECTS UNDERWATER CULTURAL HERITAGE IN PHILIPPINE WATERS**

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

SECTION 1. *Short Title.* - This Act may be cited as the "*Protection of Underwater Cultural Heritage Act of 2011.*"

SEC. 2. *Declaration of Policy.* - It is hereby declared to be the policy of the State to protect and preserve underwater cultural heritage in order to foster nationalism and for the sake of posterity.

SEC. 3. *Definition of Terms.* - In this Act, unless the contrary intention appears, the terms are defined as follows:

- a) Philippine water means all waters around, between and connecting the islands of the Philippine archipelago and the territorial sea extending up to twenty-four (24) nautical miles measured from the straight baselines in accordance to Republic Act No. 3046 as amended by Republic Act No. 5446 (1961);
- b) Sea includes any waters within the ebb and flow of the tide;
- c) Ship includes any vessel used in navigation by water;
- d) Underwater archaeology includes not only maritime archaeology but also riverine and submerged site archaeology;
- e) Cultural Treasure includes any money, coin, gold or silver bullion, jewelry, precious stones and metals and other raw precious objects which are unworked and found or hidden in, or in anything affixed to the bed of a river or of the sea or other bodies of water; but shall not include any rare and unique item or any object which is at least one

hundred (100) years old or more declared a national cultural treasure or important cultural property;

f) Objects of underwater cultural heritage, both movable and immovable, include all shipwrecks, sunken vessels at least 100 years old and all things therein such as hulls and underwater archaeological artifacts; places of ancient settlement or where there are vestiges of an ancient civilization; such as dockyards, piers, aqueducts, tanks, wells; monuments, fragment shards or original documents found under water dating from prehistoric times and any other object of scientific, cultural, religious, archaeological, anthropological or paleontological interest to the Philippines;

g) Collector is any person or institution who acquires cultural treasure for purposes other than sale;

h) Dealers are persons or enterprises who acquire cultural treasure for the purpose of engaging in the acquisition and resale of the same; and

i) Exporters are dealers who engage in the business of exporting cultural treasure.

SEC. 4. *National Museum as Lead Agency.* - The National Museum, hereinafter referred to as the Museum shall be the lead agency of the government which shall implement the provisions of this Act.

SEC. 5. *Declaration and Register of Protected Sites.* - The Archaeology Division of the National Museum shall undertake an intensive archival and historical research study to pinpoint sites of important shipwrecks and other significant underwater archaeological locations within five (5) years from the approval of this Act. Thereafter, the National Museum shall keep an up-to-date register of protected underwater archaeological sites and shipwrecks.

The Director of the National Museum shall by notice published in the Official Gazette or any newspaper of general circulation, declare an area (not exceeding 100 hectares) consisting of sea or partly of sea and partly of land within which archaeological sites, shipwrecks or any object of underwater cultural heritage are situated to be a protected zone and/or restricted area.

SEC. 6. *Ownership of Cultural Objects.* - Upon approval of this Act, ownership of all objects of underwater cultural heritage found in territorial waters, regardless of origin, is vested directly in the State.

It shall be unlawful to destroy, demolish, mutilate or damage any object of underwater cultural heritage. No person shall remove from or alter the site of any object of underwater cultural heritage within a protected zone.

SEC. 7. *Dealing or Possessing a Punishable Act.* - The act of dealing in or possessing any object of underwater cultural heritage, or any part thereof, or associated object in

the vicinity thereof unless authorized by the National Museum is punishable by the penal provisions of this Act.

SEC. 8. *Other Prohibited Acts.* - Diving, marking, use of explosives other than shaped charges, use of a pressure air hose, water hose or vacuum hose within a protected zone or a non-protected zone to recover objects of underwater cultural heritage is strictly prohibited.

SEC. 9. *Reporting.* - Any person who discovers, by chance, any object of underwater cultural heritage is obliged to report his/her find to the National Museum or any of its branches within seven (7) days from knowledge of its potential scientific, cultural, archaeological, paleontological or historical value. Any person who becomes aware of the find is also required to notify the nearest National Museum branch or representative within seven (7) days after constructive or direct knowledge. A government or public officer has the special duty to pass any information regarding discovery and chance finds of objects of underwater cultural heritage to the nearest National Museum branch or representatives. Failure to report/notify within the designated period shall be penalized by the appropriate provisions of this Act.

SEC. 10. *Special Decorative.* - A special decoration for persons who have contributed to the preservation of objects of underwater cultural heritage or who have rendered important services in the protection of the same shall be given by the Office of the President, upon recommendation by the Director of the National Museum and the Undersecretary for Culture.

SEC. 11. *Finder's Reward.* - Finders who have dutifully notified the National Museum of their discovery and chance finds shall be given a finder's reward equivalent to at least fifteen percent (15%) of the value of the property and be given recognition by name in a museum display or publication.

A finder who has the right qualification to work a site shall be given a right or priority among applicants for permits to explore or excavate.

SEC. 12. *Permits to Explore/Excavate.* - It shall be unlawful to dive, explore, survey, excavate in Philippine waters for the purpose of obtaining materials of cultural or historical value without the prior written authority from the Director of the National Museum.

The Director of the National Museum shall promulgate rules and guidelines for the grant of permits/licenses to explore or excavate any underwater site for protected underwater cultural properties in Philippine waters subject to the provisions of this Act. Such rules and regulations shall be published in a newspaper of general circulation and shall be approved by the Secretary of Department of Education.

SEC. 13. *Who May Be Granted Permits.* - Only duly accredited scientific and education institutions, duly registered non-stock and non-profit corporate entities or organizations in the field of underwater archaeology, government agencies or

instrumentalities with proven ability to conduct underwater archaeological work, foreign institutions in the field of underwater archaeology registered with the SEC. and allowed to do business in the Philippines, and individuals or juridical persons under sponsorship by a scientific or educational institution may be granted permits to explore or excavate.

SEC. 14. *Formal Application.* - A formal letter of application for a permit to explore or excavate shall be addressed to the Director of the National Museum. It shall contain the name of the proponents, the cooperating agencies, summary of the project, its objectives, significance and the procedure to be followed, a timetable, a list of foreign personnel with proper Philippine visa and historical and archival documentation. It must be accompanied by financial statements, evidence of competence and experience in the field of underwater archaeological, and a listing of capital investments in terms of equipment and facilities. The applicant shall file a cash performance bond in an amount not less than Two hundred thousand pesos (P200,000.00) which is refundable subject to limitations upon completion or cessation of the project.

SEC. 15. *Procedures.* - The National Museum's underwater archaeological procedures shall be followed throughout the extent and effectivity of the project.

No exploration or excavation may commence until the written permit is issued and the applicant has signed his conformity with the corresponding rules and regulations.

Activities during the exploration of underwater archaeological sites are limited to the assessment of the potential of the sites for future archaeological excavation. During the exploration only samples of small finds and diagnostic materials enough to help in the identification and dating of the site may be taken. These materials shall belong to the National Museum.

Underwater archaeological excavations are to be undertaken following internationally accepted methods and techniques. There shall be a general mapping of the site prior to the excavation where and when feasible. The permittee shall keep a daily inventory and listing of archaeological materials recovered and a daily log book to record daily activities including detailed description of the find. The permittee shall undertake a three-dimensional recording of archaeological materials to show spatial relationship with other materials and environmental features. The permittee must be committed to implement adequate recovery procedures to minimize archaeologically induced damage specifically to fragile and small materials and arrange for the conservation of all materials both at the site and the laboratory. A preliminary report, status, and final report of the activities and results of the excavations shall be submitted to the National Museum.

SEC. 16. *Presence of National Museum Representative.* - Underwater archaeological work, both exploratory and actual excavations, shall be carried out only in the presence of National Museum representative(s).

Actual commencement of the work shall be subject to the availability of a National Museum representative.

The permittee shall underwrite the cost of transportation, life and medical insurance, per diems and allowances of the Museum representative(s) to the site to expedite continuous operations of the project.

The permittee shall likewise provide the Museum representative with full scuba and excavation equipment to be used for the underwater archaeological operation.

SEC. 17. *Right of Revocation.* - The National Museum has the full right to revoke the permit issued to the applicant for causes, such as but not limited to a violation or inability of the permittee to comply with the terms and conditions of the permit or any part thereof, deliberate act(s) of concealing any item or object recovered from the site or any part thereof with the intention of defrauding the National Museum, or allowing the possession, traffic or use of prohibited drugs or illegal firearms and ammunitions during the diving operations.

SEC. 18. *Other Explosives Prohibited.* - The use of other explosives other than those that will not harm the environment is strictly prohibited. The use of shaped charges must be with prior clearance from the National Museum representative and the Armed Forces of the Philippines.

SEC. 19. *Subcontracting Prohibited.* - Subcontracting of underwater archaeological work or third party arrangements is not permitted. Permits are non-transferable and non-assignable.

SEC. 20. *Period of Exploration.* - Exploration permits are limited to a period of six (6) months per permit, but renewable for another six (6) months for just reasons. An applicant can only have two exploration permits at anyone time. The cash performance bond for an exploration permit for one site is Two Hundred Thousand Pesos (P200,000.00).

SEC. 21. *Period of Excavation.* - Applications for permits to excavate must specify the map coordinates of the specific site to the nearest degree. Excavation permits are limited to a period of one (1) year and renewable for another year. In areas unaffected by seasonable climatological variations only one excavation permit may be granted at anyone time. In affected areas, two excavation permits may be granted, the applicant working alternately between the sites as the weather condition permits.

The cash performance bond for an exploration permit is extended to the excavation phase if an excavation permit is granted.

SEC. 22. *Study of Objects/Report.* - A completed documentation and scientific study of objects recovered from the site must be undertaken before the same are dispersed. A report on the project shall be submitted to the National Museum before any division of the recovered materials, objects, or items is allowed.

SEC. 23. *Disposition/Division of Recovered Objects.* - All rare and unique items (RUIs) automatically belong to the National Museum. Any recovered object which is declared to be a national cultural treasure or an important cultural property also belongs to the National Museum. If a cultural treasure, as defined in this Act, is discovered or recovered during the exploration or excavation, the permittee must notify the National Museum Director within 24 hours. The permittee may underwrite the cost of the guards and other security measures. The Director of the National Museum shall request the Philippine Navy, through the Office of the President, for assistance in securing the site and the project's personnel.

All cultural treasures, except the RUIs, shall be divided on a 50-50 basis. In case there are several RUI's as determined by both parties, then, all cultural treasures shall be divided on a 50-50 basis, in favor of the permittee.

SEC. 24. *Cost of Conservation.* - The material cost of the total conservation of the recovered cultural properties shall be borne by the permittee regardless of the termination date of the permit. The technical expertise in the conservation of the materials may be provided by the National Museum.

SEC. 25. *Construction or Mining Halted.* - Underwater construction work or mining shall be halted wherever a find is made so that rescue technology can take place. Mining or construction in or near a declared protected zone/restricted area shall not commence without prior consultation with the Director of the National Museum.

SEC. 26. *Cooperation with Diving Clubs.* - The Philippine Commission on Sports Scuba-Diving (PCSSD) and local diving clubs shall submit a list of their divers-members to the National Museum. The Philippine Tourism Authority, together with representatives of the National Museum, shall conduct education campaigns and information drives about the Philippine underwater cultural heritage to tourist-divers and local diver's clubs.

SEC. 27. *Penal Provisions.* - Any violation of the provision of this Act shall, upon conviction, subject the offender to a fine of not less than One hundred thousand pesos (P100,000.00), or imprisonment for a term of not less than ten (10) years, or both upon the discretion of the Court: provided, that any watercraft, equipment, tools, paraphernalia, other instruments used for excavation and objects excavated in violation of this Act shall be summarily confiscated and forfeited in favor of the National Museum: provided, further, that if the violation is committed by a juridical person, the manager, representative, director agent or employee of said juridical person responsible for the act shall also be liable to the penalties provided herein: provided, finally, that if the offender is an alien he shall be under the custody of the Commission on Immigration and Deportation for the appropriate proceedings.

SEC. 28. *Appropriation.* - The sum of Seven million pesos (P7,000,000.00) is hereby appropriated annually from the General Fund, not otherwise appropriated by law, to carry out the provision of this Act.

SEC. 29. *Repealing Clause.* - Any provision of existing laws, rules, decrees and executive orders inconsistent with the provisions of this Act are hereby repealed and modified accordingly.

SEC. 30. *Separability Clause.* - Any portion or provision of this Act that may be declared unconstitutional shall not have the effect of nullifying other portions or provisions hereof as long as such remaining provisions can still subsist and be given effect.

SEC. 31. *Effectivity Clause.* - This Act shall take effect upon its approval and fifteen (15) days after its publication in the Official Gazette or a newspaper of general circulation.

Approved,

Hon. ~~Mariano~~ Michael M. Velarde Jr.

Hon. Irwin C. Tieng