

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 6535



Introduced by Hon. ANGELO B. PALMONES

Explanatory Note

Many a time even when a company which is violating environmental laws and served a notice of violations (NOV) or cease and desist order (CDO) by concerned government agencies continue to operate and violate the laws with impunity. A case in point is the "floating" restaurant in Taal Lake that had been served an NOV and CDO but continued to operate in defiance of the orders. The operator reasoned out that they have a business permit and that gave them the license to defy environmental laws.

An NOV should automatically suspend the business permit of the enterprise and a CDO should automatically cancel the business permit until such time that the reason or reasons for the NOV or the CDO have been complied with to the satisfaction of the concerned government agency that served the NOV or CDO. Municipal local government executives or mayors therefore have the duty to suspend or cancel the business permits of those companies served with an NVO or CDO, as the case may be. Failure to do so makes them liable to penalties.

Furthermore, companies that have violated environmental laws and served an NOV or CDO oftentimes resume operation just after signifying intention to comply with the environmental requirements. This should not be so. Such companies can only resume operation after full compliance with the environmental requirements and after their business permit has been reinstated or renewed.

Concerned government officials such as those in the Environmental Management Bureau (EMB) who serve the NOV or CDO have no police powers to implement the orders. Thus despite these measures, environmental violations are perpetuated. For better performance of their functions and to hasten action on violations, the EMB and other concerned government agencies must be provided with police powers. On the other hand, officials of these government agencies that allow erring companies to continue operation just after promising to comply with environmental laws should also be liable to penalties under the Anti-graft and corrupt practices law.

In pursuit of protecting the health of the Filipino people and the protection and conservation the environment from pollution of erring companies and from the neglect of government officials, this Act should be approved soonest.


A stylized handwritten signature in black ink, consisting of a large, sweeping 'A' followed by a horizontal line and a small flourish.

ANGELO B. PALMONES
Representative, AGHAM Party List

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AN ACT AMENDING R.A. NO. 9275 OTHERWISE KNOWN AS "AN ACT PROVIDING FOR A COMPREHENSIVE WATER QUALITY MANAGEMENT AND FOR OTHER PURPOSES"

Section 1. Additional role of local government units – Section 20, Role of Local Government Units is hereby amended as follows:

SECTION 20. *Role of Local Government Units* - Local government units shall share the responsibility in the management and improvement of water quality within their territorial jurisdictions.

Each local government unit shall, within six (6) months after the establishment of the water quality management area action plan, prepare a compliance scheme in accordance thereof, subject to review and approval of the governing board.

Each local government unit shall, through its Environment and Natural Resources Office (ENRO) established in Republic Act No. 7160, have the following powers and functions:

- a) Monitoring of water quality;
- b) Emergency response;
- c) Compliance with the framework of the Water Quality Management Action Plan;
- d) To take active participation in all efforts concerning water quality protection and rehabilitation; and
- e) To coordinate with other government agencies and civil society and the concerned sectors in the implementation of measures to prevent and control water pollution: *Provided, however*, That in provinces/cities/municipalities where there are no environment and natural resources officers, the local executive concerned may, with the approval of the Secretary of the DENR designate any of his official and/or chief of office preferably the provincial, city or municipal agriculturist, or any of his employee: *Provided, finally*,

That in case an employee is designated as such, he must have sufficient experience in environmental and natural resources management, conservation and utilization.

f) The municipal LGU shall suspend the business permit of any business organization within its jurisdiction which has been served a Notice of Violation (NOV) from the Department of Environment and Natural Resources (DENR) until such time that the violation has been rectified or corrected. The municipal LGU furthermore shall cancel the business permit of any business organization within its jurisdiction which has been served a cease and desist order (CDO) by the DENR until such time that the CDO has been lifted. No new business permit shall be issued during the pendency of a NOV or CDO.

Section 2. Police powers of Environmental Management Bureau officials – Authorized officials of the Environmental Management Bureau are hereby provided police powers to implement cease and desist orders (CDO) which includes among others the demolition of structures causing pollution after giving the erring company sufficient time to comply with the requirements contained in the NOV and CDO.

Section 3. Fines, damages and penalties – Section 28, Fines, damages and penalties shall be amended as follows:

SECTION 28. Fines, Damages and Penalties. - Unless otherwise provided herein, any person who commits any of the prohibited acts provided in the immediately preceding section or violates any of the provision of this Act or its implementing rules and regulations, shall be fined by the Secretary, upon the recommendation of the PAB in the amount of not less than Ten thousand pesos (P10,000.00) nor more than Two hundred thousand pesos (P200,000.00) for every day of violation. The fines herein prescribed shall be increased by ten percent (10%) every two (2) years to compensate for inflation and to maintain the deterrent function of such fines: *Provided, That the Secretary, upon recommendation of the PAB may order the closure, suspension of development or construction, or cessation of operations or, where appropriate disconnection of water supply, until such time that proper environmental safeguards are put in place and/or compliance with this Act or its rules and regulations are undertaken.* This paragraph shall be without prejudice to the issuance of an *ex parte* order for such closure, suspension of development or construction, or cessation of operations during the pendency of the case.

Failure to undertake clean-up operations, willfully, or through gross negligence, shall be punished by imprisonment of not less than two (2) years and not more than four (4) years and a fine not less than Fifty thousand pesos (P50,000.00) and not more than One hundred thousand pesos (P100,000.00) per day for each day of violation. Such failure or refusal which results in serious injury or loss of life and/or irreversible water contamination of surface, ground, coastal and marine water shall be punished with imprisonment of not less than six (6) years and one day and not more than twelve (12) years, and a fine of Five Hundred Thousand

Pesos (P500,000.00) per day for each day during which the omission and/or contamination continues.

In case of gross violation of this Act, the PAB shall issue a resolution recommending that the proper government agencies file criminal charges against the violators. Gross violation shall mean any of the following:

- a) deliberate discharge of toxic pollutants identified pursuant to Republic Act No.6969 in toxic amounts;
- b) five (5) or more violations within a period of two (2) years; or
- c) blatant disregard of the orders of the PAB, such as the non-payment of fines, breaking of seals or operating despite the existence of an order for closure, discontinuance or cessation of operation.

In which case, offenders shall be punished with a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than Three million pesos (P3,000,000.00) per day for each day of violation or imprisonment of not less than six (6) years but not more than ten (10) years, or both, at the discretion of the court. If the offender is a juridical person, the president, manager and the pollution control officer or the official in charge of the operation shall suffer the penalty herein provided.

For violations falling under Section 4 of Presidential Decree No.979 or any regulations prescribed in pursuance thereof, such person shall be liable for a fine of not less than Fifty thousand pesos (P50,000.00) nor more than One million pesos (P1,000,000.00) or by imprisonment of not less than one (1) year nor more than six (6) years or both, for each offense, without prejudice to the civil liability of the offender in accordance with existing laws. If the offender is a juridical entity, then its officers, directors, agents or any person primarily responsible shall be held liable: *Provided*, That any vessel from which oil or other harmful substances are discharged in violation of Section 4 of Presidential Decree No.979 shall be liable for penalty of fine specified in the immediately preceding paragraph and clearance of such vessel from the port of the Philippines may be withheld until the fine is paid and such penalty shall constitute a lien on such vessel which may be recovered in proceedings by libel in *rem* in the proper court which the vessel may be. The owner or operator of a vessel or facility which discharged the oil or other harmful substances will be liable to pay for any clean-up costs.

Provided, finally, That water pollution cases involving acts or omissions --- committed within the Laguna Lake Region shall be dealt with in accordance with the procedure under R. A. No.4850 as amended.

Municipal LGU executives who fail to suspend or cancel business permits 3 months after the issuance of an NVO or CDO or issue new business permits during the pendency of an NVO or CDO shall be liable to a fine of One

Hundred Thousand Pesos (P100,000.00) or imprisonment of not less than one year, or both as the Court mandates.

Government officials who allow companies which have been served an NVO or CDO to operate prior to full compliance with the environmental requirement for which the NVO or CDO has been served is liable to a fine of One Hundred Thousand Pesos (P100,000.00) or imprisonment of not less than one year or both as the Court mandates. Furthermore, such official shall be deemed separated from the service and forfeits all his/her government benefits.

Section 4. Implementing Rules and Regulations – The DENR shall issue the implementing rules and regulations of this Act 60 days from its approval.

Section 5 – Repealing Clause. All laws, decrees, orders, rules and regulations or portions thereof, inconsistent with this Act are hereby repealed or modified accordingly.

Section 6 – This Act shall take effect 15 days after its complete publication in two newspapers of general circulation.

Approved