

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 4285



Introduced by **BAYAN MUNA Rep. NERI J. COLMENARES**

AN ACT
TO PROTECT MARINE MAMMALS AND ENSURE THEIR SURVIVAL FOR THE
BENEFIT OF FUTURE GENERATIONS

EXPLANATORY NOTE

Marine mammal populations are distributed throughout the world's oceans. Their protection and conservation therefore requires a concerted global action.

As predators on top of the food chain, marine mammals play an important role in ensuring the health and balance of the ocean ecosystems. The contribution of marine mammals in sustaining our ocean's ecosystem in turn contributes to the well being of humanity considering the importance of a balanced and healthy ecosystem to human survival.

Globally, marine mammals face threats from human activities including by-catch from large-scale fishing activities, collision with vessels, depletion of food stocks, hunting and illegal trade, oceanic pollution, habitat destruction and climate change. As a signatory to the Conservation of Migratory Species (CMS) and the Convention on the International Trade in Endangered Species (CITES), it is the Philippine Government's task to protect marine mammals within, outside, and those transiting its territory.

According to the Red List Status of Marine Mammals in the Philippines, a report from the country's top marine mammal scientists, the status of the populations of most marine mammals in the country is 'data deficient'. This means that the different marine mammal populations in the Philippines cannot be evaluated due to insufficient information about their status in the wild. For the populations evaluated, two populations were identified as critically endangered (dugong and the Malampaya Sound Irrawaddy dolphin, one endangered (Irrawaddy dolphin in the Visayas), and four vulnerable (humpback whale, Fraser's dolphin, sperm whale, and the Gray's spinner dolphin)

All resident marine mammals or those transiting through the Philippine territory are part of the natural resources of the country. The protection and conservation of these wildlife is necessary for the education, appreciation, and benefit of the Filipino people, and the generations yet to come.

It is therefore important for the Philippine government to support scientific studies that assess the current marine mammal populations in the Philippines with the aim of conserving local populations.

There are several laws which seek to protect marine mammals/wildlife in the country. These are:

- a) Fisheries Administrative Order 185, s. 1992 (FAO 185) and Fisheries Administrative Order 185-1 s. 1997 (FAO 185-1) which bans the taking or catching, selling, purchasing and possessing, transporting, and exporting of dolphins and whale species.
- b) The Animal Welfare Act or RA 8485 bans animal cruelty in the country and makes it illegal for anyone to torture or provide inadequate care for any animal.
- c) The Wildlife Resources Conservation and Protection Act of the Philippines or RA 9147 aims, in part, to: “(c) to pursue, with due regard to the national interest, the Philippine commitment to international conventions, protection of wildlife and their habitats”;

Despite these laws, however, there are still documented direct takes of dolphins as well as import and export of wild dolphins from inhumane and unsustainable sources that violate existing local laws and international conventions. Some of these are the following:

- a) Local dolphins are being captured for display and human interaction in Misamis Occidental without appropriate permits in violation of the FAO 185 and 185-1 and the Animal Welfare Act (RA 8485)
- b) In January 2001, five false killer whales caught in Japan were imported into the country. A sixth one died before it could be exported in the country. Today only one of these animals survives in the Philippines.

In 2004, another 4 bottlenose dolphins caught in Japan were again imported into the country. Only three of these dolphins remain alive today. In 2009, another 4 bottlenose dolphins came into the country from Japan.

All these animals come from what is now known as the Japanese drive hunts. In these hunts, pods of dolphins are driven to shallow waters. After marine parks have selected animals they will buy for the dolphin-show industry, the rest of the animals are brutally and indiscriminately killed. This practice has been criticized all over the world for its inhumane nature. The 2010 Oscar-winning documentary, ‘The Cove’ clearly documented the conduct of the hunts.

The World Association of Zoos and Aquariums (WAZA) issued a policy statement condemning the Japanese dolphin hunts as inhumane. A similar policy statement was made by the Alliance of Marine Mammal Parks and Aquariums (AMMPA).

In the Philippines, any cruel or inhumane act against any animal is a criminal offense under the Animal Welfare Act or RA 8485.

- c) On December 2008, January 2009, and January 2011, the Philippines imported a total of 25 bottlenose dolphins caught in the wild from the Solomon Islands. These dolphins were imported into the country despite the scientific opinion of the International Union for the Conservation of Nature (IUCN) that the export of the dolphins from the Solomon Islands does not have a credible Non-Detriment Finding (NDF). A Non-Detriment Finding is a determination by a credible Scientific Authority of the exporting state that the export will not be detrimental to the survival of that species in the wild. Given the lack of a Non-Detriment Finding, the CITES Scientific Authorities in the Philippines such as the Silliman University and the National Museum supported the ban on the import of dolphins until such time that a credible Non-Detriment Finding from the exporting state is forwarded.

Despite the lack of a credible NDF, the country imported a total of 25 dolphins and subsequently re-exported them in 2012 wherein one dolphin died enroute to Singapore. This issue is a subject of an on-going case for the violation of the Wildlife Act (RA 9147) which was filed by animal welfare and environmental groups led by the Earth Island Institute-Philippines (EII-Phils), the Philippine Animal Welfare Society (PAWS) and the Compassion and Responsibility for Animals (CARA).

Given the legal, humane and sustainability issues raised herein, there is a need to craft a law which would clearly state the Philippine Government's policy in protecting marine mammals in the country as well as to strengthen its commitments in the global conservation effort of marine mammals.

This bill provides for the creation of a body that would promote the protection of marine mammals in order to ensure a healthy and balanced ecosystem in the country. It also provides for the prohibition of certain acts which would go against efforts by government and the people in protecting marine mammals especially those who are endangered.

In view of the foregoing, the immediate passage of this bill is earnestly sought.

Approved,



Rep. NERI J. COLMENARES
Bayan Muna Party-list

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 4285

Introduced by **BAYAN MUNA Rep. NERI J. COLMENARES**

AN ACT
TO PROTECT MARINE MAMMALS AND ENSURE THEIR SURVIVAL FOR THE
BENEFIT OF FUTURE GENERATIONS

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 “*Marine Mammal Protection Act.*”

SECTION 2. *Declaration of Policies.* - It is hereby declared the policy of the State:

2.1. To promote conservation of all marine mammals by encouraging and supporting research of wildlife populations in the Philippines. The State shall partner with local community organizations, academic and scientific institutions in studying and assessing the marine mammal populations of the Philippines in order to form a database that will support conservation programs of wild populations. Marine mammal species belonging to the Taxonomic Orders Carnivora, Cetartiodactyla and Sirenia are covered by this Act.

2.2. To support the creation of Marine Protected Areas and Networks and Marine Corridors, based on the latest scientific information, that shall seek to protect wild populations from heavy industries such as offshore drilling, seismic tests and such other activities on known migration routes, feeding and mating habitats. The State shall involve local communities in the protection and conservation of the marine ecosystem through education and training programs.

2.3. To promote responsible community-based whale and dolphin-watching tours in the wild that shall contribute to public education and enhance the local economy. Protocols in the proper conduct of whale and dolphin-watching tours shall be drafted by the, Biodiversity Management Bureau of the Department of Environment and Natural Resources (BMB-DENR), Bureau of Fisheries and Aquatic Resources of the Department of Agriculture

(BFAR-DA) and Department of Tourism (DOT) to protect wild populations from being disturbed by tourism activities. Such protocols will be periodically modified based on the latest scientific information.

2.4. To promote the welfare of all marine mammals by protecting all known habitats and ensuring that wild marine mammal populations in the Philippines as well as captive animals are not subjected to any distress, injury or death arising from human activities and that these animals be allowed to live in their habitat and conform to their natural behaviours.

SECTION 3. *Definition of Terms.*

- a. Animal – For the purposes of this act, ‘animal(s)’ will refer to marine mammal(s).
- b. Captive-bred – Refers to animals that are the offspring of animals which were themselves born in captivity and is also referred to a F2 Generation. If either of the individual's parents were wild when they were caught, the offspring is regarded as 'captive-reared', rather than 'captive-bred'.
- c. Captive breeding - is the process of breeding animals in human-controlled environments with restricted settings, such as wildlife reserves, zoos and other conservation facilities. Captive breeding for marine mammals should be established in a manner not detrimental to the survival of the species in the wild and must be maintained without addition of animals from the wild. Captive breeding facilities must be managed in a manner that has been demonstrated to be capable of reliably producing second-generation offspring (F2) in a controlled environment.
- d. CITES- Convention on International Trade in Endangered Species of Wild Fauna and Flora. This was ratified by the Philippines on August 18, 1981 and entered into force on November 16, 1981. In 2001 the Philippines enacted the enabling law for its CITES commitment resulting in Republic Act No. 9147 or the Wildlife Resources Conservation and Protection Act.
- e. Commercial purposes – To use in any profit-oriented activity; to use for commerce or trade.
- f. Export - means to send or ship out of the country.
- g. F2 Generation – see Captive bred.
- h. Import - means to send or ship into the country.
- i. Live – An animal that is living and in apparent good health.
- j. Marine Corridor – are geographical features that are used by mobile species for migration between feeding and mating areas.
- k. Marine Mammals – Any mammal species that lives in salt water and/or derives its food from a saltwater environment. Marine Mammals represents three different mammalian groups: those belonging to the Order Carnivora (polar bears, sea otters, seals, sea lions, and walrus), Order Cetartiodactyla (cetaceans), and Order Sirenia (manatees and dugongs).
- l. Marine Protected Areas (MPA) and MPA Networks - A clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.
- m. Possess- means to have actual or constructive possession or control thereof.
- n. Purchase- means to buy and includes agreeing or offering to buy.

- o. Purse seine fishing– A fishing technique used to catch large pelagic fish like tuna by a net that hangs vertically in the water with its bottom edge held down by weights and its top edge buoyed by floats.
- p. Rehabilitation - Wildlife Rehabilitation is the process of removing the animal from the wild to provide professional care to sick, injured, and orphaned animals using methods to prepare them to ultimately return to their natural habitat.
- q. Release – To return the marine mammal to its natural habitat.
- r. Rescue – To take any marine mammal immediately out of danger.
- s. Scientific Authorities – for the purpose of this bill, it shall refer to scientific authorities for marine and aquatic species as designated by the Wildlife Resources Conservation and Protection Act (RA 9147) such as the Bureau of Fisheries and Aquatic Resources (BFAR), the U.P. Marine Science Institute, U.P. Visayas, Silliman University and National Museum.
- t. Selling - includes barter, exchange or offering or exposing for sale.
- u. Take or catch- includes the killing, capturing, trapping, snaring and netting of marine mammals.
- v. Trade – To barter, exchange or sale in any commercial, profit-oriented activity.
- w. Wild – Any animal that was born and is living or growing in the natural environment. Any animal that is not domesticated or cultivated or captive-bred.

SECTION 4. *Prohibited Acts.* It shall be unlawful to:

4.1. Intentionally take or catch marine mammals in Philippine waters or to sell, purchase, possess, transport, import or export and trade the same whether dead or alive, in any state or form whether raw or processed.

4.2. Intentionally deploy purse-seine nets or any fishing gear on or to encircle marine mammals in fishing operations or to intentionally wound and kill any marine mammals in the course of catching fish.

4.3 It shall be unlawful to take any stranded or rescued live marine mammal for trade or other commercial purposes, including for display or exhibition, while being rehabilitated. All rehabilitated marine mammals shall be immediately released to the wild. Monitoring will be done by BMB-DENR with the MMPCC.

4.4 Import and export live, wild, marine mammals including rescued or rehabilitated animals.

4.4.1. The import/export of parts or tissues of deceased animals may be allowed for research purposes of reputable universities and scientific institutions. All applications to import/export such marine mammal parts for research purposes will be reviewed and evaluated by the BMB-DENR, BFAR-DA and the Scientific Authorities.

4.4.2. Only live, captive-bred marine mammals of the second generation (F2 generation) from reputable aquariums will be allowed for import and/or export in the country, subject to compliance with existing laws such as the Wildlife Resources Conservation and Protection Act (RA9147), the Animal Welfare Act (RA 8485), and

the assessment and evaluation of the BMB-DENR, BFAR- DA and Scientific Authorities.

SECTION 5. *Creation of the Marine Mammal Protection And Conservation Committee (MMPCC).*

– A marine mammal protection body called the Marine Mammal Protection and Conservation Committee (MMPCC) shall be established headed by the BMB-DENR and composed of one (1) representative each from: the Bureau of Fisheries and Aquatic Resources, the Scientific Authorities such as the Silliman University, UP Marine Science Institute, UP Visayas, and National Museum, reputable scientists and marine mammal experts, and representatives from concerned non-government environmental and animal welfare organizations. The Silliman University shall chair the MMPCC scientific authorities.

SECTION 5.1. *Functions of the Marine Mammal Protection and Conservation Committee.*

– The MMPCC shall have the following functions:

- 5.1.1. Develop and coordinate research programs for marine mammals in the Philippines;
- 5.1.2. Develop manuals and protocols for the rescue of stranded animals;
- 5.1.3. Develop manuals and guidelines for dolphin and whale-watching tours;
- 5.1.4. Undertake technical assessments of rescued, stranded or rehabilitated marine mammals;
- 5.1.5. Help develop the capacity of government offices to address marine mammal issues in the Philippines through training; and
- 5.1.6. Help develop educational and training programs for local communities, concerned organizations and other stakeholders.

SECTION 6. *Rescue.* - All rescue efforts in response to strandings must provide quick and effective action that will best serve the well-being of the animal in distress and not to add further stress. All rescue efforts must have the objective of releasing marine mammals back in the wild to again be a viable part of the wild population. All stranded marine mammals shall be released immediately to the wild if healthy and alive. The disposition of sick or injured marine mammals will be the responsibility of the BMB- DENR, in accordance to the Protocols in the proper rescue, rehabilitation and release of marine mammals as promulgated by the MMPCC. Dead marine mammals that are washed to the seashore shall be surrendered to the nearest BMB-DENR office for proper disposition.

SECTION 7. *Rehabilitation.* - Rehabilitation of marine mammals is an option only if there is a high probability that the animal can be restored to health and released back in the wild. Rehabilitation is subject to:

- 7.1 Availability of facilities and/or equipment for the species and number of animals involved;

7.2 Safe and expeditious transport of the animal that is manageable and poses no major risk to others or to facility staff;

7.3 If there are sufficient funds and staff to provide care for a short and reasonable period;

7.4 The disposition of any rehabilitated animal that is not suitable for release will be determined by the scientific authorities and the MMPCC for recommendation to the BMB-DENR.

7.6 Stranded and severely injured animals that are beyond rehabilitation may be euthanized on site only by authorized and licenced veterinarians if facilities and equipment are available.

SECTION 8. *Penalty.* - Any violation described in the prohibited acts under this Act shall be penalized with imprisonment from six (6) months to six (6) years or a fine of at least One Hundred and Twenty Thousand Pesos (P120,000.00) but not more than Three Hundred Thousand Pesos (P300,000.00) or both at the discretion of the court, including forfeiture of the catch subject of the offense and cancellation of his fishing and/or business permit, if applicable.

If any of the offenses is committed by or has been caused by a corporation or association, the president and each one of its agents or representatives in the Philippines in case of a foreign corporation or association, who shall have knowingly permitted or failed to prevent the commission of such offense, shall be held liable as principals thereof.

SECTION 9. *Implementing Rules And Regulations.* — Within Six (6) months following the effectivity of this Act, the Secretaries of the DENR and the DA in consultation with Scientific and Management Authorities, shall promulgate the implementing rules and regulations for the effective implementation of this Act. The commitments of the State to international agreements and protocols shall guide the drafting of the implementing rules and regulations.

SECTION 10. *Appropriation.* — Any amount necessary for the implementation of this Act shall be charged from the appropriation of the DENR under the General Appropriations Act.

SECTION 11. *Separability Clause.* — Should any provision of this Act be subsequently declared as unconstitutional, the same shall not affect the validity or the legality of the other provisions.

SECTION 12. *Repealing Clause.* — The provisions of Fisheries Administrative Order FAO 185, 185-1, FAO 223, FAO 223-1, and other laws, orders and regulations inconsistent herewith are hereby repealed or amended accordingly.

SECTION 13. *Effectivity.* — This Act shall take effect fifteen (15) days after publication in the Official Gazette or two (2) newspapers of general circulation.

Approved,