

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **5476**



Introduced by **MAGDALO Party-List Representative**
HON. GARY C. ALEJANO

EXPLANATORY NOTE

Underwater cultural heritage is an integral part of the Filipinos' national pride. It is particularly an important element in our history and 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. It outlaws diving, marking, use of explosives other than shaped charges, 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.

In view of the foregoing, approval of this bill is strongly recommended.

GARY C. ALEJANO
Representative, Magdalo Para sa Pilipino Party-List

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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:*

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

3
4 **SEC. 2. Declaration of Policy.** - It is hereby declared to be the policy of the State to
5 protect and preserve underwater archaeology, exploration and excavation, the description of
6 items to be protected, the prohibition of certain activities in the vicinity of a protected
7 item/site, the establishment of a reward system for verified reports and the imposition of
8 sanction/penalties for violations.

9
10 **SEC. 3. Definition of Terms.** - In this Act, unless the contrary intention appears, the
11 following terms shall mean:

- 12
13 a) Philippine water means all around, between and connecting the islands of the
14 Philippine archipelago and the territorial sea extend up to twenty-four (24) nautical
15 miles measured from the straight baselines in accordance to Republic Act No. 3046 as
16 amended by Republic Act No. 5446 (1961);
17
18 b) Sea includes any waters within the ebb and flow of the tide;
19
20 c) Ship includes any vessel used in navigation by water;
21
22 d) Underwater archaeology includes not only maritime archaeology but also riverine and
23 submerged site archaeology;
24
25 e) Cultural Treasure includes any money, coin, gold, silver bullion, jewelry, precious
26 stones and metals and other raw precious objects which are unworked found or hidden
27 in, or in anything affixed to, the sailor, the bed of a river or of the sea or other bodies
28 of water but shall not include any rare and unique item or any object which is at least
29 one hundred (100) years old or more declared a national cultural treasure or important
30 cultural property;
31

- 1 f) Objects of underwater cultural heritage, both movable and immovable includes all
2 shipwrecks, sunken vessels at least 100 years old and all things therein, hulls and
3 underwater archaeological artifacts; places of ancient settlement or where there are
4 vestiges of an ancient civilization; dockyards, piers, aqueducts, tanks, wells;
5 moments, fragment shards or original documents found under water dating from
6 prehistoric times and any other object of scientific, cultural, religious, archaeological,
7 anthropological or paleontological interest to the Philippines;
8
- 9 g) Collector is any person or institution who acquires cultural treasure for purposes other
10 than sale;
11
- 12 h) Dealers are persons or enterprises who acquire cultural treasure for the purpose of
13 engaging in the acquisition and resale of the same; and
14
- 15 i) Exporters are dealers who engage in the business of exporting cultural treasure.
16

17 **SEC. 4. National Museum as Lead Agency.** - The National Museum, hereinafter
18 referred to as the Museum shall be the lead agency of the government which shall implement
19 the provisions of this Act.
20

21 **SEC. 5. Declaration and Register of Protected Sites.** - The Archaeology Division of
22 the National Museum shall undertake an intensive archival and historical research study to
23 pinpoint sites of important shipwrecks and other significant underwater archaeological sites
24 within five (5) years from the approval of this Act. Thereafter, the National Museum shall
25 keep an up-to-date register of protected underwater archaeological sites and shipwrecks. The
26 Director of the National Museum shall by notice published in the Official Gazette or any
27 newspaper of general circulation, declare an area (not exceeding 100 hectares) consisting of
28 sea or partly of sea and partly of land within which archaeological sites, shipwrecks or any
29 object of underwater cultural heritage are situated to be a protected zone and/or restricted
30 area.
31

32 **SEC. 6. Ownership of Cultural Objects.** - Upon approval of this Act, ownership of all
33 objects of underwater cultural heritage found in territorial waters, regardless of origin, is
34 vested directly in the State. It shall be unlawful to destroy, demolish, mutilate or damage any
35 object of underwater cultural heritage. No person shall remove from or alter the site of any
36 object of underwater cultural heritage within a protected zone.
37

38 **SEC. 7. Dealing or Possessing a Punishable Act.** - The act of dealing in or
39 possessing any object of underwater cultural heritage, any part thereof, or associated object in
40 the vicinity thereof unless authorized to be so by the National Museum is punishable by the
41 penal provisions of this Act.
42

43 **SEC. 8. Other Prohibited Acts.** - Diving, marking, use of explosives other than
44 shaped charges, use of a pressure air hose, water hose or vacuum hose within a protected
45 zone or a non-protected zone to recover objects of underwater cultural heritage is strictly
46 prohibited.
47

48 **SEC. 9. Reporting.** - Any person who discovers, by chance, any object of underwater
49 cultural heritage is obliged to report his/her find to the National Museum or any of its
50 branches within seven (7) days from knowledge of its potential scientific, cultural,

1 archaeological, paleontological or historical value. Any person who becomes aware of the
2 find is also required to notify the nearest National Museum branch or representative within
3 seven (7) days after constructive or direct knowledge. A government or public officer has the
4 special duty to pass any information regarding discovery and chance finds of objects of
5 underwater cultural heritage to the nearest National Museum branch or representatives.
6 Failure to report/notify within the designated period shall be penalized by the appropriate
7 provisions of this Act.

8
9 **SEC. 10. *Special Decorative.*** - A special decoration for persons who have contributed
10 to the preservation of objects of underwater cultural heritage or who have rendered important
11 services in the protection of the same shall be given by the Office of the President, upon
12 recommendation by the Director of the National Museum and the Undersecretary for Culture.

13
14 **SEC. 11. *Finders' Reward.*** - Finders who have dutifully notified the National
15 Museum of their discovery and chance finds shall be given a finder's reward equivalent to at
16 least fifteen percent (15%) of the value of the property and be given recognition by name in a
17 museum display or publication.

18
19 A finder who has the right qualification to work a site shall be given a right or priority
20 among applicants for permits to explore or excavate.

21
22 **SEC. 12. *Permits to Explore/Excavate.***- It shall be unlawful to dive, explore, survey,
23 excavate in Philippine waters for the purpose of obtaining materials of cultural or historical
24 value without the prior written authority from the Director of the National Museum.

25
26 The Director of the National Museum shall promulgate rules and guidelines for the
27 grant of permits/licenses to explore or excavate any underwater site for protected underwater
28 cultural properties in Philippine waters subject to the provisions of this Act. Such rules and
29 regulations shall be published in a newspaper of general circulation and shall be approved by
30 the Secretary of Department of Education.

31
32 **SEC. 13. *Who May Be Granted Permits.***- Only duly accredited scientific and
33 education institutions, duly registered non-stock and non-profit corporate entities or
34 organizations in the field of underwater archaeology, government agencies or
35 instrumentalities with proven ability to conduct underwater archaeological work, foreign
36 institutions in the field of underwater archaeology registered with the Securities and
37 Exchange Commission (SEC), and allowed to do business in the Philippines and individuals
38 and juridical person under sponsorship by a scientific or educational institution may be
39 granted by a scientific or educational institution may be granted permits to explore or
40 excavate.

41
42 **SEC. 14. *Formal Application.*** - A formal letter of application for a permit to explore
43 or excavate shall be addressed to the Director of the National Museum. It shall contain the
44 name of the proponents, the cooperating agencies, summary of the project, its objectives,
45 significance and the procedure to be followed, a timetable, a list of foreign personnel with
46 proper Philippine visa and historical and archival documentation. It must be accompanied by
47 financial statements, evidences of competence and experience in the field of underwater
48 archaeological and a listing of capital investments in terms of equipment and facilities. The
49 applicant shall file a cash performance bond in an amount not less than Two hundred

1 thousand pesos (Php 200,000.00) which is refundable subject to limitations upon completion
2 or cessation of the project.

3
4 **SEC. 15. *Procedures.*** - The National Museum's underwater archaeological
5 procedures shall be followed throughout the extent and effectivity of the project.

6
7 No exploration or excavation may commence until the written permit is issued and the
8 applicant has signed his conformity with the corresponding rules and regulations.

9
10 Activities during the exploration of underwater archaeological sites are limited to the
11 assessment of the potential(s) of the sites for future, archaeological excavation. During the
12 exploration only samples of small finds and diagnostic materials enough to help in the
13 identification and dating of the site may be taken. These materials shall belong to the
14 National Museum.

15
16 Underwater archaeological excavations are to be undertaken following internationally
17 accepted methods and techniques. There shall be a general mapping of the site prior to the
18 excavation where and when feasible. The permittee shall keep a daily inventory and listing of
19 archaeological materials recovered and a daily log book to record daily activities including
20 the detailed description. The permittee shall undertake a three-dimensional recording of
21 archaeological materials to show spatial relationship with other materials and environmental
22 features. The permittee must be committed to implement adequate recovery procedures to
23 minimize archaeologically induced damage specifically to fragile and small materials and
24 arrange for the conservation of all materials both at the site and the laboratory. A preliminary
25 report, status and final report of the activities and results of the excavations shall be submitted
26 to the National Museum.

27
28 **SEC. 16. *Presence of National Museum Representative.*** - Underwater
29 archaeological work, both exploratory and actual excavations, shall be carried out only in the
30 presence of National Museum representative(s).

31
32 Actual commencement of the work shall be subject to the availability of a National
33 Museum representative. The permittee shall underwrite the cost of transportation, life and
34 medical insurance, per diems and allowances of the Museum representative to the site to
35 expedite continuous operations of the project.

36
37 The permittee shall likewise provide the Museum representative with full scuba and
38 excavation equipment to be used for the underwater archaeological operation.

39
40 **SEC. 17. *Right of Revocation.*** - The National Museum has the full right to revoke the
41 permit issued to the applicant for cause such as but not limited to a violation or inability of
42 the permittee to comply with the terms and conditions of the permit or any part thereof,
43 deliberate act(s) of concealing any item or object recovered from the site or any part thereof
44 with the intention of defrauding the National Museum, allowing the possession, traffic or use
45 of prohibited drugs during the diving operations illegal possession of firearms and
46 ammunitions.

47
48 **SEC. 18. *Other Explosives Prohibited.*** - The use of other explosives other than
49 shaped charges that will not harm the environment is strictly prohibited. The use of shaped

1 charges must be with prior clearance from the National Museum representative and the
2 Armed Forces of the Philippines.

3
4 **SEC. 19. *Subcontracting Prohibited.*** - Subcontracting of underwater archaeological
5 work or third party arrangements is not permitted. Permits are non-transferable and non-
6 assignable.

7
8 **SEC. 20. *Period of Exploration.*** - Exploration permits are limited to a period of six
9 (6) months per permit, but renewable for another six (6) months for just reasons. An applicant
10 can only have two exploration permits at one time. The cash performance bond for an
11 exploration permit for one site is Two Hundred Thousand Pesos (Php 200,000.00).

12
13 **SEC. 21. *Period of Excavation.*** - Applications for permits to excavate must specify
14 the map coordinates of the specific site to the nearest degree. A site must be described in full
15 detail to establish identity. Excavation permits are limited to a period of one (1) year and
16 renewable for another year. In areas unaffected by seasonable climatological variations only
17 one excavation permit may be granted at one time. In affected areas, two excavation permits
18 may be granted, the applicant working alternately between the sites as the weather condition
19 permits. The cash performance bond for an exploration permit is extended into the excavation
20 phase if an excavation permit is granted.

21
22 **SEC. 22. *Study of Objects/Report.*** - A completed documentation and scientific study
23 of objects recovered from the site collectively must be undertaken before the same are
24 dispersed. A report on the project shall be submitted to the National Museum before any
25 division of the recovered materials, objects or item is allowed.

26
27 **SEC. 23. *Disposition/Division of Recovered Objects.*** - All rare and unique items
28 (RUIs) automatically belong to the National Museum. Any recovered object which is
29 declared to be a national cultural treasure or an important cultural property also belongs to the
30 National Museum.

31
32 If a cultural treasure, as in this Act, is discovered or recovered during the exploration
33 or excavation, the permittee must notify the National Museum Director within 24 hours. The
34 permittee may underwrite the cost of the guards and other security measures. The Director of
35 the National Museum shall request the Philippine Navy, through the Office of the President,
36 for assistance in securing the site and the project's personnel.

37
38 All cultural treasures shall be divided on a 50-50 basis. In case there are several RUI's
39 as determined by both parties, then, all cultural treasures shall be divided on a 50- 50 basis, in
40 favor of the permittee.

41
42 **SEC. 24. *Cost of Convention.*** - The material cost of the total conservation of the
43 recovered cultural properties shall be borne by the permittee regardless of the termination
44 date of the permit. The technical expertise in the conservation of the materials may be
45 provided by the National Museum.

46
47 **SEC. 25. *Construction or Mining Halted.*** - Underwater construction work or mining
48 shall be halted wherever a find is made so that rescue technology can take place. Mining or
49 construction in or near a declared protected zone/restricted area shall not commence without
50 prior consultation with the Director of the National Museum.

1 **SEC. 26. Cooperation with Diving Clubs.** - The Philippine Commission on Sports
2 Scuba- Diving (PCSSD) and local diving, clubs shall submit a list of their divers-members to
3 the National Museum. The Philippine Tourism Authority, together with representatives of the
4 National Museum, shall conduct education campaigns and information derives about the
5 Philippine underwater cultural heritage to tourist-divers and local diver's clubs.
6

7 **SEC. 27. Penal Provisions.** - Any violation of the provision of this Act shall, upon
8 conviction, subject the offender to a fine of not less than One hundred thousand pesos (Php
9 100,000.00) or imprisonment for a term of not less than ten (10) years or both upon the
10 discretion of the Court: *Provided*, That any watercraft, equipment, tools, paraphernalia, other
11 instruments used for excavation and objects excavated in violation of this Act shall be
12 summarily confiscated and forfeited to the National Museum: *Provided, further*, That if the
13 violation is committed by a juridical person, the manager, representative, director agent or
14 employee of said juridical person responsible for the act shall also be liable to the penalties
15 provided herein: *Provided, finally*, That if the offender is an alien he shall be under the
16 custody of the Commission on Immigration and Deportation for the appropriate proceedings.
17

18 **SEC. 28. Appropriation.** - The sum of Seven million pesos (Php 7,000,000.00) is
19 hereby appropriated annually from the General Fund, not otherwise appropriated by law, to
20 carry out the provision of this Act.
21

22 **SEC. 29. Repealing Clause.** - Any provision of existing laws, rules, decrees and
23 executive orders inconsistent with the provisions of this Act are hereby repealed and
24 modified accordingly.
25

26 **SEC. 30. Separability Clause.** - Any portion or provision of this Act that may be
27 declared unconstitutional shall not have the effect of nullifying other portions or provisions
28 hereof as long as such remaining provisions can still subsist and be given effect.
29

30 **SEC. 31. Effectivity Clause.** - This Act shall take effect upon its approval and fifteen
31 (15) days after its publication in the Official Gazette or in at least two (2) newspapers of
32 general circulation.

Approved,