

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
First Regular Session

HOUSE OF REPRESENTATIVES
H.B. No. **5980**



Introduced by Representative H. Harry L. Roque Jr.

EXPLANATORY NOTE

The Constitution, Article 2, Section 16 provides:

The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

The passage of Republic Act No. 7076 way back in 1991 gave birth to a mining policy that aimed to “.... promote, develop, protect and rationalize viable small-scale mining activities in order to generate more employment opportunities and provide an equitable sharing of the nation’s wealth and natural resources....”. This law, and a number of regulations that came after it, paved the way for noticeable economic growth in the industry. The most recent Mining Industry Statistics¹ released by the Mines & Geosciences Bureau indicate that at least ₱328.6 Billion Gross Production Value is attributable to small-scale gold mining alone between the years 1997-2014.

¹ <http://www.mgb.gov.ph/Files/Statistics/HistoricalMineralIndustryStatistics.pdf>. Release date: 20 February 2015. Last accessed on 8 May 2015.

Unfortunately, economic growth from mining also comes with its own set of environmental hazards. In one particular case recently decided by the Supreme Court², an issue arose from a confusing interpretation of the lack of an annual extraction limit in small-scale mining operations. The Court was quick to strike down the argument that the law in current operation does not put a limit, or if it does, that such limit should only apply to extractions already in its “purest form” and not with its gangue, *ie.*, the unwanted rocks and minerals. The Court points out that this kind of interpretation will cause “irreversible degradation of the natural resources and possible landslides and flashfloods”.

Even with a final ruling from the Supreme Court, the confusion still remains as two different laws governing small-scale mining co-exist: P.D. No. 1899³ and R.A. No. 7076. While E.O. 79⁴ and DMC 2007-07⁵ attempts to harmonize the implementation of the two, DOJ Opinion No. 74, Series of 2006 still concluded that as nothing from R.A. No. 7076 speaks of an annual production limit, Section 1 of P.D. No. 1899 should be considered impliedly repealed by R.A. No. 7076, the later law.

The conflict in the prevailing statutes, implementing rules and legal opinion from the involved government agencies thus result in a colossal disparity: big mining corporations – operating as small-scale miners – profit in the billions while the communities where these miners operate receive benefits arguably incommensurate to the permanent ecological destruction brought about by massive extraction.

With the advent of climate change, we need to shift our focus from pure exploitation to one which balances between utilization and preservation. Every move for a more stringent

² SR Metals, Inc., et.al. v. Department of Environment and Natural Resources (DENR), 724 SCRA 535 (2014).

³ Establishing Small-Scale Mining as a New Dimension in Mineral Development

⁴ Institutionalizing and Implementing Reforms in the Philippine Mining Sector Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources. Issued on 06 July 2012 by President Benigno S. Aquino III.

⁵ Clarificatory Guidelines in the Implementation of the Small-Scale Mining Laws. Issued on 5 July 2007 by the Department of Environment and Natural Resources (DENR).

environmental protection should be supported by a coherent legislative policy that leaves no room for confusion in terms of implementation.

A handwritten signature in black ink, appearing to read 'H. Roque Jr.', with a stylized, cursive script.

H. HARRY L. ROQUE JR.

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AN ACT
IMPOSING AN ANNUAL PRODUCTION LIMIT IN SMALL-SCALE MINING
ACTIVITIES, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7076,
OTHERWISE KNOWN AS THE "PEOPLE'S SMALL-SCALE MINING ACT OF 1991"

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to promote, develop, protect and rationalize viable small-scale mining activities in order to generate more employment opportunities and provide an equitable sharing of the nation's wealth and natural resources, giving due regard to existing rights as herein provided **AND ENVIRONMENTAL STANDARDS IN EXISTING RULES AND REGULATIONS.**

SEC. 12. *Rights Under a People's Small-scale Mining Contract.* A people's small-scale mining contract entitles the small-scale mining contractor to the right to mine, extract and dispose of mineral ores for commercial purposes **UP TO AN ANNUAL PRODUCTION LIMIT OF**

1 50,000 DRY METRIC TONS (DMT[S]) OF ORE FOR METALLIC
2 MINERALS, OR 50,000 DRY METRIC TONS (DMT[s]) OF THE
3 MATERIAL ITSELF FOR NON-METALLIC MINERALS. In no case
4 shall a small-scale mining contract be subcontracted, assigned or otherwise
5 transferred.

6 **PROVIDED, THAT FOR PURPOSES OF COMPUTING THE**
7 **ANNUAL PRODUCTION LIMIT FOR BOTH METALLIC AND NON-**
8 **METALLIC MINERALS, THE TERM "ORES" SHALL REFER TO**
9 **THE EXTRACTION AS IT EMERGES FROM THE MINE, *i.e.*,**
10 **BEFORE TREATMENT, EXCLUDING ONLY ITS WATER OR**
11 **MOISTURE CONTENT.**

12 SECTION 3. *Separability Clause.* – If any provision or part hereof, is held invalid or
13 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
14 valid and subsisting.

15 SECTION 4. *Repealing Clause.* - All laws, orders, issuances, rules and regulations or
16 part thereof inconsistent with the provisions of this Act are hereby repealed, amended or
17 modified accordingly.

18 SECTION 5. *Effectivity Clause.* - This Act shall take effect within fifteen (15) days
19 after its publication in the *Official Gazette* or in at least two (2) newspapers of general
20 circulation, whichever comes earlier.

Approved,