

Republic of the Philippines
House of Representatives
Quezon City

SEVENTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 7944



INTRODUCED BY REPRESENTATIVE ALFRED VARGAS

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

EXPLANATORY NOTE

As an archipelago and a setting for migration and colonization, there is wealth of history in Philippine waters. Numerous shipwrecks are treated as diving and research spots such as those in the Irako Island in Coron, the ship graveyard in Subic Bay, and the Pioneer in Malapascua Island.¹ The country also boasts other underwater cultural heritage such as the underwater cemetery in Camiguin, stone boat-shaped burials in Batanes, and the submerged stone ruins of former towns in Batangas Province.²

These sites serve as habitats for extraordinary marine life and offer a glimpse into human culture and history. It must be noted, however, that once these important cultural resources are destroyed, they cannot be renewed or rehabilitated. These structures are especially vulnerable to physical destruction if not handled properly. It also faces increasing incidence of uncontrolled looting. Moreover, there is a lack of management and funding for exploration and excavation excursions.

Currently, these sites are considered as “cultural properties” under Republic Act No. 4846 or the “Cultural Properties Preservation and Protection Act” and Presidential Decree No. 374. Controlled archaeological regulations include underwater excavations under the mandate of the National Museum in R.A. No. 8492. Lastly, R.A. No. 10066 or the “National Cultural Heritage Act of 2009” provided for the requirement of a clearance from the cultural agency concerned before any cultural property is sold, resold, or taken out of the country. Research and management of our underwater cultural heritage, however, has largely been confined to shipwrecks.³ At present time, there are is

¹ Johnny Langenheim, “Top Five Wreck Dives in the Philippines,” *The Coral Triangle*, June 04, 2014, <http://thecoraltriangle.com/stories/top-five-wreck-dives-in-the-philippines>

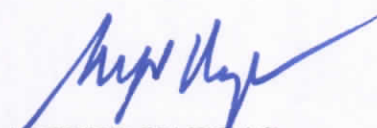
² Bobby C. Orillaneda and Wilfredo P. Ronquillo, “Protecting and Preserving the Underwater Cultural Heritage in the Philippines,” *The Museum of Underwater Archaeology*, <http://www.themua.org/collections/files/original/6262feb1d8c9889f3c7cd53e6b106763.pdf>

³ Ibid.

no comprehensive underwater cultural heritage preservation, protection, management, and monitoring mechanism yet established.⁴

This bill thus seeks to create a regulatory framework to address the need to protect the country's underwater cultural heritage. These cultural resources are to be treated in a consistent manner to serve its purposes both as valuable tourist spots and as irreplaceable sources of research and education into our history. This bill provides for modern mechanisms for the management of underwater cultural heritage particularly regulations on excavation and exploration, the creation of a registry of items and/or sites to be protected, prohibition of certain harmful activities in the vicinity of a protected item and/or site, establishment of a reward system for verified reports, and imposition of sanction/penalties for violations. The management of our underwater cultural heritage is thus adapted according to current international best practice standards to ensure that this cultural inheritance is preserved for current and future generations.

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



ALFRED VARGAS

⁴ Bobby C. Orillaneda and Wilfredo P. Ronquillo, "Protecting and Preserving the Underwater Cultural Heritage in the Philippines".

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

Section 1. *Short Title.* – This Act shall be known as the “Underwater Cultural Heritage Act of 2018”.

Section 2. *Declaration of Policies.* – It is hereby declared to be the policy of the State:

- (a) To provide for the identification, protection, and conservation of the Philippine’s underwater cultural heritage;
- (b) To enable the cooperative implementation of national and international maritime heritage responsibilities; and
- (c) To promote public awareness, understanding, appreciation, and appropriate use of the Philippine’s underwater cultural heritage.

Section 3. *Definition of Terms.* – For the purposes of this Act, the terms and phrases shall be defined as follows:

- (a) “Philippine waters” refer to the waters surrounding, in 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 with Republic Act No. 3046 as amended by Republic Act No. 5446;
- (b) “Sea” includes any waters within the ebb and flow of the tide;
- (c) “Ship” includes any vessel used in navigation by water;

- (d) "Cultural treasure" includes any money, coin, gold, silver bullion, jewelry, precious stones and metals, and other raw precious objects which are found or hidden in, or in anything affixed to, the sailor, 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 and/or is declared a national cultural treasure or important cultural property;
- (e) "Historic" refers to any site or article which is significant in the course, evolution, or pattern of history;
- (f) "Archaeological" refers to the any site or article which significant for the potential to yield information contributing to an understanding of history, technological accomplishments or social developments
- (g) "Underwater archaeology" includes not only maritime archaeology includes not only maritime archaeology but also riverine and submerged site archaeology;
- (h) "Underwater cultural heritage" refer to objects, both movable and immovable, and site includes all shipwrecks, sunken vessels and all things therein, hulls and underwater archaeological artifacts; places of ancient settlement or where there are vestiges of an ancient civilization; dockyards, piers, aqueducts, tanks, wells; moments, 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;
- (i) "Scientific" refers to any site or article which is significant in the potential to yield information about the composition and history of cultural remains and associated natural phenomena through examination of physical, chemical, and biological processes;
- (j) "Collector" refers to any person or institution who acquires cultural treasure for the purpose of engaging in the acquisition and resale of the same; and
- (k) "Exporters" refer to dealers who engage in the business of exporting cultural treasure.

Section 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.

Section 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 sites 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.

Section 6. *Automatic Protection as Underwater Cultural Heritage.* –

- (1) The following articles are protected underwater cultural heritage that is automatically protected:
 - (a) All remains of vessels that have been in Philippine waters for at least 75 years;
 - (b) Every article that is associated with a vessel, or the remains of a vessel, and that has been in Philippine waters for at least 75 years;
 - (c) All remains of aircraft that have been in Commonwealth waters for at least 75 years;
 - (d) Every article that is associated with an aircraft, or the remains of an aircraft, and that has been in Philippine waters for at least 75 years;
- (2) An article is covered by subsection (1) whether or not the existence or location of the article is known.
- (3) An article is covered by subsection (1) even if the article is, or has been, removed from Philippine waters (as the case may be).

Section 7. *Declaration of Underwater Cultural Heritage for Protection.* –

- (1) The Director of the National Museum may, by notifiable instrument, declare an article as underwater cultural heritage to be protected upon satisfaction that the article is of heritage significance.
- (2) The declaration must:
 - (a) Describe the article; and
 - (b) Describe the heritage significance of the article; and
 - (c) If the article has not been removed from the waters at the time the declaration is made – specify the location of the article and describe its surrounding environment.
- (3) An article continues to be covered by a declaration under subsection (1) even if the article is removed from waters after the declaration is made.
- (4) The Director may, by notifiable instrument, vary or revoke a declaration made under subsection (1).

Section 8. *Declaration of a Protected Zone.* –

- (1) The Director of the National Museum may declare an area containing protected underwater cultural heritage to be a protected zone.

In making a declaration under subsection (1), the Minister must have regard to the following matters:

- (a) the need to protect underwater cultural heritage that is of particular national or international significance, is rare or is subject to an international treaty or agreement (however described);
- (b) the need to limit access to environmentally, socially or archaeologically sensitive underwater cultural heritage;
- (c) the need to protect underwater cultural heritage that is under threat of interference, damage, destruction or removal;
- (d) any danger posed to the public by the underwater cultural heritage;
- (e) the need to improve management of underwater cultural heritage and its surrounding environment which may be subject to impacts from visitation or development activity;
- (f) the need to ensure effective monitoring of underwater cultural heritage in remote locations; and
- (g) any other matter the Director considers relevant.

- (2) An area declared under subsection (1):

- (a) must not be outside the outer limits of Philippine waters;
- (b) may consist of sea, or partly of sea and partly of land;
- (c) may include the airspace above the area, extending to such height above the surface of the sea or land as is specified in the declaration; and
- (d) to the extent the area consists of the surface of any sea— includes the waters beneath the area, the seabed beneath that sea and the subsoil of the seabed.

- (3) The declaration must:

- (a) specify the area covered by the declaration;
- (b) specify the period for which the declaration is in force;
- (c) provide a description of the underwater cultural heritage sought to be protected; and
- (d) specify conduct (if any) that is prohibited (either generally or in specified circumstances) within the area covered by the declaration.

Section 9. *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 within a protected zone.

Section 10. *Dealing or Possessing of Underwater Cultural Heritage Items as a Punishable Act* – The act of dealing in or possessing any object of underwater cultural heritage, any part thereof, or associated object in the vicinity thereof unless authorized to be so by the National Museum is punishable by the penal provisions of this Act.

Section 11. *Other Prohibited Acts*. – Diving, marking, use of explosives other than shaped charges, or the use of a pressure air hose, water hose, or vacuum hose within a protected zone or a none-protected zone to recover objects of underwater cultural heritage is strictly prohibited.

Section 12. *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 its representatives. Failure to report or notify within the designated period shall be penalized by the appropriate provisions of this Act.

Section 13. *Special Decoration*. – 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.

Section 14. *Finders' 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.

Section 15. *Permits to Explore or Excavate*. – It shall be unlawful to dive, explore, survey, or excavate in Philippine waters for the purpose of obtaining materials of cultural or historical value without the prior written authority of 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.

Section 16. *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 Securities and Exchange Commission (SEC), and other individuals or juridical persons allowed to do business in the Philippines under sponsorship by a scientific or educational institution may be granted by a scientific or educational institution may be granted permits to explore or excavate.

Section 17. *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 (Php 200,000.00) which is refundable subject to limitations upon completion or cessation of the project.

Section 18. *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(s) of the sites for future archaeological excavation. During the exploration, only samples of small funds 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 the detailed description. 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 material 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.

Section 19. *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 to the site to expedite continuous operations of the project.

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

Section 20. Right of Revocation. – The National Museum has the full right to revoke the permit issued to the applicant for cause 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, allowing the possession, traffic, or use of prohibited drugs, and the illegal possession of firearms and ammunitions during the diving operations.

Section 21. Other Explosives Prohibited. – The use of other explosives other than shaped charges that will not harm the environment is strictly prohibited. The use of shaped charges must be with prior clearance from the National Museum representative(s) and the Armed Forces of the Philippines.

Section 22. Subcontracting Prohibited. – Subcontracting of underwater archaeological work or third party arrangements is not permitted. Permits are non-transferrable and non-assignable.

Section 23. 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 one time. The cash performance bond for an exploration permit for one site is Two Hundred Thousand Pesos (P200,000.00).

Section 24. Period of Excavation. – Applications for permits to excavate must specify the map coordinates of the specific site to the nearest degree. A site must be described in full detail to establish identity. Excavation permits are limited to a period of one (1) year and renewable for another year. In areas unaffected by seasonal climatological variations, only one (1) excavation permit may be granted at one time. In affected areas, two (2) 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 into the excavation phase if an excavation permit is granted.

Section 25. Study of Objects and Report. – A completed documentation and scientific study of objects recovered from the site collectively 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 item is allowed.

Section 26. 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 in this Act, is discovered or recovered during the exploration or excavation, the permittee must notify the National Museum Director within twenty-four (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 shall be divided on a 50-50 basis. In case there are several RUIs as determined by both parties, then all cultural treasures shall be divided on a 50-50 basis in favor of the permittee.

Section 27. *Cost of Convention.* – 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.

Section 28. *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.

Section 29. *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

Section 30. *Penal Provisions.* – Any violation of the provision of this Act shall, upon conviction, subject the offender to a fine not less than ten (10) years or both upon discretion of the Court: *Provided*, That any watercraft, equipment, tools, paraphernalia, or other instruments used for excavation and objects excavated in violation of this act shall be summarily confiscated and forfeited to the National Museum: *Provided, further*, That if the violation is committed by a juridical person, the manager, representative, director, agent, or employee of the 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.

Section 31. *Appropriation.* – The sum of Ten Million pesos (P10,000,000.00) is hereby appropriated annually from the General Fund, not otherwise appropriated by law, to carry out the provision of this Act.

Section 32. *Repealing Clause.* – Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule, or regulation, contrary to or inconsistent with the provisions of this Act is hereby repealed, modified, or amended accordingly.

Section 33. *Separability Clause.* – If any provision or part of this Act is held unconstitutional or invalid, the remaining parts or provisions not affected shall remain in full force and effect.

Section 34. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,