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S E N A T E

S. No. 282

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Introduced by Senator S. R. Osmeña III

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### EXPLANATORY NOTE

Even before the arrival of Spanish colonizers, the Philippines was a thriving economy trading with its neighboring countries. The recent underwater archeological findings in Palawan and Batangas, which date back to hundreds of years ago attest to such a conclusion.

This bill which seeks to protect and conserve future underwater archeological discoveries and assigns the National Museum as the lead agency to implement 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. This measure 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, culture, archaeological, paleontological or historical value.

This bill will go a long way in protecting our national heritage.

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



**SERGIO OSMEÑA III**  
Senator



1           d)     Underwater archaeology includes not only maritime archaeology  
2 but also riverine and submerged site archaeology;

3           e)     Cultural Treasure includes any money, coin, gold, silver bullion,  
4 jewelry, precious stones and metals and other raw precious objects which are  
5 unworked found or hidden in, or in anything affixed to, the soil or the bed of a  
6 river or of the sea or other bodies of water but shall not include any rare and  
7 unique item or any object which is at least one hundred (100) years old or more  
8 declared a national cultural treasure or important cultural property;

9           f)     Objects of underwater cultural heritage, both movable and  
10 immovable includes all shipwrecks, sunken vessels at least 100 years old and all  
11 things therein, hulls and underwater archaeological artifacts; places of ancient  
12 settlement or where there are vestiges of an ancient civilization; dockyards, piers,  
13 aqueducts, tanks, wells; monuments, fragment shards or original documents  
14 found under water dating from prehistoric times and any other object of scientific,  
15 cultural, religious, archaeological, anthropological or paleontological interest to  
16 the Philippines;

17          g)     Collector is any person or institution who acquires cultural treasure  
18 for purposes other than sale;

19          h)     Dealers are persons or enterprises who acquire cultural treasure for  
20 the purpose of engaging in the acquisition and resale of the same; and

21          i)     Exporters are dealers who engage in the business of exporting  
22 cultural treasure.

23           SEC. 4. *National Museum as Lead Agency.* – The National Museum,  
24 hereinafter referred to as the Museum shall be the lead agency of the  
25 government which shall implement the provisions of this Act.

26           SEC. 5. *Declaration and Register of Protected Sites.* – The Archaeology  
27 Division of the National Museum shall undertake an intensive archival and  
28 historical research study to pinpoint sites of important shipwrecks and other  
29 significant underwater archaeological sites within five (5) years from the approval

1 of this Act. Thereafter, the National Museum shall keep an up-to-date register of  
2 protected underwater archaeological sites and shipwrecks.

3 The Director of the National Museum shall by notice published in the  
4 Official Gazette or any newspaper of general circulation, declare an area (not  
5 exceeding 100 hectares) consisting of sea or partly of sea and partly of land  
6 within which archaeological sites, shipwrecks or any object of underwater cultural  
7 heritage are situated to be a protected zone and/or restricted area.

8 SEC. 6. *Ownership of Cultural Objects.* – Upon approval of this Act,  
9 ownership of all objects of underwater cultural heritage found in territorial waters,  
10 regardless of origin, is vested directly in the State.

11 It shall be unlawful to destroy, demolish, mutilate or damage any object of  
12 underwater cultural heritage. No person shall remove from or alter the site of any  
13 object of underwater cultural heritage within a protected zone.

14 SEC. 7. *Dealing or Possessing a Punishable Act.* – The act of dealing in  
15 or possessing any object of underwater cultural heritage, any part thereof, or  
16 associated object in the vicinity thereof unless authorized to be so by the  
17 National Museum is punishable by the penal provisions of this act.

18 SEC. 8. *Other Prohibited Acts.* – Diving, marking, use of explosives  
19 other than shaped charges, use of a pressure air hose, water hose or vacuum  
20 hose within a protected zone or a non-protected zone to recover objects of  
21 underwater cultural heritage is strictly prohibited.

22 SEC. 9. *Reporting.* – Any person who discovers, by chance, any object  
23 of underwater cultural heritage is obliged to report his/her find to the National  
24 Museum or any of its branches within seven (7) days from knowledge of its  
25 potential scientific, cultural, archaeological, paleontological or historical value.  
26 Any person who becomes aware of the find is also required to notify the nearest  
27 National Museum branch or representative within seven (7) days after  
28 constructive or direct knowledge. A government or public officer has the special  
29 duty to pass any information regarding discovery and chance finds of objects of

1 underwater cultural heritage to the nearest National Museum branch or  
2 representatives. Failure to report/notify within the designated period shall be  
3 penalized by the appropriate provisions of this Act.

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

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

13 A finder who has the right qualification to work a site shall be given a right  
14 o priority among applicants for permits to explore or excavate.

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

19 The Director of the National Museum shall promulgate rules and  
20 guidelines for the grant of permits/licenses to explore or excavate any  
21 underwater site for protected underwater cultural properties in Philippine waters  
22 subject to the provisions of this Act. Such rules and regulations shall be  
23 published in a newspaper of general circulation and shall be approved by the  
24 Secretary of Education, Culture and Sports.

25 SEC. 13. *Who May Be Granted Permits*. – Only duly accredited scientific  
26 and education institutions, duly registered non-stock and non-profit corporate  
27 entities or organizations in the field of underwater archaeology, government  
28 agencies or instrumentalities with proven ability to conduct underwater  
29 archaeological work, foreign institutions in the field of underwater archaeology

1 registered with the SEC and allowed to do business in the Philippines and  
2 individuals and juridical person under sponsorship by a scientific or educational  
3 institution may be granted by a scientific or educational institution may be  
4 granted permits to explore or excavate.

5       SEC. 14. *Formal Application.* – A formal letter of application for a permit  
6 to explore or excavate shall be addressed to the Director of the National  
7 Museum. It shall contain the name of the proponents, the cooperating agencies,  
8 a summary of the project, its objectives, significance and the procedure to be  
9 followed, a timetable, a list of foreign personnel with proper Philippine visa and  
10 historical and archival documentation. It must be accompanied by financial  
11 statements, evidences of competence and experience in the field of underwater  
12 archaeological and a listing of capital investments in terms of equipment and  
13 facilities. The applicant shall file a cash performance bond in an amount not less  
14 than Two hundred thousand pesos (P200,000.00) which is refundable subject to  
15 limitations upon completion or cessation of the project.

16       SEC. 15. *Procedures.* – The National Museum's underwater  
17 archaeological procedures shall be followed throughout the extent and effectivity  
18 of the project.

19       No exploration or excavation may commence until the written permit is  
20 issued and the applicant has signed his conformity with the corresponding rules  
21 and regulations.

22       Activities during the exploration of underwater archaeological sites are  
23 limited to the assessment of the potential(s) of the sites for future, archaeological  
24 excavation. During the exploration only samples of small finds and diagnostic  
25 materials enough to help in the identification and dating of the site may be taken.  
26 These materials shall belong to the National Museum.

27       Underwater archaeological excavation are to be undertaken following  
28 internationally accepted methods and techniques. There shall be a general  
29 mapping of the site prior to the excavation where and when feasible. The

1 permittee shall keep a daily inventory and listing of archaeological materials  
2 recovered and a daily log book to record daily activities including the detailed  
3 description the permittee shall undertake a three-dimensional recording of  
4 archaeological materials to show spatial relationship with other' materials and  
5 environmental features. The permittee must be committed to implement  
6 adequate recovery procedures to minimize archaeologically induced damage  
7 specifically to fragile and small materials and arrange for the conservation of all  
8 materials both at the site and the laboratory. A preliminary report, status and  
9 final report of the activities and results of the excavations shall be submitted to  
10 the National Museum.

11 SEC. 16. *Presence of National Museum Representative.* – Underwater  
12 archaeological work, both exploratory and actual excavations, shall be carried  
13 out only in the presence of National Museum representative(s).

14 Actual commencement of the work shall be subject to the availability of a  
15 National Museum representative.

16 The permittee shall underwrite the cost of transportation, life and medical  
17 insurance, per diems and allowances of the Museum representative to the site to  
18 expedite continuous operations of the project.

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

22 SEC. 17. *Right of Revocation.* – The National Museum has the full right  
23 to revoke the permit issued to the applicant for cause such as but not limited to a  
24 violation or inability of the permittee to comply with the terms and conditions of  
25 the permit or any part thereof, deliberate act(s) of concealing any item or object  
26 recovered from the site or any part thereof with the intention of defrauding the  
27 National Museum, allowing the possession, traffic or use of prohibited drugs  
28 during the diving operations illegal possession of firearms and ammunitions.

1           SEC. 18. *Other Explosives Prohibited.* – The use of other explosives  
2 other than shaped charges that will not harm the environment is strictly  
3 prohibited. The use of shaped charges must be with prior clearance from the  
4 National Museum representative and the Armed Forces of the Philippines.

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

8           SEC. 20. *Period of Exploration.* – Exploration permits are limited to a  
9 period of six (6) months per permit, but renewable for another six (6) months for  
10 just reasons. An applicant can only have two exploration permits at any one  
11 time. The cash performance bond for an exploration permit for one site is Two  
12 hundred thousand pesos (P200,000.00).

13           SEC. 21. *Period of Excavation.* – Applications for permits excavate must  
14 specify the map coordinates of the specific site to the nearest degree. A site  
15 must be described in full detail to establish identify.

16           Excavation permits are limited to a period of one (1) year and renewable  
17 for another year. In areas unaffected by seasonable climatological variations  
18 only one excavation permit may be granted at any one time. In affected areas,  
19 two excavation permits may be granted, the applicant working alternately  
20 between the sites as the weather condition permits.

21           The cash performance bond for an exploration permit is extended into the  
22 excavation phase if an excavation permit is granted.

23           SEC. 22. *Study of Objects/Report.* – A completed documentation and  
24 scientific study of objects recovered from the site collectively must be undertaken  
25 before the same are dispersed.

26           A report on the project shall be submitted to the National Museum before  
27 any division of the recovered materials, objects or items is allowed.

28           SEC. 23. *Disposition/Division of Recovered Objects.* – All rare and  
29 unique items (RUIs) automatically belong to the National Museum. Any



1 recovered object which is declared to be a national cultural treasure or an  
2 important cultural property also belongs to the National Museum.

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

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

12 SEC. 24. *Cost of Convention.* – The material cost of the total  
13 conservation of the recovered cultural properties shall be borne by the permittee  
14 regardless of the termination date of the permit. The technical expertise in the  
15 conservation of the materials may be provided by the National Museum.

16 SEC. 25. *Construction or Mining Halted.* – Underwater construction work  
17 or mining shall be halted wherever a find is made so that rescue technology can  
18 take place.

19 Mining or construction in or near a declared protected zone/restricted area  
20 shall not commence without prior consultation with the Director of the National  
21 Museum.

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

28 SEC. 27. *Penal Provisions.* – Any violation of the provision of this Act  
29 shall, upon conviction, subject the offender to a fine of not less than One hundred

1 thousand pesos (P100,000.00) or imprisonment for a term of not less than ten  
2 (10) years or both upon the discretion of the Court: Provided, That any  
3 watercraft, equipment, tools, paraphernalia, other instruments used for  
4 excavation and objects excavated in violation of this Act shall be summarily  
5 confiscated and forfeited to the National Museum: Provided, further, That if the  
6 violation is committed by a juridical person, the manager, representative, director  
7 agent or employee of said juridical person responsible for the act shall also be  
8 liable to the penalties provided herein Provided, finally, That if the offender is an  
9 alien he shall be under the custody of the Commission on Immigration and  
10 Deportation for the appropriate proceedings.

11 SEC. 28. *Appropriation.* – The sum of Seven million pesos  
12 (P7,000,000.00) is hereby appropriated annually from the General Fund, not  
13 otherwise appropriated by law, to carry out the provision of this Act.

14 SEC. 29. *Repealing Clause.* – Any provision of existing laws, rules,  
15 decrees and executive orders inconsistent with the provisions of this Act are  
16 hereby repealed and modified accordingly.

17 SEC. 30. *Separability Clause.* – Any portion or provision of this Act that  
18 may be declared unconstitutional shall not have the effect of nullifying other  
19 portions or provisions hereof as long as such remaining provisions can still  
20 subsist and be given effect.

21 SEC. 31. *Effectivity Clause.* – This Act shall take effect fifteen (150 days  
22 after publication in the Official Gazette or a newspaper of general circulation.

Approved,