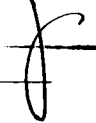




16 JUL 19 P2:12

SENATE

S. No. 512

RECEIVED BY: 

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Introduced by Senator Antonio "Sonny" Trillanes IV

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

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.

  
ANTONIO "SONNY" F. TRILLANES IV  
Senator

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AN ACT  
PROVIDING FOR THE PROTECTION AND CONSERVATION OF ALL OBJECTS  
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*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 of 2016*".  
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  
32           f) Objects of underwater cultural heritage, both movable and immovable includes all  
33 shipwrecks, sunken vessels at least 100 years old and all things therein, hulls and

1 underwater archaeological artifacts; places of ancient settlement or where there are  
2 vestiges of an ancient civilization; dockyards, piers, aqueducts, tanks, wells;  
3 moments, fragment shards or original documents found under water dating from  
4 prehistoric times and any other object of scientific, cultural, religious, archaeological,  
5 anthropological or paleontological interest to the Philippines;  
6

7 g) Collector is any person or institution who acquires cultural treasure for purposes other  
8 than sale;  
9

10 h) Dealers are persons or enterprises who acquire cultural treasure for the purpose of  
11 engaging in the acquisition and resale of the same; and  
12

13 i) Exporters are dealers who engage in the business of exporting cultural treasure.  
14

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

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

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

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

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

46 **SEC. 9. Reporting.** - Any person who discovers, by chance, any object of underwater  
47 cultural heritage is obliged to report his/her find to the National Museum or any of its  
48 branches within seven (7) days from knowledge of its potential scientific, cultural,  
49 archaeological, paleontological or historical value. Any person who becomes aware of the  
50 find is also required to notify the nearest National Museum branch or representative within

1 seven (7) days after constructive or direct knowledge. A government or public officer has the  
2 special duty to pass any information regarding discovery and chance finds of objects of  
3 underwater cultural heritage to the nearest National Museum branch or representatives.  
4 Failure to report/notify within the designated period shall be penalized by the appropriate  
5 provisions of this Act.  
6

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

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

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

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

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

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

40 **SEC. 14. *Formal Application.*** - A formal letter of application for a permit to explore  
41 or excavate shall be addressed to the Director of the National Museum. It shall contain the  
42 name of the proponents, the cooperating agencies, summary of the project, its objectives,  
43 significance and the procedure to be followed, a timetable, a list of foreign personnel with  
44 proper Philippine visa and historical and archival documentation. It must be accompanied by  
45 financial statements, evidences of competence and experience in the field of underwater  
46 archaeological and a listing of capital investments in terms of equipment and facilities. The  
47 applicant shall file a cash performance bond in an amount not less than Two hundred  
48 thousand pesos (Php 200,000.00) which is refundable subject to limitations upon completion  
49 or cessation of the project.  
50

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

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

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

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

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

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

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

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

45           **SEC. 18. *Other Explosives Prohibited.*** - The use of other explosives other than  
46 shaped charges that will not harm the environment is strictly prohibited. The use of shaped  
47 charges must be with prior clearance from the National Museum representative and the  
48 Armed Forces of the Philippines.  
49

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

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

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

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

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

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

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

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

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

49           **SEC. 26. *Cooperation with Diving Clubs.*** - The Philippine Commission on Sports  
50 Scuba- Diving (PCSSD) and local diving, clubs shall submit a list of their divers-members to

1 the National Museum. The Philippine Tourism Authority, together with representatives of the  
2 National Museum, shall conduct education campaigns and information derives about the  
3 Philippine underwater cultural heritage to tourist-divers and local diver's clubs.  
4

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

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

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

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

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

*Approved,*