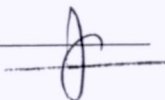


SENATE

'19 SEP 26 A11 :12

S. No. 1075

RECEIVED BY: 

Introduced by **SENATOR LEILA M. DE LIMA**

**AN ACT**  
**PROHIBITING BLACK SAND MINING IN THE PHILIPPINES,**  
**PROVIDING PENALTIES THEREFOR, AND FOR OTHER PURPOSES**

**EXPLANATORY NOTE**

Black sand or magnetite is defined by the Mines and Geosciences Bureau (MGB) as dark, often glossy mixture of sand materials which originates from the weathering of dark rocks situated near shore or transported from inland through natural drainage mostly deposited in beaches and river deltas. It is popularly used as an additive in the manufacture of concrete and steel products, magnets, paints, ink, paper, jewelry and cosmetics. It is a very lucrative commodity in foreign markets such as in China, Taiwan and Korea. On the other hand, black sand is an important mineral that keeps sand particles heavier and more compressed, thus serving as a natural barrier of land surfaces and fresh water deposits from seawater and ensures that seawater is at a level lower than land surface area.

Studies made by environmental groups in areas with black sand mining activities show that black sand mining operations contribute greatly to the depletion of fishery resources, erosion of land and severe flooding. It is even predicted that areas mined for magnetite or black sand could sink and be underwater within 30 to 70 years as rapid subsidence will highly expose said areas to flooding and seasonal typhoon.

In Cagayan, for example, the effects are now easily seen. Houses are crumbling because the sand underneath it are getting eroded; rice fields are shrinking and harvests are becoming less as the fields are inundated by saltwater. Fisherfolk are reporting reduced catch. It is, therefore, believed that black sand mining operations contributed to the depletion of fisheries, saltwater and chemical

intrusion into freshwater table, and worsened flooding in coastal and riverside community due to bank erosion. Moreover, in one of the areas affected by black sand mining operations showed a growing number of cases of skin and lung diseases attributed to the black sand mining and noted other related diseases such as severe eye irritation and hernia.

Sad to say, notwithstanding the alarming adverse effect of exploration and extraction of black sand or magnetite on the environment and human life, and despite government efforts to curb illegal activities relative thereto, black sand mining operations has been proliferating in different parts of the county. There are reports that unscrupulous mining operators, mostly foreign nationals, are conniving with some local government officials who allow them to operate despite opposition from the residents of the affected areas. For instance, 23 Chinese nationals were arrested in Cagayan for alleged illegal extraction of black sand along the coastline of Aparri while 14 Chinese nationals were apprehended in Camarines Norte for illegal black sand mining.

At present, there are three laws which deal on black sand mining, namely: R.A. No. 7942 or the "Mining Act of 1995," Batas Pambansa Blg. 265 and Executive Order 79. Under the implementing rules of the Mining Act of 1995, mining is prohibited in areas such as offshore areas within five hundred (500) meters from the mean low tide level and onshore areas within two hundred (200) meters from the mean low tide along the coast. B.P. Blg. 265 prohibits the extraction of gravel and sand and such other activities as would erode and diminish the natural beauty of beaches. Lastly, E.O. No. 79 provides for a moratorium on granting of mineral agreements, including those covering black sand mining operations.


Stated differently, there is really no law which directly prohibits black sand mining. Black sand mining is not illegal *per se* as long as the mining companies comply with the requirements and that the area intended to be mined is not within the prohibited areas. Moreover, the penalty imposed under the existing laws is not proportionate to the damage caused to the environment and human life.

An environmental compliance certificate (ECC) issued by the Department of Environment and Natural Resources (DENR) for dredging projects cannot be used in the extraction of mineral resources, more so in transporting the extracted materials to a designated area. However, in practice, a lot of mining firms conduct black sand

mining under the cover of dredging permits. Safeguards must be put in place to prevent this abuse of dredging permits.

The fear of danger to the lives and property of residents, massive residential displacement, saltwater flooding, landslides weakening or destruction of the natural defense and barriers of coastal communities, and loss of fishing livelihood right due to exploration and mining operations necessitate the passage of a law that completely stops black mining in the Philippines and imposes stiff penalties for violation thereof.

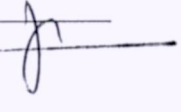
In view of the foregoing, the passage of this bill is earnestly requested.

  
LEILA M. DE LIMA



SENATE  
S. No. 1075

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**AN ACT**  
**PROHIBITING BLACK SAND MINING IN THE PHILIPPINES,**  
**PROVIDING PENALTIES THEREFOR, AND FOR OTHER PURPOSES**

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

1       Section 1. *Short Title.* – This Act shall be known as the “*Anti-Black Sand*  
2 *Mining Act.*”

3       Sec. 2. *Declaration of Policy.* – The State shall protect and advance the right  
4 of the people to a balanced and healthful ecology in accord with the rhythm and  
5 harmony of nature. Towards this end, the State shall put an end to all activities that  
6 will negatively affect the environment. The State shall further ensure that all  
7 legitimate permits will not be abused to circumvent the laws against illegal mining.

8       Sec. 3. *Definition of terms.* – As used in this Act, the following terms shall  
9 mean:

10       a) *Black sand or magnetite* - the mineral resource used in the production of  
11 steel, the generation of high-density concrete, in making ordinary ink or toner for  
12 photocopy machines, for high-temperature coating for some steam boiler, magnets,  
13 paint, paper, jewelry and cosmetics.

14       b) *Black sand Mining* - the extraction of black sand or magnetite iron ores  
15 from riverbeds, seashores and other areas closed to mining, as well as other  
16 activation related thereto such as exploration, feasibility, development, utilization  
17 and processing.

18       c) *Dredge materials* - include sand, gravel and other geological materials  
19 collected as a result of dredging activities. For purposes of this Act, non-  
20 biodegradable human solid waste is not considered as dredge material.

1       Sec. 4. *Disposal of Dredge Materials.* – To prevent black sand mining under  
2 the guise of dredging, all dredging permits shall require that all dredge materials  
3 collected in sites where black sand or magnetites exist be disposed on government-  
4 controlled dredgefills. Dredging permits shall likewise require a prior certification  
5 from the Mining and Geosciences Bureau, Department of Environment and Natural  
6 Resources (DENR) on whether black sand or magnetites exist in the proposed  
7 mining sites.

8       For the purpose of this Section, the DENR shall promulgate rules that would  
9 require provincial DENR offices to determine, designate, acquire, and operate  
10 dredgefills, either permanently or as necessary. Such rules shall also provide for  
11 rehabilitation of discontinued dredgefill sites.

12       Sec. 5. *Prohibited Acts.* – It shall be unlawful for any person, natural or  
13 juridical, to engage in black sand or magnetite mining in the coastal areas of the  
14 country.

15       It shall also be unlawful for any person, natural or juridical, to appropriate any  
16 and all dredge materials collected in sites where black sand or magnetites exist.  
17 Failure to dispose of dredge materials as provided in Section 4 of this Act shall  
18 constitute illegal mining and shall be subject to the same penalty as black sand or  
19 magnetite mining.

20       Sec. 6. *Penalty.* – Any person who violates the provisions of the Act shall be  
21 punished with imprisonment of not less than six (6) years but not more than twelve  
22 (12) years and fine of not less than One Million Pesos (₱1,000,000.00) but not more  
23 than Ten Million Pesos (₱10,000,000.00).

24       If the offender is a juridical person, the penalty shall be imposed upon the  
25 officers or directors responsible for the violation thereof.

26       If the offender is an alien, after the service of sentence and payment of fine, he  
27 or she shall be deported immediately without further proceedings.

28       Sec. 7. *Implementing Rules.* – Within ninety (90) days following the  
29 effectivity of this Act, the DENR, in coordination with the Local Government Units  
30 concerned, shall promulgate the necessary rules and regulations for its effective  
31 implementation.

1       Sec. 8. *Revocation of Existing Agreements.* – Upon approval of this Act, all  
2 contracts and agreements entered into by all existing mining operations involving  
3 black sand or magnetite shall be deemed cancelled or terminated and all permits  
4 allowing black sand extraction issued by the national government and local  
5 government shall be deemed revoked. Mining operations shall rehabilitate the  
6 excavated, mind-out, tailing covered and disturbed areas to the condition of  
7 environmental safety in accordance with existing laws, rules and regulations.

8       Sec. 9. *Separability Clause.* – If any provision or part hereof, is held invalid or  
9 unconstitutional, the remainder of the law or the provision not otherwise affected  
10 shall remain valid and subsisting.

11       Sec. 10. *Repealing Clause.* – Any law, presidential decree or issuance,  
12 executive order, letter of instruction, administrative order, rule or regulation  
13 contrary to or is inconsistent with the provision of this Act is hereby repealed,  
14 modified, or amended accordingly.

15       Sec. 11. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after  
16 its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,