

FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 JUL -4 21 57

SENATE
S.B. No. 1056

RECEIVED BY: _____



Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article II, 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.

Invasive species refers are non-indigenous species that are rapidly expanding outside of their native range. Invasive species can alter ecological relationships among native species and can affect ecosystem function and human health. A species is regarded as invasive if it: (1) has been introduced by human action to a location where it did not previously occur naturally, (2) becomes capable of establishing a breeding population in the new location without further intervention by humans, and (3) spreads widely throughout the new location. Because of its effects on biodiversity, agriculture, forestry, as well as tourism, the introduction of these harmful non-indigenous species wreaks havoc to the nation's economy and the livelihood of millions of Filipinos.

This bill will provide both coordination among agencies and a comprehensive management program to tackle invasive species prevention, monitoring, control, and enforcement. This is a comprehensive management legislation that directs the Department of Environment and Natural Resources to establish a comprehensive management program that includes strategic planning, educational programs, regional coordination, prevention, monitoring, control, and enforcement mechanisms. The DENR Secretary shall also prepare a long-term plan to implement this program. Finally, the bill provides specific criteria for creating a list of non-indigenous species according to the species' risk of or demonstrated damage to native ecosystems or resource utilization. This

list provides the basis for prohibited and restricted use or introduction of the species within the state.¹

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
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¹ This bill was originally filed in the Thirteenth Congress, Third Regular Session.

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1 AN ACT
2 CREATING THE NON-INDIGENOUS SPECIES MANAGEMENT PLAN AND
3 LISTING PROCESS FOR NON-NATIVE SPECIES.

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

6 SECTION 1. *Short Title.* – This Act may be cited as the “Non-Indigenous Species
7 Management Act of 2007.”

8 SECTION 2. *Definitions.* – For the purposes of this chapter, the following terms
9 have the meanings given them.

10 (A) “Biological control organism” means any species used to control a
11 harmful non-indigenous species;

12 (B) “Control” means eradicating, suppressing, reducing, or managing
13 harmful non-indigenous species populations, preventing the spread of
14 harmful non-indigenous species from areas where they are present and
15 taking steps such as protection and restoration of native species
16 populations and habitats to reduce the impacts of harmful non-indigenous
17 species and to prevent further invasions of harmful non-indigenous
18 species.

19 (C) “DENR means the Department of Environment and Natural
20 Resources;

21 (D) “Secretary” means the Secretary of the Department of Environment
22 and Natural Resources;

- 1 (E) “Dispersal” refers to the natural or human-related spread of non-
2 indigenous species from one water, wetland, or land area to other waters,
3 wetlands, or land areas;
- 4 (F) “Established” means, when used in reference to a species, occurring as
5 a reproducing, self-sustaining population in an open ecosystem;
- 6 (G) “Importation” means the act of bringing or introducing species into
7 any place subject to the authority of the state or other appropriate
8 jurisdictions from outside of the geographical borders of the state;
- 9 (H) “Intentionally” means to purposely or knowingly commit an act, such
10 as an introduction, release, transportation, importation, or exportation;
- 11 (I) “Introduction” means the intentional or unintentional release, escape,
12 dissemination, or placement of a species into an ecosystem as a result of
13 human activity;
- 14 (J) “Harmful non-indigenous species” means a non-indigenous species
15 that can naturalize and either:
- 16 1) Causes or may cause displacement of, or otherwise threaten native
17 species in their natural communities or ecosystems; or
- 18 2) Threatens or may threaten natural resources or their use in the
19 state;
- 20 (K) “Manage” means to prevent new harmful non-indigenous species
21 introductions into the state; to limit the dispersal of established harmful
22 non-indigenous species populations into uninfested land areas, wetlands,
23 and waters of the state; and to abate harmful ecological, economic and
24 public health impacts resulting from the introduction, dispersal, or
25 presence of harmful non-indigenous species in the state;
- 26 (L) “Native species” refer to any species originally living, growing, or
27 produced in an ecosystem within its historic range;

- 1 (M) "Naturalized" refers to a non-indigenous species that is established as
2 a self-sustaining population through natural reproduction in the wild
3 outside its native range;
- 4 (N) "Non-indigenous species" means any non-native plant, animal, or
5 other viable biological material that enters and disperses in an ecosystem
6 beyond its native range;
- 7 (O) "Permit" means a written authorization, including by electronic
8 methods, by the Secretary to propagate, possess, import, purchase, or
9 transport species under conditions prescribed by the Secretary pursuant to
10 this Act;
- 11 (P) "Possession" means having direct physical control of a species at a
12 given time or having both the power and intention to exercise dominion or
13 control of a species either directly or through another person or persons;
- 14 (Q) "Prevent" means to identify and interrupt pathways by which harmful
15 non-indigenous species can be imported, introduced, and dispersed;
- 16 (R) "Prohibited non-indigenous species" or "prohibited species" means a
17 harmful non-indigenous species that has been designated as a prohibited
18 non-indigenous species in a rule adopted by the Secretary under Section 3.
19 Prohibited species are designated for their harmful impact to native
20 species, ecosystems, and natural resources of the state;
- 21 (S) "Restricted non-indigenous species" or "restricted species" means a
22 harmful non-indigenous species that has been designated as a restricted
23 non-indigenous species in a rule adopted by the Secretary under Section
24 3. Restricted species are subject to permitting and regulations deemed
25 appropriate by the Secretary;
- 26 (T) "Species" means a group of organisms all of which have a high degree
27 of physical and genetic similarity, generally interbreed only among
28 themselves, and show persistent differences from members of allied
29 groups of organisms. The term "species" includes any subspecies of

1 animal, plant, or biological material, and any distinct population segment
2 of any species or animal, plant, or biological material which interbreeds
3 when mature;

4 (U) “Stakeholders” include, but are not limited to, local government
5 agencies, academic institutions, the scientific community, regional
6 entities, non-governmental entities including environmental, agricultural
7 and conservation organizations, trade groups, commercial interests, and
8 private landowners;

9 (V) “Stocking” means the intentional introduction of any life stage of a
10 plant or animal into public or private lands, wetlands, or waters of the
11 state;

12 (W) “Transport” means to cause or attempt to cause a harmful non-
13 indigenous species to be carried or moved into, across, or within state
14 boundaries, and includes accepting or receiving the species for
15 transportation or shipment;

16 (X) “Unlisted non-indigenous species” or “unlisted species” refers to those
17 non-indigenous species that have not been designated as a prohibited non-
18 indigenous species, a restricted non-indigenous species, or an unrestricted
19 non-indigenous species in a rule adopted by the Secretary under Section 3;
20 and

21 (Y) “Unrestricted non-indigenous species” or “unrestricted species” means
22 a non-indigenous species that has been designated as an unrestricted non-
23 indigenous species in a rule adopted by the Secretary under Section 3.
24 Unrestricted species do not require any regulation or permitting because
25 they have been evaluated as relatively harmless for one or more of the
26 following reasons: low likelihood to survive in waters, wetlands, or land
27 areas of the state upon introduction; low level of potential impact to the
28 native ecosystem or to resource use; or populations already naturalized in
29 the state.

1 SECTION 3. *Management Authority.* – Legal authority shall be granted to the
2 Secretary of the Department of Environment and Natural Resources to facilitate the
3 prevention of introduction and dispersal of harmful non-indigenous species in the
4 country. Key responsibilities to be associated with this management authority are as
5 follows:

6 (A) Interjurisdictional agreements: The Secretary shall seek cooperation, as
7 appropriate, with regional, provincial, and municipal and with other
8 agencies and organizations for the administration of any program
9 established herein.

10 (B) The Secretary shall establish a nationwide program to prevent and curb the
11 spread of harmful non-indigenous species. In addition, the Secretary shall
12 develop and implement programs that are compatible with existing
13 legislation

14 (C) Program Implementation:

15 (1) The following mechanisms shall be authorized and utilized to
16 facilitate program implementation: classification and designation
17 of non-indigenous species; regulatory and rule-making
18 provisions; monitoring mechanisms; research projects; permit
19 and inspection procedures; enforcement and penalty stipulations;
20 information and education activities; funding mechanisms;
21 restoration of native species and habitat; regulation of biological
22 control agents; incentives for private landowners; and emergency
23 action protocols.

24 (2) The Secretary is authorized to utilize the following detection and
25 enforcement mechanisms: seizure, quarantine, and disposal of
26 prohibited, restricted, and unlisted species. The Secretary is
27 authorized only in the case of emergency to bypass notice
28 periods for entering private lands.

1 (3) The Secretary is authorized to routinely and systematically
2 survey private and public lands for the presence of non-
3 indigenous species and to map non-indigenous species locations
4 and those areas particularly at risk for non-indigenous species.

5 (D) Regional Office Duties.

6 (1) Each DENR Regional Office whose actions may affect the status
7 of harmful non-indigenous species shall, to the extent practicable
8 and permitted by law:

9 (a) identify such actions;

10 (b) subject to the availability of appropriations, and within
11 DENR budgetary limits, use relevant programs and
12 authorities to:

13 (i) prevent the introduction of harmful non-indigenous
14 species;

15 (ii) detect and respond rapidly to and control
16 populations of such species in a cost-effective and
17 environmentally sound manner;

18 (iii) monitor non-indigenous species populations
19 accurately and reliably;

20 (iv) provide for restoration of native species and habitat
21 conditions in ecosystems that have been invaded;

22 (v) conduct research on non-indigenous species and
23 develop technologies to prevent introduction and
24 provide for environmentally sound control of harmful
25 non-indigenous species; and

26 (vi) promote public education on harmful non-
27 indigenous species and the means to address them; and

28 (c) not authorize, fund, or carry out actions that it believes are
29 likely to cause or promote the introduction or spread of

1 harmful non-indigenous species in the country unless,
2 pursuant to guidelines that it has prescribed, the agency has
3 determined and made public its determination that the
4 benefits of such actions clearly outweigh the potential harm
5 caused by invasive species; and that all feasible and
6 prudent measures to minimize risk of harm will be taken in
7 conjunction with the actions.

8 (E) Annual report. By January 15 each year, the Secretary shall submit a
9 report on harmful non-indigenous species to the legislative committees
10 having jurisdiction over environmental and natural resource issues. The
11 report must include:

- 12 (1) Detailed information on expenditures for administration,
13 education, management, inspections, and research;
- 14 (2) Detailed information on the loss of state resources due to harmful
15 non-indigenous species;
- 16 (3) An analysis of the effectiveness of management activities
17 conducted in the state, including but not limited to chemical and
18 biological control, harvesting, takings, educational efforts,
19 inspections, and enforcement actions;
- 20 (4) Information on the participation of stakeholders in control
21 efforts;
- 22 (5) Information on management efforts in other states;
- 23 (6) Information on the progress made in the control of each listed
24 species; and
- 25 (7) An assessment of future management needs.

26 SECTION 4. *Classification and designation of non-indigenous species.* –

27 (A) Classes. The Secretary shall, as provided in this chapter, classify non-
28 indigenous species according to the following categories:

- 1 (1) Prohibited non-indigenous species, which may not be possessed,
2 imported, purchased, sold, propagated, transported, or introduced
3 except as provided in Section 4;
- 4 (2) Restricted non-indigenous species, which may not be introduced
5 except as provided in Section 5; and
- 6 (3) Unrestricted non-indigenous species, which are not subject to
7 regulation under this chapter.

8 (B) Criteria. The Secretary shall use the best available science and shall
9 consider the following criteria in classifying species under this chapter:

- 10 (1) Whether a species is native or non-indigenous;
- 11 (2) The likelihood that the species, upon introduction, will survive,
12 naturalize, and spread to other land areas, wetlands, or waters of
13 the state;
- 14 (3) The magnitude of adverse impacts of the species on native
15 species and ecosystems on the environment and uses of natural
16 resources in the state, including the following: the health and
17 population stability of native species, the natural ecosystem and
18 long-term genetic integrity of native species, human health,
19 recreation, commercial enterprises, industrial land and water-
20 users, and other appropriate user groups;
- 21 (4) The technical and economic feasibility of eradicating or
22 controlling the spread of the species once it is introduced in the
23 state;
- 24 (5) Whether the species carries any known diseases, parasites or any
25 non-indigenous species or other viable biological materials; and
- 26 (6) Other criteria the Secretary deems appropriate.
- 27 (7) Biological control agents are equally subject to classification,
28 although the Secretary may consider their utility in controlling
29 other non-indigenous species.

1 (C) The Listing Process.

2 (1) A technical advisory committee, appointed by the Secretary,
3 shall be formed to assist and make recommendations to the
4 Secretary as to the listing of non-indigenous species according to
5 the classifications above.

6 (2) The list of classified non-indigenous species will include both
7 common and scientific names, and authority and source of
8 nomenclature.

9 (3) The list of classified non-indigenous species shall be publicized
10 among appropriate target groups within the state through the
11 register, record, and other mechanisms. The list shall be available
12 for public comment for a period of thirty (30) days prior to the
13 Secretary's approval. The Secretary shall consider public
14 comments before final approval of the list of classified non-
15 indigenous species.

16 (4) The list of classified non-indigenous species shall be updated
17 annually and as the Secretary sees fit according to the criteria in
18 this Section.

19 (5) Any person may petition the Secretary to add or change the
20 classification of listed species.

21 (a) In the case of a petition submitted under this Section, the
22 Secretary shall act on the petition within a reasonable
23 time and notify the petitioner of the final action the
24 Secretary takes on the petition. The Secretary's
25 determination on the petition shall be based on the listing
26 criteria in 3 (B) and the listing procedure outlined in
27 Section 3 (C)(1)-(3).

1 SECTION 5. *Prohibited harmful non-indigenous species.* –

2 (A) Prohibited activities. A person may not possess, import, purchase, sell,
3 propagate, transport, or introduce a prohibited species, except:

4 (1) Under a permit issued by the Secretary under Section 7;

5 (2) When being transported to the Department, or another destination
6 as the Secretary may direct, in a sealed container for purposes of
7 identifying the species or reporting the presence of the species;

8 (3) When being transported for disposal as part of a harvest or control
9 activity under a permit issued by the Secretary pursuant to Section
10 7 or as specified by the Secretary;

11 (4) When the specimen has been lawfully acquired dead and, in the
12 case of plant species, all seeds are removed or are otherwise
13 secured in a sealed container;

14 (5) In the form of herbaria or other preserved specimens;

15 (6) As the Secretary may otherwise prescribe by rule.

16 (B) Seizure. The Secretary may order the seizure or disposal of all specimens
17 of prohibited non-indigenous species unlawfully possessed, imported,
18 purchased, sold, propagated, transported, or introduced in the country.

19 SECTION 6. *Restricted and unrestricted non-indigenous species.* –

20 (A) Permitted Activities: Restricted species are legal to import, transport,
21 purchase, possess, propagate, and sell unless restricted by the species'
22 regulations pursuant to Section 7.

23 (B) Prohibited Activities: It is illegal to introduce into waters, wetlands, and
24 land areas of the state a restricted species without a permit issued by the
25 Secretary.

26 (C) Unrestricted non-indigenous species refers to those species that have been
27 evaluated as relatively harmless and therefore do not require any
28 regulation or permitting for beneficial uses or under other circumstances.

1 SECTION 7. *Unlisted non-indigenous species.* –

2 (A) Those species that have not been classified as prohibited, restricted, or
3 unrestricted will be considered as unlisted non-indigenous species.

4 (B) Prohibited Activities: It is illegal to import, transport, purchase, possess,
5 propagate, sell in the state, or introduce into waters, wetlands, and land
6 areas of the state any unlisted non-indigenous species.

7 (C) Application process for the classification and proposed use of the unlisted
8 species: A permit application form as prescribed by the Secretary must be
9 submitted regarding the proposed use of the unlisted species involving its
10 import, transport, purchase, possession, propagation, sale in the state, or
11 introduction into waters, wetlands, and land areas of the state. The
12 applicant must present the best available scientific information on the
13 unlisted species to support a sound management decision regarding its
14 classification and proposed use.

15 (D) Classification and Review Process: The Secretary will make the final
16 decision regarding the classification and proposed use of the unlisted
17 species based on the following sources of information:

18 (1) Application of the criteria listed in Section 3 (B) and the listing
19 process in Section 3 (C)(1)-(3);

20 (2) A review of the application for the proposed use of the unlisted
21 species; and

22 (3) Technical advisory committee recommendations.

23 (E) For those species for which the technical advisory committee or the
24 Secretary determine that the best available science is inadequate to make a
25 sound decision regarding classification and proposed use of the unlisted
26 species, the unlisted species shall remain an unlisted species pending
27 further information.

1 (F) Notification: The applicant will be notified of the Secretary's final
2 decision regarding the proposed use of the unlisted species.

3 SECTION 8. *Permits.* –

4 (A) Prohibited non-indigenous species. The Secretary may issue a permit for
5 the propagation, possession, importation, purchase, or transport of a
6 prohibited non-indigenous species for the purposes of disposal, control,
7 research, or education.

8 (B) Restricted non-indigenous species. The Secretary may issue a permit for
9 the introduction of a restricted non-indigenous species.

10 (C) Standard. The Secretary may issue a permit under this Section only if the
11 Secretary determines that the permitted activity would not pose an
12 unreasonable risk of harm to native ecosystems or natural resources or
13 their use in the state. The Secretary may deny, issue with conditions,
14 modify, or revoke a permit under this Section as necessary to ensure that
15 the proposed activity will not pose an unreasonable risk of harm to the
16 native ecosystem or the natural resources or their use in the state.

17 (D) Appeal of permit decision. A permit decision may be appealed as a
18 contested case under this act.

19 SECTION 9. *Rules.* –

20 (A) Required rules. The Secretary shall adopt rules:

21 (1) Designating prohibited, restricted, and unrestricted non-indigenous
22 species; and

23 (2) Governing the application for and issuance of permits under this
24 act, which may include a fee schedule.

25 (B) Authorized rules. The Secretary may adopt rules regulating the possession,
26 importation, purchase, sale, propagation, transport, and introduction of
27 non-indigenous species.

1 (C) Expedited rules. The Secretary may adopt rules on an expedited basis in
2 accordance with the needs outlined in Section 9 (A).

3 SECTION 10. *Emergency Action Protocol.* –

4 (A) Emergency Action Plan: The Secretary shall develop an emergency action
5 plan and have the authority to implement the plan in case the sighting or
6 emergence of a new non-indigenous species or the impact of an existing
7 species necessitates such action. To the extent possible, the development
8 and applicability of each state emergency action plan should be
9 coordinated with other affected regions, provinces, municipalities, and
10 other localities.

11 (B) Protocol for the unintentional introduction of a non-indigenous species: A
12 person who allows or causes the introduction of a non-indigenous species
13 that is prohibited or unlisted shall notify the Secretary or other appropriate
14 management authority within 48 hours after learning of the escape. The
15 person shall make every reasonable attempt to recapture or contain the
16 introduced species.

17 (C) A person who does not comply with this Section is subject to penalties
18 specified in Section 11 (B)(6) Civil Penalties.

19 SECTION 11. *Enforcement; Penalties.* –

20 (A) Enforcement authority: The provisions adopted in this legislation will be
21 enforced based on the authority established in Section 3 and implemented
22 by DENR Regional Directors.

23 (B) Civil penalties: A person shall be issued a warning or assessed a civil
24 penalty if engaging in conduct that violates regulatory provisions in the
25 following Sections:

26 (1) Section 4. Prohibited harmful non-indigenous species;

27 (2) Section 5. Restricted and unrestricted non-indigenous species;

28 (3) Section 6. Unlisted non-indigenous species;

1 (4) Section 7. Permits;

2 (5) Section 8. Rules; and

3 (6) Failure to comply with the protocol for the escape of non-
4 indigenous species as specified in Section 9.

5 (C) Criminal penalties: A person shall be assessed a criminal penalty if
6 engaging in the following acts of conduct:

7 (1) Violation of provisions pertaining to prohibited non-indigenous
8 species, as specified in Section 4 (A);

9 (2) Noncompliance with permit requirements pertaining to use of
10 prohibited non-indigenous species, as specified in Section 7 (A);

11 (3) Violation of provisions pertaining to restricted species as specified
12 in Section 5 (B);

13 (4) Violation of provisions pertaining to unlisted non-indigenous
14 species as specified in Section 6 (B);

15 (5) Refusal to obey enforcement requirements for inspection
16 operations as established by the Secretary pursuant to Section 2
17 (C)(1) Program Implementation;

18 (6) Subsequent offenses in violation of any provision of this
19 legislation; and

20 (7) Violations involving permit revocation orders or failure to pay
21 fines pursuant to Section 10 (B) Civil Penalties.

22 SECTION 12. *Appropriations.* – The amount necessary to carry out the
23 provisions of this Act shall be included in the budget of concerned government agencies
24 in the General Appropriations Act of the year following its enactment into law and
25 thereafter.

1 SECTION 13. *Repealing Clause.* – All laws, decrees, executive orders,
2 administrative orders or parts thereof inconsistent with the provisions of this Act are
3 hereby repealed, amended or modified accordingly.

4 SECTION 14. *Separability Clause.* – If any provision of this Act is held invalid
5 or unconstitutional, other provisions not affected thereby shall continue to be in full force
6 and effect.

7 SECTION 15. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
8 following its complete publication in the Official Gazette or in at least two (2)
9 newspapers of general circulation.

Approved,