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SENATE

S. No. 2536

(In substitution of S. No. 2043)

RECEIVED BY: 

Prepared jointly by the Committees on Environment and Natural Resources and Finance with Sen. Cayetano and the members of the Committees as authors

AN ACT
ESTABLISHING APO REEF IN SABLAYAN, OCCIDENTAL MINDORO AS A
PROTECTED AREA AND ITS PERIPHERAL WATERS AS BUFFER ZONES,
PROVIDING FOR ITS MANAGEMENT, FUNDS AND FOR OTHER PURPOSES

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

SECTION 1. Title. - This Act shall be known as the "Apo Reef Protected Area Act of 2006".

SEC. 2. Land Classification. - All lands of the public domain comprising the Apo Reef Protected Area shall fall under the classification of National Park as provided for in the Philippine Constitution. *However*, Public Lands already classified as agricultural and alienable or disposable prior to the passage of this Act shall remain as such and may be disposed of pursuant to the provisions of Commonwealth Act No. 141 or the Public Land Act, as amended.

SEC. 3. Scope. - The boundaries of the Apo Reef Protected Area, situated in the Municipality of Sablayan, Province of Occidental Mindoro, containing an approximate area of fifteen thousand seven hundred ninety-two (15,792) hectares, are as follows:

Control Points	CM ()	Latitude (' ")	Northings (Meters)	Eastings (Meters)
1	123	12-44-47	120-27-22	223773.809
2	123	12-41-11	120-33-44	235240.033
3	123	12-35-47	120-29-57	228292.637
4	123	12-39-18	120-23-46	2217153.893

Any modification of this Act due to factors such as changing ecological situations, new scientific or archaeological findings, or discovery of traditional boundaries not previously taken into account shall be made through an Act passed by Congress after full consultation with the affected public and concerned government agencies.

SEC. 4. Buffer Zones. - Buffer Zones surrounding the Protected Area, containing an approximate area of eleven thousand six hundred seventy-seven (11,677) hectares, are hereby established with the following boundaries:

Control Points	CM	Latitude	Longitude	Northings (Meters)	Eastings (Meters)
1	123	12-46-14	120-27-00	1413043.227	223151.990
2	123	12-41-32	120-35-19	1404229.656	238121.888
3	123	12-34-20	123-30-16	1391042.803	228863.890
4	123	12-38-57	120-22-12	1399689.788	214329.441

Such Buffer Zones are established for the purpose of forming an extra layer of protection for fishing ground from users of nearby sea-lanes, providing a belt around the Protected Area.

SEC. 5. Definition of Terms. – The following terms are hereby defined for the purposes of this Act.

a) Accredited NGOs/POs – shall refer to Non-Government Organizations and People’s Organizations that satisfactorily complied with the accreditation process for Non-Government Organizations and People’s Organizations by the Sangguniang Bayan of Sablayan pursuant to Republic Act No. 7160 or the Local Government Code of 1991;

b) Department – shall refer to the Department of Environment and Natural Resources;

c) Non-Renewable Resources – shall refer to those resources found within the PA and its buffer zones, the natural replenishment rate of which is either not known or takes more than 25 years;

d) Passive fishing gear – any means of catching, gathering or collecting fish or aquatic products that does not alter the capacity of the ecosystem to replenish itself nor harm any protected species or the young of any species;

e) Plan – shall refer to the Conservation and Protection Plan;

f) Protected Species – any individual of the following species: manta ray, all species of marine turtles, all species of whales and any species listed under the Convention of International Trade of Endangered Species (CITES), or any plant or animal that shall be declared as protected under the Philippine laws, rules and regulations or the Protection and Conservation Plan herein provided for;

g) Secretary – shall refer to the Secretary of the Department of Environment and Natural Resources.

SEC. 6. Institutional Mechanisms. - The following administrative and policymaking mechanisms shall apply:

A. The Protected Area Management Board. - There shall be a Protected Area Management Board which shall be the policy-making body of the Protected Area. It shall be composed of:

1. The Provincial Environment and Natural Resources Officer as Chair;
2. The Provincial Planning and Development Officer;

1 3. One (1) representative from the Municipal Government of Sablayan to be
2 appointed by the Mayor;

3 4. The president of Association of Barangay Captain of Sablayan;

4 5. One (1) representative from other departments or national government
5 agencies directly involved in the Protected Area or with long term projects or
6 permanent facility located therein;

7 6. One (1) representative from the Land Bank of the Philippines, Sablayan
8 Branch to be appointed by the Branch Manager;

9 7. Two (2) representatives from accredited NGOs operating within Sablayan
10 chosen among themselves in a meeting duly called for the purpose;

11 8. Two (2) representatives from accredited POs operating within Sablayan
12 chosen among themselves in a meeting duly called for the purpose;

13 9. Three (3) representatives from the local indigenous communities chosen
14 among themselves in a meeting duly called for the purpose.

15 Every member of the PAMB shall serve for a term of five (5) years and shall be
16 considered to represent his or her sector deemed to carry the vote of such sector in all
17 matters. In case of members who are government official, the membership shall be
18 attached to the office held.

19 All members of PAMB, Secretariat and CENRO are allowed to claim
20 incentive/allowance in the amount of five hundred pesos (P500.00) while attending
21 their regular meetings chargeable to fund allocation for PAMB operations.

22 The PAMB of Apo Reef Protected Area shall have the following powers and
23 functions:

24 1. Decide matters relating to planning, resources protection and general
25 administration of the area in accordance with the approved protection and
26 conservation plan;

27 2. Approve proposals, work plans, action plans and guidelines for the
28 management of the Protected Area in accordance with the approved protection and
29 conservation plan;

30 3. Delineate and demarcate Protected Area boundaries buffer zones, ancestral
31 domains, and recognize the rights and privileges of indigenous communities under the
32 provision of this Act;

33 4. Promulgate rules and regulations to promote development programs and
34 projects on biodiversity conservation and sustainable development consistent with the
35 Management Manual of the Protected Area;

36 5. Ensure the implementation of programs as prescribed in the Protection and
37 Conservation Plan in order to provide employment to the people dwelling in and
38 around the Protected Area;

1 6. Control and regulate the construction, operation and maintenance of roads,
2 trails, waterworks, sewerage, fire protection and sanitation system and other public
3 utilities within the Protected Area;

4 7. Monitor and evaluate the performance of Protected Area personnel, NGOs
5 and the communities in providing for biodiversity conservation and socio-cultural and
6 economic development and report their assessments to the NIPAS Policy and
7 Program Steering Committee and the IPAF Governing Board.

8 The DENR, through the Regional Executive Director (RED), shall exercise
9 authority to oversee the PAMB to ensure that it is acting within the scope of its powers
10 and functions. In case of a contradiction between administrative orders issued by the
11 DENR pursuant to Republic Act No. 7586 for national application and the rules and
12 regulations issued by PAMB, the PAMB shall notify the Secretary of the DENR who
13 shall decide whether to apply the rule or withdraw its application.

14 B. *The Protected Area Superintendent (PASu)*. - There shall be a Protected
15 Area Superintendent appointed by the DENR, who shall serve as the chief operating
16 officer of the Protected Area. The PASu shall have the following powers and functions:

17 1. Prepare the Protection and Conservation Plan and successor plans as
18 herein provided and execute it;

19 2. Serve as the Secretariat for the PAMB with the duty to provide the PAMB
20 with all the information necessary for it to make appropriate decision when necessary;

21 3. Hire and supervise the necessary personnel to support operations as the
22 budget made available by the PAMB may allow;

23 4. Establish productive partnership with the local community including groups
24 interested in the achievement of the goals and objectives of the
25 Protected Area, and in the planning, protection and management thereof;

26 5. Develop and implement a park information, education and visitor program;

27 6. Enforce laws, rules and regulations relevant to the Protected Area and assist
28 in the prosecution of offenses;

29 7. Supervise all activities within the Protected Area for conformity with the
30 Protection and Conservation Plan;

31 8. Perform such other functions as the PAMB may assign.

32 **SEC. 7. Administration and Management.** - The Apo Reef Protected Area is
33 hereby placed under the control and administration of the DENR through the
34 Protected Area Management Board. For this purpose, there is hereby created a
35 Protected Area Office which shall be equipped with necessary personnel, as follows:

36 One (1) Protected Area Superintendent (PASu)

37 One (1) Assistant PA Superintendent

38 Technical Staff composed of the following personnel:

One (1) Senior Ecosystem Management System Specialist

Two (2) Ecosystem Management Specialist I

One (1) Community Development Officer I

Two (2) Ecosystem Management Specialist I

Three (3) Community Development Officer I

One (1) Project Development Officer I

Administrative Staff composed of the following personnel:

One (1) Administrative Officer II

One (1) Records Officer

One (1) Property Custodian

One (1) Clerk III

Two (2) Clerk II

One (1) Driver

Two (2) Utility Man

Finance Staff composed of the following personnel:

One (1) Accountant

One (1) Cashier I

One (1) Bookkeeper

Two (2) Accounting Clerk

Field Staff composed of the following personnel:

Ten (10) Park Rangers

Four (4) Boatswain

Four (4) Boatman

SEC. 8. Seasonal Fishing Rights. - Fishers who migrate Apo Reef seasonally for traditional fishing and other activities that have benign impact on the sustainability and biodiversity of the reef shall be allowed to continue such activities provided that commission of any of the prohibited acts herein or failure to report such acts when observed shall cause the cancellation of such rights.

SEC. 9. Prohibited Acts. -

A. The Penalties in Article 309 and 310 of the Revised Penal Code depending on the value of the resources take, damaged or destroyed shall be imposed upon any person who:

1. Hunts, destroys, collects, disturbs or possesses anywhere within the Apo Reef Protected Area any plants or animals, sand, coral, rocks or products derived therefrom without a Protected Area permit, with the exception of fish and aquatic products caught through passive fishing gear;

2. Possesses outside the Protected Area any wild plants or animals or products derived therefrom which came from the Protected Area;

1 3. Explores or extracts mineral within the Protected Area; and

2 4. Fishes within the Protected Area through the use of explosives, noxious
3 substances, electricity or nets below three (3) centimeters in size from knot to knot
4 when stretched, or by any other means except with the use of passive fishing gear
5 provided that the PAMB may take rules and regulations to regulate, restrict or prohibit
6 other activities that may cause reef destruction or damage, including, but not limited to
7 reef gleaning and drift netting.

8 Valuation of the damage shall take into account biodiversity and conservation
9 considerations as well as aesthetic and scenic value.

10 B. A fine of not less than five thousand pesos (P5,000.00) but not more than
11 one hundred thousand pesos (P100,000.00) and/or imprisonment of not less than one
12 (1) year nor more than three (3) years and the restoration and rehabilitation of the
13 damages shall be imposed upon any person:

14 1. Hunts, collects, removes or destroys any endangered or protected species;

15 2. Drops anchor within the Protected Area except in the designated sites or
16 where there is a danger to life or property which necessitates such act;

17 3. Knowingly destroys or causes damage to any coral or other non-living
18 marine resources;

19 4. Throws, dumps or causes to be dumped into the sea within the Protected
20 Area any non-biodegradable material or other substance deleterious to marine life;

21 5. Fishes anywhere within the Protected Area without license. Anyone
22 intending to fish within the waters of the Protected Area shall register his/her license
23 with the PAMB. Failure to so register his/her license constitutes a presumption of a
24 lack thereof.

25 C. A fine of not less than one hundred thousand pesos (P100,000.00) but not
26 more than five hundred thousand pesos (P500,000.00) and/or imprisonment from
27 three (3) years to five (5) years shall be imposed upon any person who:

28 1. Violates any rules and regulations in the protection and conservation plan by
29 the PAMB or agreements reached before the PAMB in its exercise of adjudicative
30 functions;

31 2. Erects any permanent structure on land or on water for any purpose outside
32 the Protection and Conservation Plan, provided that permanent structures intended for
33 marine safety and determined to be urgently necessary before the next Protection and
34 Conservation Plan shall have taken effect shall be exempted from this prohibitions;

35 3. Possesses or deals in ammonium nitrate or cyanide within the Protected
36 Area.

1 D. A fine not less than five thousand pesos (P5,000.00) nor more than five
2 hundred thousand pesos (P500,000.00) and/or imprisonment of not less than one (1)
3 year but not more than five (5) years shall be imposed upon:

4 1. Any person who shall induce another or conspire to commit any of the above
5 acts or suffer their workers to commit any of the above acts shall be liable in the same
6 manner as the one actually performing the act;

7 2. Any person who shall evade responsibility for criminal acts by disguising a
8 vessel or hiding its registered name or registering a vessel twice under different
9 names. The act of disguising a vessel or hiding its registered name or registering a
10 vessel twice under different names shall give rise to disputable presumption that it
11 was committed with the knowledge of the owner and with intent to evade
12 responsibility for criminal acts.

13 **SEC. 10. Special Prosecutor and Retained Counsel.** – Within thirty (30) days
14 from the effectivity of this Act, the Department of Justice (DOJ) shall appoint a special
15 prosecutor to whom all cases of violation of laws, rules and regulations in the PA shall
16 be assigned. Such Special Prosecutor shall coordinate with the PAMB and the PASu
17 in the performance of his/her duties and assist in the training of wardens and rangers
18 in arrest and criminal procedures. The PAMB may retain the services of a counsel to
19 prosecute and/or assist in the prosecution of cases under the direct control and
20 supervision of the regular or special prosecutor and to defend the members of the
21 PAMB, the PASu and the staff, or any person assisting in the protection, conservation
22 and sustainable development of the PA, against any legal action related to their
23 powers, functions and responsibilities as provided in this Act or as delegated or
24 tasked by the PAMB.

25 **SEC. 11. Integrated Protected Area Funds.** - The following shall constitute
26 part of the Integrated Protected Area Funds and shall be subject to the rules thereon
27 from the moment they accrue:

28 (a) Taxes from the permitted use or collection of resources from Protected
29 Areas with the exception of taxes already collected by the local government on such
30 resources at the time of the passage of this Act;

31 (b) Contribution from industries and facilities directly benefiting from the
32 Protected Area;

33 (c) Such other fees and incomes derived from the operation of the Protected
34 Area.

35 The PAMB shall have the power to disburse the IPAF: *Provided*, That a share
36 of twenty five percent (25%) shall be provided for the use of the national government
37 for the support of the National Protected Areas System: *Provided, further*, That the
38 PAMB shall honor conditions attached to donations.

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2 **SEC. 12. Utilization of Non-renewable Resources.** - Any explanation for,
3 exploitation or utilization of non-renewable resources within the Protected Area shall
4 not be allowed. Energy projects, whether renewable or otherwise, shall be permitted
5 only through an Act of Congress, provided that exploitation of renewable energy up to
6 three (3) megawatts capacity shall be exempt from such requirement.

7 **SEC. 13. Reporting Responsibility.** – The PASu, through the PAMB, shall
8 submit an annual accomplishment report to the Secretary of the DENR on the
9 activities undertaken in the PA.

10 **SEC. 14. Appropriations.** – The Secretary of the DENR shall immediately
11 include in the Department's program the implementation of this Act, the funding of
12 which shall be included in the annual General Appropriations Act.

13 **SEC. 15. Construction and Suppletory Application of Existing Laws.** The
14 provisions of this Act shall be construed liberally in favor of achieving biodiversity
15 conservation, protection and sustainable development Provisions of Republic Act No.
16 7586, otherwise known as the National Integrated Protected Areas Management Act
17 of 1992 and existing forestry laws, and their corresponding rules and regulations not
18 inconsistent hereto shall have the suppletory effect in the implementation of this Act.

19 **SEC. 16. Repealing Clause.** - For the purpose of this Act. Sections 11, 15, 20
20 and 21 of Republic Act No. 7586 are hereby modified. All other laws, rules and
21 regulations inconsistent with the act are hereby repealed or modified accordingly. The
22 prohibition and penalties under Republic Act No. 7586 are hereby superseded for the
23 entire area covered by this Act.

24 **SEC. 17. Separability Clause.** - The provisions of this Act are hereby declared
25 to be separable, and in the event one or more of such provisions are held
26 unconstitutional, the validity of other provisions shall not be affected thereby.

27 **SEC. 18. Effectivity Clause.** - This Act shall be translated in English and
28 Filipino, within thirty (30) days from the date of approval hereof. It shall be published
29 once a week for three (3) consecutive weeks in a newspaper of general circulation
30 readily available in the areas in and around the score specified herein. It shall likewise
31 be conspicuously posted simultaneously in the provincial, municipal and barangay
32 halls within the area as well as in three (3) other places frequented by the public.
33 Fifteen (15) days after the last publication and posting, this Act shall have full force
34 and effect.

35 Approved,