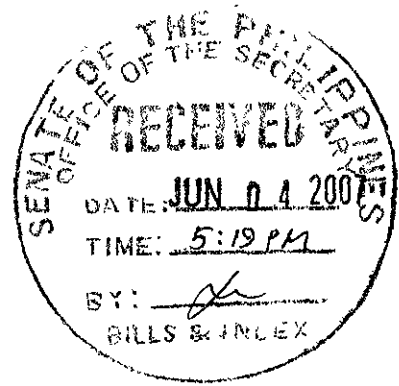


THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

SENATE
S.B. No. 11 11



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.

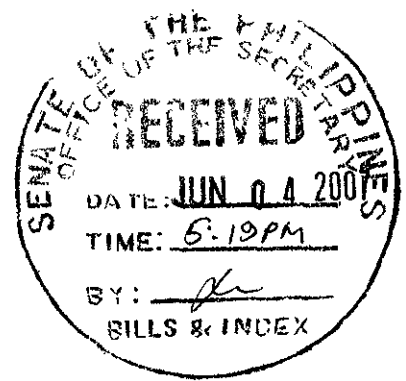
This bill will provide both coordination among agencies and a comprehensive management program to tackle invasive species prevention, monitoring, control, and enforcement. This is a comprehensive management legislation that directs the Department of Environment and Natural Resources to establish a comprehensive 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.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
Defensor

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

SENATE
S.B. No. 100



Introduced by Senator Miriam Defensor Santiago

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

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

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

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

- (A) “Biological control organism” means any species used to control a harmful non-indigenous species;
- (B) “Control” means eradicating, suppressing, reducing, or managing harmful non-indigenous species populations, preventing the spread of harmful non-indigenous species from areas where they are present and taking steps such as protection and restoration of native species populations and habitats to reduce the impacts of harmful non-indigenous species and to prevent further invasions of harmful non-indigenous species.
- (C) “DENR” means the Department of Environment and Natural Resources;
- (D) “Secretary” means the Secretary of the Department of Environment and Natural Resources;

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

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

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

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

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

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

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

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

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

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

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

(C) Program Implementation:

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

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

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

(D) Regional Office Duties.

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

(a) identify such actions;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) The Listing Process.

- (1) A technical advisory committee, appointed by the Secretary, shall be formed to assist and make recommendations to the Secretary as to the listing of non-indigenous species according to the classifications above.
- (2) The list of classified non-indigenous species will include both common and scientific names, and authority and source of nomenclature.
- (3) The list of classified non-indigenous species shall be publicized among appropriate target groups within the state through the register, record, and other mechanisms. The list shall be available for public comment for a period of thirty (30) days prior to the Secretary's approval. The Secretary shall consider public comments before final approval of the list of classified non-indigenous species.
- (4) The list of classified non-indigenous species shall be updated annually and as the Secretary sees fit according to the criteria in this Section.
- (5) Any person may petition the Secretary to add or change the classification of listed species.
 - (a) In the case of a petition submitted under this Section, the Secretary shall act on the petition within a reasonable time and notify the petitioner of the final action the Secretary takes on the petition. The Secretary's determination on the petition shall be based on the listing criteria in 3 (B) and the listing procedure outlined in Section 3 (C)(1)-(3).

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

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

- (1) Under a permit issued by the Secretary under Section 7;
- (2) When being transported to the Department, or another destination as the Secretary may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;
- (3) When being transported for disposal as part of a harvest or control activity under a permit issued by the Secretary pursuant to Section 7 or as specified by the Secretary;
- (4) When the specimen has been lawfully acquired dead and, in the case of plant species, all seeds are removed or are otherwise secured in a sealed container;
- (5) In the form of herbaria or other preserved specimens;
- (6) As the Secretary may otherwise prescribe by rule.

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

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

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

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

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

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

- (A) Those species that have not been classified as prohibited, restricted, or unrestricted will be considered as unlisted non-indigenous species.
- (B) Prohibited Activities: It is illegal to import, transport, purchase, possess, propagate, sell in the state, or introduce into waters, wetlands, and land areas of the state any unlisted non-indigenous species.
- (C) Application process for the classification and proposed use of the unlisted species: A permit application form as prescribed by the Secretary must be submitted regarding the proposed use of the unlisted species involving its import, transport, purchase, possession, propagation, sale in the state, or introduction into waters, wetlands, and land areas of the state. The applicant must present the best available scientific information on the unlisted species to support a sound management decision regarding its classification and proposed use.
- (D) Classification and Review Process: The Secretary will make the final decision regarding the classification and proposed use of the unlisted species based on the following sources of information:
 - (1) Application of the criteria listed in Section 3 (B) and the listing process in Section 3 (C)(1)-(3);
 - (2) A review of the application for the proposed use of the unlisted species; and
 - (3) Technical advisory committee recommendations.
- (E) For those species for which the technical advisory committee or the Secretary determine that the best available science is inadequate to make a sound decision regarding classification and proposed use of the unlisted species, the unlisted species shall remain an unlisted species pending further information.

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

SECTION 8. *Permits.* –

- (A) Prohibited non-indigenous species. The Secretary may issue a permit for the propagation, possession, importation, purchase, or transport of a prohibited non-indigenous species for the purposes of disposal, control, research, or education.
- (B) Restricted non-indigenous species. The Secretary may issue a permit for the introduction of a restricted non-indigenous species.
- (C) Standard. The Secretary may issue a permit under this Section only if the Secretary determines that the permitted activity would not pose an unreasonable risk of harm to native ecosystems or natural resources or their use in the state. The Secretary may deny, issue with conditions, modify, or revoke a permit under this Section as necessary to ensure that the proposed activity will not pose an unreasonable risk of harm to the native ecosystem or the natural resources or their use in the state.
- (D) Appeal of permit decision. A permit decision may be appealed as a contested case under this act.

SECTION 9. *Rules.* –

- (A) Required rules. The Secretary shall adopt rules:
- (1) Designating prohibited, restricted, and unrestricted non-indigenous species; and
 - (2) Governing the application for and issuance of permits under this act, which may include a fee schedule.
- (B) Authorized rules. The Secretary may adopt rules regulating the possession, importation, purchase, sale, propagation, transport, and introduction of non-indigenous species.

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

SECTION 10. *Emergency Action Protocol.* –

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

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

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

SECTION 11. *Enforcement; Penalties.* –

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

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

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

- (2) Section 5. Restricted and unrestricted non-indigenous species;
- (3) Section 6. Unlisted non-indigenous species;
- (4) Section 7. Permits;
- (5) Section 8. Rules; and
- (6) Failure to comply with the protocol for the escape of non-indigenous species as specified in Section 9.

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

- (1) Violation of provisions pertaining to prohibited non-indigenous species, as specified in Section 4 (A);
 - (2) Noncompliance with permit requirements pertaining to use of prohibited non-indigenous species, as specified in Section 7 (A);
 - (3) Violation of provisions pertaining to restricted species as specified in Section 5 (B);
 - (4) Violation of provisions pertaining to unlisted non-indigenous species as specified in Section 6 (B);
 - (5) Refusal to obey enforcement requirements for inspection operations as established by the Secretary pursuant to Section 2
- (C)(1) Program Implementation;
- (6) Subsequent offenses in violation of any provision of this legislation; and
 - (7) Violations involving permit revocation orders or failure to pay fines pursuant to Section 10 (B) Civil Penalties.

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

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

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

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

Approved,