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SENATE
S.B. No. 2868

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Introduced by Senator Ramon Bong Revilla, Jr.

EXPLANATORY NOTE

Section 16, Article II of the 1987 Constitution explicitly 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".

The aforementioned provision of the 1987 Constitution was espoused by the Supreme Court as enunciated in *Oposa, et al. vs. Factoran, et al.* (G.R. No. 101083, 30 July 1993) articulating the responsibility of each generation as trustee and guardian of the environment for succeeding generations. In fact, such responsibility pertains to us not only for being citizens of the Philippines but as citizens of the world. Though the factual backdrop of the said case involved timber license agreements, the protection and conservation of the Republic's marine and aquatic resources is no less important. The said right need not even be written into our Constitution or our laws for they are said to have been in existence from the inception of mankind. Since the right to a balanced and healthful ecology carries with it the correlative duty to refrain from impairing the environment, it is a paramount obligation of the State to safeguard such right, lest such day will come when all else would be lost and the generations to come shall inherit nothing but a parched earth incapable of sustaining life.

Republic Act 8550, otherwise known as The Philippine Fisheries Code of 1998, was thus enacted into law for the purpose of achieving food security as the overriding consideration in the utilization, management, development, conservation and protection of fishery resources in order to provide the food needs of the population and the improvement of the productivity of aquaculture within ecological limits, among others.

However, the same yielded marginal results and proved to be quite ineffective as a deterrent for persons, both natural and juridical, in pursuing the unlawful acts as defined in the R.A. 8550. Circumvention of the aforesaid law, or even its direct violation, is still prevalent for the reason that the penalties provided therein are merely nominal.

The imposition of stiffer penalties by increasing the fines and imprisonment to be imposed upon persons found guilty of violating R.A. 8550 is intended to remedy such loophole in the law.

Hence, the passage of this measure is highly recommended.



RAMON BONG REVILLA, JR.

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Introduced by Senator Ramon Bong Revilla, Jr.

AN ACT AMENDING SECTIONS 91 AND 97 OF REPUBLIC ACT NO. 8550, OTHERWISE KNOWN AS THE PHILIPPINE FISHERIES CODE OF 1998, AND PROVIDING STIFFER PENALTIES THEREFOR

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

SECTION 1. Section 91 of Republic Act No. 8550, otherwise known as the Philippine Fisheries Code of 1998, is hereby amended to read as follows:

"SEC. 91. *Ban on Coral Exploitation and Exportation.* - It shall be unlawful for any, person or corporation to gather, possess, sell or export ordinary precious and semi-precious corals, whether raw or in processed form, except for scientific or research purposes.

Violations of this provision shall be punished by imprisonment from six (6) months to two (2) years and a fine from [Two thousand pesos (P2,000) to Twenty thousand pesos (P20,000)] **ONE HUNDRED THOUSAND PESOS (P100,000.00) TO FIVE HUNDRED THOUSAND PESOS (P500,000.00)**, or both such fine and imprisonment, at the discretion of the court, and forfeiture of the subject corals, including the vessel and its proper disposition.

The confiscated corals shall either be returned to the sea or donated to schools and museums for educational or scientific purposes or disposed through other means."

SEC. 2. Section 97 of Republic Act No. 8550 is hereby amended to read as follows:

"SEC. 97. *Fishing or Taking of Rare, Threatened or Endangered Species.* - It shall be unlawful to fish or take, **CATCH, GATHER, SELL, PURCHASE, POSSESS, TRANSPORT AND EXPORT** rare, threatened or endangered species, as listed [in the CITES] **AND DEFINED AS SUCH IN THE CONVENTION ON INTERNATIONAL TRADE OF ENDANGERED SPECIES OF FLORA AND FAUNA, HEREINAFTER REFERRED TO AS CITES, THE INTERNATIONAL UNION FOR CONSERVATION OF NATURE AND NATURAL RESOURCES (IUCN), AND REPUBLIC ACT NO. 9147, OTHERWISE KNOWN AS THE WILDLIFE ACT** and as [determined] **IMPLEMENTED** by the Department **PURSUANT TO ITS PUBLISHED RULES AND REGULATIONS.**

THE TAKING, CATCHING, GATHERING AND POSSESSION OF WILD SPECIES FOR SCIENTIFIC RESEARCH OR ARTIFICIAL PROPAGATION PURPOSES MAY BE ALLOWED SUBJECT TO THE RULES AND REGULATIONS PROMULGATED BY THE DEPARTMENT: PROVIDED, THAT GATHERING, SELLING OR EXPORTING CULTURED OR ARTIFICIALLY PROPAGATED SPECIES THAT HAVE BEEN TRANSPLANTED TO THEIR NATURAL HABITAT AND LISTED IN TH& CITES, IUCN AND R.4 NO. 9147 SHALL NOT BE ALLOWED.

THE TAKING, CATCHING, GATHERING, POSSESSION OR TRADE OF ARTIFICIALLY PROPAGATED AND CULTURED SPECIES LISTED IN THE CITES, IUCN AND RA NO. 9147 MAY BE ALLOWED SUBJECT TO THE RULES AND REGULATIONS PROMULGATED BY THE DEPARTMENT.

CONSISTENT WITH THE CITES RULES AND REGULATIONS, A NON-DETRIMENTAL FINDING (NDF) SHALL BE CONDUCTED BEFORE ANY TRADE WILL BE ALLOWED TO THOSE SPECIES LISTED UNDER APPENDIX II AND III OF THE CITES.

Violation of the provision of this section shall be punished by imprisonment of twelve (12) years to twenty (20) years and/or a fine of [One hundred and twenty thousand pesos (P120,000)] **ONE HUNDRED THOUSAND PESOS (P100,000.00) TO FIVE HUNDRED THOUSAND PESOS (P500,000.00)**, [and] forfeiture of the catch, and the cancellation of fishing permit.

SHOULD THE CULPABLE VIOLATION BE COMMITTED THROUGH OR BY A FISHING VESSEL MANNED BY MORE THAN TWO (2) PERSONS, THE HEAD OR CAPTAIN OF THE BOAT AND THE SUPPORT PERSONNEL THEREOF INVOLVED IN THE FISHING AND CATCHING OF SUCH PROTECTED MARINE LIFE SHALL BE PRESUMED TO HAVE COMMITTED THE PROHIBITED ACT AND THE PENALTY PROVIDED FOR IN THE IMMEDIATELY PRECEDING PARAGRAPH SHALL BE IMPOSED ON THEM."

SEC. 3. *Implementing Rules.* – The Bureau of Fisheries and Aquatic Resources (BFAR) of the Department of Agriculture shall promulgate rules and regulations to implement this amendment within sixty (60) days from the approval of this Act.

The Bureau of Fisheries and Aquatic Resources shall, in coordination with the National Fisheries and Aquatic Resources Management Councils (NFARMC), local government units, private institutions and other government agencies concerned, initiate the development of a fisheries resource management plan for each CITES listed species, indicating therein conservation and rehabilitation measures.

SEC. 4. *Repealing Clause.* – All laws, decrees, executive orders, letters of instructions, rules and regulations or parts thereof which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 5. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Approved,