

[Commonwealth Act No. 471, June 16, 1939]

AN ACT TO AMEND ACT NUMBERED FOUR THOUSAND AND THREE ENTITLED "AN ACT TO AMEND AND COMPILE THE LAW RELATING TO FISH AND OTHER AQUATIC RESOURCES OF THE PHILIPPINE ISLANDS, AND FOR OTHER PURPOSES"

Be it enacted by the National Assembly of the Act:

Section 1. Sections four, five, twelve, thirteen, fourteen, fifteen, eighteen, twenty-one, twenty-two, twenty-three, twenty-six, twenty-seven, twenty-eight, thirty-six, thirty-eight, forty-two, forty-three, forty-five, fifty, sixty-three, sixty-four, sixty-six, sixty-seven, sixty-nine, seventy, seventy-two, seventy-five, seventy-six, eighty, and eighty-two, of Act Numbered Four thousand and three are amended to read as follows.

"SEC. 4. Instructions, orders, rules and regulations. — The Secretary of Agriculture and Commerce shall from time to time issue instructions, orders, rules and regulations consistent with this Act, as may be necessary and proper to carry into effect the provisions thereof and for the conduct of proceeding arising under such provisions; and all licenses, permits, leases, and contracts issued, granted or made herein shall be subject to the same.

All ordinances, rules or regulations pertaining to fishing or fisheries promulgated or enacted by provincial boards, municipal boards or councils, or municipal district councils shall be submitted to the Secretary of Agriculture and Commerce for approval."

"SEC. 5. Deputies authorized to enforce provisions of this Act. — Members of the Philippine Constabulary; members of municipal and municipal district police; members of the secret service force, inspectors, guards, wharfingers of the customs service; and such internal-revenue agents, officers of coast guard cutters and lighthouse keepers, and other competent officials, employees or persons as may be designated in writing by the Secretary of Agriculture and Commerce are hereby made deputies of said Department Head, with full power and authority to enforce the provisions of this Act and the regulations promulgated thereunder and to arrest offenders against the same. All such deputies shall have power to administer oaths and to take testimony in any official matter or investigation conducted by them touching any matter under the authority of this Act or regulation promulgated thereunder."

"SEC. 12. Prohibition of the use of explosives in fishing. — The use of dynamite or other explosives for the stupefying, disabling, killing or taking of fish or other aquatic animals, or under water for any purpose except in the execution of bona fide engineering work and the destruction of wrecks or obstructions to navigation; or the gathering by means of the fishes or other aquatic animals stupefied, disabled, or killed, by the action of dynamite or other explosives shall be unlawful: Provided, That the use of mechanical bombs for killing whales, crocodiles, sharks, or other large dangerous fishes, may be allowed subject to the approval of the Secretary of Agriculture and Commerce and the Secretary of the Interior in taking fish or other aquatic animals in limited numbers for scientific purposes only. Permittees must be

ready at all times to exhibit permits on demand by any peace officer or deputy authorized in section five hereof to enforce the provisions of this Act.

"The possession and/or finding, of dynamite, blasting caps, and other explosives in any fishing boat shall constitute a presumption that the said dynamite and/or blasting caps and explosives are being used for fishing purposes in violation of this section, and that the possession or discovery in any fishing boat of fish caught or killed by the use of dynamite or other explosives under expert testimony shall constitute a presumption that the owner if present in the fishing boat or the fishing crew have been fishing with dynamite or other explosives."

"SEC. 13. Protection of fry or fish eggs. — Except for scientific or educational purposes or for propagation, it shall be unlawful to take or catch fry or fish eggs and the small fish, not more than three centimeters long, known as siliniasi, in the territorial waters of the Philippines. Towards this end, the Secretary of Agriculture and Commerce shall be authorized to provide by regulations such restrictions as may be deemed necessary to be imposed on the use of any fish net or fishing device, for the protection of fry or fish eggs: Provided, however, That the Secretary of Agriculture and Commerce shall permit the taking of the young of certain species of fishes known as ipon, and the species under such restrictions as may be deemed necessary.

"SEC. 14. It shall be unlawful to place, cause to be placed, discharge or deposit, or cause to be discharged or deposited, or to pass or place where it can pass into the waters of the Philippines any petroleum, acid, coal, or oil tar, lampblack, aniline, asphalt, bitumen or residuary product of petroleum or carbonaceous material or substance, molasses, mining, mill tailings, or any refuse, liquid or solid, from any refinery, gas house, tannery distillery chemical works, sugar central, mill or factory of any kind, or any sawdust, shavings, slabs, edgings, or any factory refuse or any substance or materials deleterious to fish or aquatic life."

"SEC. 15. Importation and exportation of fish, mollusks, crustaceans, etc. — The importation into and exportation from the Philippines of any fish, mollusks, crustaceans, or amphibian or other aquatic animal, adult, young or fry, or fish eggs for propagation or other purposes shall be effected only through a special permit from the Secretary of Agriculture and Commerce. An application for a permit shall be presented at least twenty days prior to the probable date of arrival or five days before exportation of such fish, mollusk, crustacean, or amphibian or other aquatic animals, for such permit a fee of not more than four pesos shall be paid. Failure to file the application within the time prescribed shall subject the importer to the payment of twice the ordinary fee and/or administrative fines as provided in section eighty hereof, without prejudice to criminal proceedings against importer or exporter under the penal provisions of this Act. For the inspection and prophylactic treatment of this importation a fee equivalent to two per centum of the declared value of the same shall be charged but such fee shall in no case be less than fifty centavos."

"SEC. 18. Annual fee on operation of boat. — The Secretary of Agriculture and Commerce is hereby empowered to issue to the proper parties licenses for fishing operation of powered vessels of more than three tons gross towed or operated in connection with power-propelled vessels in the territorial waters of the Philippines upon the payment of an annual fee of not less than two pesos nor more than two hundred pesos for every vessel subject to taxation under this Act: Provided, That

failure of a license to secure a renewal or extension of his license and pay the annual fee on or before the last day of February of each year shall subject him to a surcharge of one hundred per centum based on the amount of the original fee, without prejudice to criminal proceedings against the delinquent licensee under the penal provisions of this Act: Provided, further, That all vessels less than three tons gross shall be licensed under the provisions of section seventy of this Act: And provided, also, That the catching of fish under the license issued shall be subject to the limitations, restrictions, and penalties imposed by this Act."

"SEC. 21. License for off-shore fishing and municipal grant of fishery. — No license granted in accordance with section eighteen of this Act shall operate within three nautical miles from the shore line and from two hundred meters of any fish coral licensed by a municipality pursuant to the provisions of section sixty-nine hereof, except if the licensee is the same person authorized by the municipality to operate such fish coral."

"SEC. 22. Fisherman's license and license fee. — No person shall be employed or engaged on or in connection with the operation of a vessel of more than three tons gross engaged in commercial fishing unless he is provide with a fisherman's license. Such license shall be issued by the Secretary of Agriculture and Commerce upon the payment of an annual fee of not less than twenty centavos nor more than one peso. Provided, however, That should certain fisherman attached to a fishing vessel become sick or otherwise incapacitated to perform work on said vessel, the owner may employ temporary personnel if they are qualified to hold a fisherman's license under this section. Failure of the licensed fisherman to pay the fee and secure a renewal of his license on or before the last day of February of each year shall subject him to a surcharge of one peso. No license, as fisherman, to work on vessels engaged in commercial fishing shall be issued, except to citizens of the Philippines or of the United States or of countries the laws of which grant similar rights to citizens of the Philippines; Provided, however, That aliens engaged in fishing on vessels of more than three tons gross at the time this Act goes into effect shall be licensed under the provisions of this Act so long as they have not been guilty of any violation of this Act or the customs laws or the regulations promulgated thereunder: Provided, further, That all persons employed in a fishing vessel, except the master and the engineer and the cook who shall be Filipino citizen, shall be considered fishermen."

"SEC. 23. Fees for fish caught. — The Secretary of Agriculture and Commerce may by regulation fix the fees to be collected for fish caught at a rate of not less than one peso nor more than three pesos per ton, gross weight, as well as the manner of their collection: Provided, That only one fee shall be collected; and provided, That said regulations shall not interfere with the free movement and disposition by any person of fish caught in accordance with the provisions of this article. Failure of the licensee to pay the fee required herein when due shall subject him a surcharging of one hundred per centum."

"SEC. 26. Pearling or shell-collecting boat license. — A pearling or shell-collecting boat license may, upon payment of the proper fee and subject to the conditions, restrictions and limitations specified in sections twenty-four and twenty-five hereof, be issued to the owner or operator of any vessel the registration or ownership of which is such as is prescribed for vessels engaging in the Philippine coastwise trade: Provided, That no such license shall be issued to any vessel owned or operated in

whole or in part by a person who has been twice convicted of violating this article."

"SEC. 27. Shell diver's license. — A shell diver's license authorizing the holder to use submarine armor in taking marine molluscs or shell thereof in Philippine waters, may be issued to any person upon application filed with the Secretary of Agriculture and Commerce, or his authorized representative, upon the payment of the required fee: Provided, That no such license shall be issued to any person who does not possess the qualifications required in section twenty-four of persons applying for licenses to take marine mollusks, nor to any person who has been twice convicted of violating the provisions of this article: Provided, further, That a person collecting marine mollusk shells not exceeding five kilograms a day need no diver's license. This license unless revoked for cause, shall be valid from the date of issue for not more than one year shall expire on December thirty-one, and shall not be transferable.

"The fees for shells as provided in section twenty-three-A hereof shall be collected from the owners of pearling or shell collecting boats, licensed divers if not using any vessel, buyers or possessors of such shells, unless it can be proven by such buyers or possessors by proper documents or official receipts that the fees have already been paid by the collectors of such shells.

"The taking from the sea bottom of any shell of less than the legal size, as prescribed in section thirty-six hereof or regulations promulgated under this Act shall be sufficient cause for the cancellation of the license and confiscation of the bond deposit, if any."

"SEC. 28. Unlicensed diver. — It shall be unlawful for any vessel holding a pearling or shell collecting boat license to employ any unlicensed diver."

"SEC. 36. Power to fix minimum sizes of shells. — The Secretary of Agriculture and Commerce shall fix minimum sizes for the shells which may be taken in Philippine waters of any species including the following:

"*Pinetada maxima* (Jameson), commonly known as the gold lip pearl shell or "concha blanca":

"*Pinetada margaritifera* (Linnaeus), commonly known as the blap-lip pearl shell, or "concha negra":

"*Trochus nilitica* Linnaeus, commonly known as the smooth top shell, trochus shell, "simong" or "trocha";

"*Trochus maximus* Kock, commonly known as the rough top shell, trochus shell, "simong" or "trocha";

"*Trochus modioliferus* Lamarck, commonly known as "Hirose shell" or "Susong Babae";

"*Torbo marmoratus* Linnaeus, commonly known as the green snail shell, turban shell, "lalong" or "Bolalo."

"After such restriction shall have been imposed, it shall be unlawful for any person

to take, sell, transfer, or have in possession for any purpose any shell or valve of a smaller size than the minimum prescribed for the particular species.

"Any undersize shell removed from the water through accident or in ignorance of its size shall be returned to the water immediately without being opened; otherwise, the offender shall be penalized, in accordance with the penal provisions of this Act."

"SEC. 38. Limitation to collect or gather sponges and other aquatic products. — Except as provided in this article, no persons, associations, or corporations shall be allowed to collect or gather sponges, seaweeds or other minor aquatic products from the sea bottom or reefs in the territorial waters on the Philippines. Persons gathering seaweeds, trepang, corals or other minor aquatic products, except sponges and certain species of the genus *degenea* for personal use even inside concessions, may be allowed, provided, that the daily amount of such products gathered by them does not exceed five kilograms."

"SEC. 42. Concessions for sponging and other privileges. — Concessions granted in accordance with this article shall run for a period of not to exceed twenty years, and shall not interfere with the free passage over the area under concession of boats or vessels, nor in any way prevent the unrestricted gathering or removal of products not specifically stated in the contract or license agreement by other persons from said area: Provided, however, That subject to confirmation by the Secretary of Agriculture and Commerce the official or chief of the bureau, office or service designated to carry out the provisions of this Act, may select from any concessions, adequate areas of offshore and waters for the cultivation of sponges or other marine forms for the purpose of any Government experiment station or school."

"SEC. 43. Annual concession fee. — The annual concession fee for sponges shall be at the rate of not exceeding one hundred pesos per square kilometer. For the other products the annual fee shall not exceed fifty-pesos per square kilometer or lineal kilometer of coast line of not more than a kilometer wide. Such fee shall be paid in advance and, if tendered in quarterly installments, on or before the twentieth of January, April, July and October, or on or before the last days of said months in remote provinces, in the discretion of the Secretary of Agriculture and Commerce, shall be received without penalty. If the fee due on any concession is not paid within the period in which the payment may be received without penalty, the amount of the same shall be increased by ten per centum, the increment to be part of the fee. Should the concession fee remain delinquent fifty days after the same becomes due, the original fee shall be increased by one hundred per centum and after six months the concession shall be canceled, and the bond deposit, if any, shall be confiscated, without prejudice to criminal proceedings against the delinquent concessionaire, under the penal provisions of this Act.

"A fee which may be determined as provided in section twenty-three-a hereof, shall be collected on products gathered and removed.

"Of the sums collected under and by virtue of this section twenty per centum shall accrue to the Insular Treasury and forty per centum to the province and municipality, respectively, in which the concession is located. In case a concession should be included within two or more provinces or municipalities, the distribution between the different provinces and municipalities shall be made in proportion to the areas of the concessions included within the respective provinces and