

SENATE OF THE PHILIPPINES
OFFICE OF THE SECRETARY
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REPUBLIC OF THE PHILIPPINES
CONGRESS OF THE PHILIPPINES

SENATE
M a n i l a

THIRD REGULAR SESSION

COMMITTEE REPORT NO. 835

Submitted by the Committee on Natural Resources and Ecology on 10/16/89.

Re : Senate Bill No. 1333

Recommending its approval in substitution of S. Nos. 503 and 903

Sponsors: Senators Pimentel, Angara, Osmeña, Alvarez and the Committee on Natural Resources and Ecology

MR. PRESIDENT:

The Committee on Natural Resources and Ecology to which were referred Senate Bill No. 503, introduced by Senator Pimentel, entitled:

"AN ACT
ENCOURAGING SMALL SCALE UTILIZATION OF MINERAL
RESOURCES"

and Senate Bill No. 903, introduced by Senator Angara, entitled:

"AN ACT
RECOGNIZING, REGULATING AND PROTECTING SMALL-SCALE
MINING AND FOR OTHER PURPOSES"

has considered the same and has the honor to report them back to the Senate with the recommendation that Senate Bill No. 1333 consolidating said bills, entitled:

"AN ACT
ENCOURAGING SMALL-SCALE UTILIZATION OF MINERAL
RESOURCES"

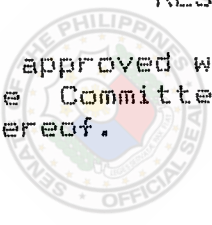
be approved with Senators Pimentel, Angara, Osmeña, Alvarez and the Committee on Natural Resources and Ecology as authors thereof.

Respectfully submitted:

HEHERSON T. ALVAREZ
Chairman
Committee on Natural Resources
and Ecology

JOSEPH E. ESTRADA
Vice-Chairman

EDGARDO J. ANGARA
Vice-Chairman



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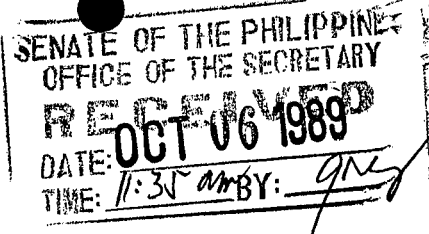
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Majority Floor Leader

JUAN PONCE ENRILE
Minority Floor Leader



HONORABLE JOVITO R. SALONGA
President of the Senate
Manila



SENATE

S. No. 1333

Introduced by Senators Aquilino Q. Pimentel, Jr,
Edgardo J. Angara, John H. Osmeña and
Heherson T. Alvarez

AN ACT
ENCOURAGING SMALL-SCALE UTILIZATION OF MINERAL RESOURCES

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

1 SECTION 1. Title. - This Act shall be known as the
2 "SMALL-SCALE MINING ACT OF 1989".

3 SEC. 2. Declaration of Policy. - It is hereby declared
4 to be the policy of the State to encourage small scale
5 utilization of mineral resources, promote, develop, protect
6 and rationalize viable small-scale mining activities to
7 generate employment, and provide equitable sharing of the
8 nation's wealth and natural resources, subject to existing
9 rights as defined and provided in this Act.

10 SEC. 3. Definitions. - For purposes of this Act, the
11 following terms shall be defined as follows:

12 a. Small-scale mining refers to mining activities limited
13 to surface and near surface level which rely heavily
14 on manual labor without the use of explosives or heavy
15 mining equipment.

16 b. Small-scale miner refers to a Filipino citizen duly
17 licensed by the Department of Environment and Natural
18 Resources to engage, under the terms and conditions of
19 a contract, in the extraction or removal of minerals or
20 ore-bearing materials from the ground.

21 c. Small-scale mining area refers to a mineral land
22 including submerged land declared open by the
23 Secretary exclusively for small-scale utilization and

- 1 development.
- 2 d. Small-scale mining contract refers to an agreement
- 3 between the State and a Small-Scale Mining Contractor
- 4 for the small-scale utilization of a plot of mineral
- 5 land.
- 6 e. Small-scale mining contractor refers to a partnership,
- 7 association, corporation or cooperative of small-scale
- 8 miners, registered with the Securities and Exchange
- 9 Commission or other appropriate government agency
- 10 which has entered into an agreement with the State for
- 11 the small-scale utilization of a plot of mineral land
- 12 within a Small-Scale Mining Area.
- 13 f. Active mining area refers to a mining area under actual
- 14 exploration, development or commercial production,
- 15 belonging to the same claim owner or operator as
- 16 determined by the Secretary after the necessary field
- 17 investigation, including such areas not being actually
- 18 developed or commercially produced but otherwise
- 19 covered by the mining plan required to be submitted by
- 20 the claimowner or operator to the DENR.
- 21 g. Existing mining right refers to a valid and subsisting
- 22 claim, lease, license or permit covering a mineralized
- 23 area prior to its declaration as a small-scale mining
- 24 area.
- 25 h. Claimowner refers to a holder of an existing mining
- 26 right.
- 27 i. Processor refers to a person issued a license to engage
- 28 in the treatment of minerals or ore-bearing materials,
- 29 such as by gravity concentration, leaching
- 30 beneficiation, cyanidation, cutting, sizing, polishing
- 31 and other similar activities.
- 32 j. License refers to the privilege granted to a person to



6
1 legitimately pursue his occupation as a small-scale
2 miner or processor under this Act.

3 k. Mining Plan refers to a three (3) year program of
4 activities and methodologies employed in the
5 extraction and production of minerals or ore-bearing
6 materials, including the financial plan and other
7 resources in support thereof.

8 l. DENR refers to the Department of Environment and
9 Natural Resources

10 m. Secretary refers to the Secretary of the DENR

11 n. Director refers to the Regional Executive Director of
12 the DENR.

13 SEC. 4. Small-Scale Mining Program. - For the purpose
14 of carrying out the declared policy provided in Section 2
15 hereof, there is hereby established a Small-Scale Mining
16 Program to be implemented by the DENR in coordination with
17 other concerned government agencies, designed to achieve an
18 orderly, systematic and rational scheme for the small-scale
19 development and utilization of mineral resources in certain
20 mineral areas in order to address the social, economic,
21 technical, and environmental problems created by the
22 proliferation of small-scale mining activities.

23 The Small-Scale Mining Program shall include the
24 following features:

25 a. The identification, segregation and reservation of
26 certain mineral lands as small-scale mining areas;

27 b. The recognition of prior existing rights and providing
28 adequate compensation therefore;

29 c. The encouragement of the formation of cooperatives;

30 d. The extension of technical and financial assistance,
31 and other social services;

32 e. The extension of assistance in processing and

- 7
- 1 marketing;
 - 2 f. The generation of ancillary livelihood activities;
 - 3 g. The regulation of the small-scale mining industry with
 - 4 the view to encourage growth and productivity;
 - 5 h. The efficient collection of government revenue.

6 SEC. 5. Declaration of Small-Scale Mining Areas - The
7 Secretary is hereby authorized to declare and set aside
8 small-scale mining areas in sites, onshore or offshore,
9 suitable for small-scale mining, upon the recommendation of
10 the Director, immediately giving priority to areas already
11 occupied and actively mined by small-scale miners before
12 August 1, 1987; Provided, That such areas are not
13 considered as active mining areas. Provided further, that
14 the minerals found therein are technically and commercially
15 suitable for small-scale mining activities; Provided
16 finally, that the areas are not covered by existing forest
17 rights or reservations and have not been declared as tourist
18 or marine reserves, parks and wildlife reservations,
19 watersheds, or military reservations, unless their status as
20 such is withdrawn by competent authority.

21 SEC. 6. Future Small-Scale Mining Areas. - The
22 following lands, when suitable for small-scale mining, may
23 be declared by the Secretary as small-scale mining areas
24 upon the recommendation of the Director:
25 a. public lands not subject to any existing right;
26 b. public lands covered by existing mining rights which
27 are not active mining areas;
28 c. private lands, subject to certain rights and
29 conditions, except those with substantial improvements
30 or in bonafide and regular use as a yard, stockyard,
31 gardens, plant, nursery, plantation, cemetery or burial
32 sites, water reservoir, land situated within 100 meters

1 from such cemetery, reservoir, or a separate parcel of
2 land with an area of 10,000 square meters or less.

3 SEC. 7. Ancestral Lands. - No ancestral land may be
4 declared as a small-scale mining area without the prior
5 consent of the cultural communities concerned. Provided,
6 that if ancestral lands are declared as small-scale mining
7 areas, the members of the cultural communities therein shall
8 be given priority in the awarding of small-scale mining
9 contracts.

10 SEC. 8. Registration of Small-Scale Miners. - All
11 persons undertaking small-scale mining activities shall
12 register as miners with the Director and may organize
13 themselves into cooperatives, partnerships, associations or
14 corporations in order to qualify for the awarding of a
15 small-scale mining contract.

16 SEC. 9. Award of Small-Scale Mining Contracts. - A
17 small-scale mining contract may be awarded by the Secretary
18 to small-scale miners who have duly organized and registered
19 with the appropriate government agency as a cooperative,
20 partnership, association or corporation, the membership of
21 which shall be one hundred per cent (100%) Filipino.
22 Provided, that only one (1) small-scale mining contract may
23 be awarded at any one time to a small-scale mining
24 contractor. Provided further, that priority shall be given
25 to small-scale miners residing in the province where the
26 small-scale mining area is located.

27 SEC. 10. Extent of Contract Area. - The Secretary
28 shall determine the reasonable size and shape of the
29 contract area following the meridional block system
30 established under Presidential Decree No. 463, as amended,
31 otherwise known as the Mineral Resources Development Decree
32 of 1974, and the length of the tunnel or adit upon the

1 recommendation of the Director taking into account the
2 following circumstances:

- 3 a. number of partners or members of the registered
- 4 cooperative, partnership, association or corporation;
- 5 b. size of mineralized area;
- 6 c. quantity of mineral deposits;
- 7 d. safety of miners;
- 8 e. environmental considerations; and
- 9 f. other related circumstances.

10 Provided that, in no case shall the size of an area per
11 contract exceed 1/4 of 1 meridional block of 15 seconds of
12 latitude and longitude containing an area of not more than
13 twenty (20) hectares. Provided further, that a tunnel or
14 adit shall in no case be longer than one hundred twenty-five
15 (125) meters and mining shall be allowed only up to a
16 maximum aggregate depth of fifty (50) meters reckoned from
17 the adit level, subject at all times to safety standards.

18 SEC. 11. Rights Under A Small Scale Mining Contract. -

19 A small-scale mining contract entitles the small-scale
20 mining contractor the right to mine, extract and dispose of
21 mineral ores for commercial purposes. In no case shall a
22 small-scale mining contract be sub-contracted, assigned or
23 otherwise transferred.

24 SEC. 12. Easement Rights. - Upon the declaration of a

25 small-scale mining area, the Director, in consultation with
26 the operator, claimowner, landowner or lessor of the
27 affected area, shall determine the right of the small-scale
28 miners to existing facilities such as mining and logging
29 roads, private roads, port and communication facilities,
30 processing plants which are necessary for the effective
31 implementation of the Small-Scale Mining Program, subject to
32 payment of reasonable fees to the operator, claimowner,

1 landowner or lessor.

2 SEC. 13. Terms and Conditions of a Small-Scale Mining
3 Contract. - A small-scale mining contract shall have a term
4 of 2 years renewable for like periods subject to
5 verification by the Director on the existence of available
6 mineral reserves or deposits. The holder of a small-scale
7 mining contract shall have the following duties and
8 obligations:

- 9 a. Undertake mining activities only in accordance with a
- 10 mining plan duly approved by the Director;
- 11 b. Comply with the Mines and Geo-Sciences Bureau Small-
- 12 Scale Mining Safety Rules and Regulations;
- 13 c. Comply with the obligations to the holder/s of existing
- 14 rights;
- 15 d. Pay all taxes, royalties or government production share
- 16 as provided in this Act;
- 17 e. Comply with pertinent environmental rules and
- 18 regulations on tree-cutting and mineral processing.
- 19 f. Submit to the Director under oath a monthly production
- 20 and sales report.

21 SEC. 14. Rights of Claimowners. - In case a site
22 declared and set aside as a small-scale mining area is
23 covered by an existing mining right, the claimowner and the
24 small scale miners therein are encouraged to enter into a
25 voluntary and acceptable contractual agreement with respect
26 to the small-scale utilization of the mineral values from
27 the area under claim. In case of disagreement, the
28 claimowner shall be entitled to the following rights and
29 privileges:

- 30 a. exemption from the performance of annual work
- 31 obligations and payment of occupation fees, rental, and
- 32 real property taxes;

1 b. free access to the permit area to conduct metallurgical
2 tests, explorations and other activities, provided such
3 activities do not unduly interfere with the operations
4 of the small-scale miners;

5 c. royalty equivalent to one and half percent (1 1/2%) of
6 the gross value of the metallic mineral output or one
7 percent (1%) of the gross value of the non-metallic
8 mineral output to be paid to the claimowner. Provided,
9 that such rights and privileges shall be available
10 only if he is not delinquent in the performance of his
11 annual work obligations and other requirements for the
12 last two (2) years prior to the effectivity of this
13 Act.

14 SEC. 15. Rights of Private Land Owners. - The private
15 landowner or lawful possessor shall be notified of any plan
16 or petition to declare his land as a small-scale mining
17 area. Said landowner may oppose such plan or petition in
18 an appropriate proceeding and hearing conducted before the
19 Director.

20 If a private land is declared as a small-scale mining
21 area, the owner and the small-scale mining contractors are
22 encouraged to enter into a voluntary and acceptable
23 contractual agreement for the small-scale utilization of the
24 mineral values from the private land. Provided, that the
25 owner shall, in all cases be entitled to the payment of
26 actual damages which he may suffer as a result of such
27 declaration. Provided further, that royalties paid to the
28 owner shall, in no case, exceed one percent (1%) of the
29 gross value of the minerals recovered as royalty.

30 SEC. 16. Ownership of Mill Tailings. - The small-scale
31 mining contractor shall be the owner of all mill tailings
32 produced from the contract area. Provided that, if the

1 small-scale mining contractor decides to sell its mill-
2 tailings, the claimowner shall have a pre-emptive right to
3 purchase said mill tailings at the prevailing market price.

4 SEC. 17. Sale of Gold. - All gold produced by small-
5 scale miners in any mineral area shall be sold only to the
6 Central Bank or its duly authorized representatives at
7 prices competitive with those prevailing in the world
8 market.

9 The Central Bank shall establish as many buying
10 stations in gold rush areas to fully service the
11 requirements of the small scale miners thereat.

12 SEC. 18. Custom Mills/Service Processing Plants. - The
13 establishment and operation of safe and efficient custom
14 mills to process minerals or ore-bearing materials shall be
15 encouraged in Mineral Processing Zones duly designated by
16 the local government unit concerned upon the recommendation
17 of the Director.

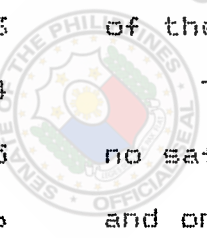
18 The Director shall issue licenses for the operation of
19 custom mills and other processing plants subject to
20 pollution control and safety standards.

21 The DENR shall strictly regulate the use of mercury in
22 the processing of gold ores in order to protect the health
23 of the people and the environment.

24 The use of mercury may be allowed only where there are
25 no safe and efficient custom mills operating within the area
26 and only under the strict supervision of the DENR and other
27 appropriate government agencies.

28 The DENR shall establish assay laboratories to cross
29 check the integrity of custom mills and to render
30 metallurgical and laboratory services to miners.

31 Custom mills shall be constituted as withholding agents
32 for the royalties, production share or other taxes due to



1 the government.

2 SEC. 19. Government Share and Allotment. - The small-
 3 scale contractor shall pay the government's share equivalent
 4 to five percentum (5%) and three percentum (3%) of the gross
 5 value of metallic and non-metallic mineral output,
 6 respectively, to be deducted from the proceeds of the sale
 7 in accordance with existing laws. The government's share
 8 shall be withheld by licensed custom mills and remitted
 9 monthly to the provincial or city treasurer, and shall be in
 10 lieu of all other taxes and royalties imposed under other
 11 laws.

12 The revenue to be derived by the government from the
 13 operations of the Small-Scale Mining Program herein
 14 established shall be allotted as follows:

- 15 35% - National Treasury
- 16 10% - Province where minerals were mined
- 17 10% - City or Municipality where minerals were mined
- 18 5% - Barangay where minerals were mined
- 19 10% - Small-Scale Miners Protection Fund
- 20 20% - Special Fund to be administered by the DENR for
- 21 reforestation and environmental rehabilitation of
- 22 Small-Scale Mining Areas

23 SEC. 20. Small-Scale Mining Protection Fund. - The
 24 Small-Scale Mining Protection Fund to be administered by the
 25 Secretary shall be used primarily for information
 26 dissemination and training of small-scale miners on safety,
 27 health and environmental protection, and the establishment
 28 of mine rescue and recovery teams including the procurement
 29 of rescue equipment necessary in cases of emergencies such
 30 as land-slides, tunnel collapse or the like.

31 The fund shall also be made available to address the
 32 needs of the small-scale miners brought about by accidents

1 and/or fortuitous events.

2 SEC. 21. Rescission of Small-Scale Mining Contract and
 3 Administrative Fines. - The non-compliance by the small-
 4 scale mining contractor with the terms and conditions of a
 5 small-scale mining contract, violation of any of the rules
 6 and regulations issued by the Secretary pursuant this Act,
 7 or abandonment of the contract area, shall be a ground for
 8 the rescission of the small-scale mining contract. In
 9 addition, the Director shall impose fines against the
 10 violator in an amount of not less than Five Thousand Pesos
 11 (P5,000.00) and not more than One Hundred Thousand Pesos
 12 (P100,000.00). Non-payment of the fine imposed shall
 13 render the small-scale mining contractor ineligible for
 14 other small-scale mining contracts.

15 SEC. 22. Reversion of Small-Scale Mining Areas. - When
 16 a small-scale mining area can no longer be feasibly operated
 17 on a small-scale basis and there are no more small-scale
 18 miners in the area, the same shall revert to its status
 19 prior to its declaration as a small-scale mining area.

20 SEC. 23. Actual Occupation By Small-Scale Miners. -
 21 Small-scale miners who have been in actual operation of
 22 mineral lands on or before August 1, 1987 as determined by
 23 the Director, shall not be dispossessed, ejected or removed
 24 from said areas.

25 SEC. 24. Small-Scale Mining Coordinating Committees. -
 26 To ensure maximum development of small-scale mining areas
 27 and the extension of all basic services geared towards the
 28 socio-economic upliftment of the miners thereat, including
 29 matters relating to health, sanitation, and peace and order
 30 conditions, concerned government agencies shall form a
 31 National Small-Scale Mining Coordinating Committee which
 32 shall be composed of the following or their duly authorized

1 representatives:

- 2 a. Secretary of Environment and Natural Resources -
- 3 Chairman
- 4 b. Secretary of National Defense - Member
- 5 c. Governor of the Central Bank of the Philippines -
- 6 Member
- 7 d. Secretary of Health - Member
- 8 e. Commissioner of the Bureau of Internal Revenue -
- 9 Member
- 10 f. National Representative of the Small-Scale Miners
- 11 g. President of Chamber of Mines of the Philippines -
- 12 Member

13 For a more effective implementation of this Act, a
 14 Regional Small-Scale Mining Coordinating Committee shall be
 15 created in all regions of the country where small-scale
 16 mining areas are identified and established, which shall be
 17 composed of the regional heads of the agencies and
 18 associations represented in the National Small-Scale Mining
 19 Coordinating Committee, and chaired by the Director and the
 20 Chairman of the Regional Development Council.

21 There shall also be created a Provincial Small-Scale
 22 Mining Coordinating Committee in all provinces of the
 23 country where small-scale mining areas are identified and
 24 established, which shall be composed of the Provincial heads
 25 of the agencies and associations represented in the National
 26 Small-Scale Mining Committee, and chaired by the Provincial
 27 Environment and Natural Resources Officer and the Chairman
 28 of the Provincial Development Council.

29 SEC. 25. Administrative Supervision Over the Small-
 30 Scale Mining Program.- The Secretary or his representative
 31 shall exercise direct supervision and control over the
 32 Small-Scale Mining Program.

1 SEC. 26. Implementing Rules and Regulations. - The
 2 Secretary shall within ninety (90) days from the effectivity
 3 of this Act, promulgate rules and regulations to effectively
 4 implement the provisions thereof. Priority shall be given
 5 to such rules and regulations that will ensure the least
 6 disruption in the operations of the small-scale miners.

7 In the preparation of the implementing rules and
 8 regulations, the Secretary shall encourage the participation
 9 of the representatives of the small-scale miners.

10 SEC. 27. Penal Sanctions. - Violation of any of the
 11 provisions of this Act, or any of the rules and regulations
 12 issued pursuant thereto shall be penalized with imprisonment
 13 for a minimum period of six (6) months but not to exceed six
 14 (6) years.

15 SEC. 28. Repealing Clause. - All laws, decrees, letters
 16 of instructions, executive orders, rules and regulations,
 17 and issuances or parts thereof, in conflict or inconsistent
 18 with the provisions of this Act are hereby repealed or
 19 modified accordingly.

20 SEC. 29. Separability Clause. - Any section or
 21 provision of this Act which may be declared unconstitutional
 22 shall not affect other sections or provisions.

23 SEC. 30. Effectivity. - This Act shall take effect
 24 fifteen (15) days after publication in the official gazette
 25 or in a national newspaper of general circulation.

26 Approved.

