I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Substitute Bill No. 44-31 (COR), "AN ACT TO *AMEND* §§ 63101 AND 63129, AND TO *ADD* NEW §§ 63114.1, 63114.2, 63114.3, 63114.4 AND 63114.5, ALL OF ARTICLE 1, CHAPTER 63 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING THE POSSESSION, SELLING, OFFERING FOR SALE, TRADING, OR DISTRIBUTION OF SHARK FINS, RAYS AND RAY PARTS"**, was on the 24th day of February, 2011, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 25th day of Feb, 2011, at 7:14 o'clock P.M.

James C. Sinfos
Assistant Staff Officer
Maga'lahi's Office
Policesgt / EIS

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 44-31 (COR)
As substituted by the Committee on Rules,
Federal, Foreign & Micronesian Affairs,
and Human & Natural Resources,
and amended on the Floor.

Introduced by: B. J.F. Cruz
R. J. Respicio
T. C. Ada
V. Anthony Ada
F. F. Blas, Jr.
Chris M. Duenas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
v. c. pangelinan
Dennis G. Rodriguez, Jr.
M. Silva Taijeron
Aline A.Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *AMEND* §§ 63101 AND 63129, AND TO *ADD* NEW §§ 63114.1, 63114.2, 63114.3, 63114.4 AND 63114.5, ALL OF ARTICLE 1, CHAPTER 63 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING THE POSSESSION, SELLING, OFFERING FOR SALE, TRADING, OR DISTRIBUTION OF SHARK FINS, RAYS AND RAY PARTS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Definitions. New items (x), (y), (z), (aa) and (bb) are hereby *added* to §63101 of Article 1, Chapter 63 of Title 5, Guam Code Annotated, to read as follows:

"(x) *Ray* is defined as animals in the Order Myliobatifonnes, including, but *not* limited to, Eagle Rays (Aetobatw narinarl), Manta Rays (Manta birostris) and Blue-spotted Rays (Taeniura lymma).

(y) *Shark* is defined as an animal commonly known as a shark and includes all animals in the Orders Hexanchiformes, Pristiophoriformes, Squatiniforms, Heterodontiformes, Orectolobiformes, Lamniformes and Carcharhiniformes.

(z) *Shark Fin* is defined, for the purpose of this Act, as the fin or tail of a shark that has been removed from the body.

(aa) *Ray Part* is defined as any part of a ray.

(bb) *Shark Finning* is defined as the taking of a shark, removing the fin or fins (whether or not including the tail) of a shark, and returning the remainder of the shark to the sea."

Section 2. Shark Fins. A new §63114.1 is hereby *added* to Article 1, Chapter 63 of Title 5, Guam Code Annotated, to read:

"**§63114.1. Shark Fins.**

(a) It *shall* be unlawful for any person to possess, sale, offer for sale, take, purchase, barter, transport, export, import, trade or distribute shark fins in Guam.

Restaurants in possession of shark fins which are prepared for consumption upon the enactment of this Act, may sell or offer for sale such shark fins for a period of ninety (90) days after the enactment of this Act.

(b) Notwithstanding Subsection (a), any person with a valid license or permit issued by the Director of the Department of Agriculture to conduct

research and who possesses shark fins *shall not* be held in violation of this Act.

(c) Notwithstanding Subsection (a), a person in possession of a shark for subsistence and traditional and cultural sharing purposes *shall not* be held in violation of this Act."

Section 3. Ray Parts. A new §63114.2 is hereby *added* to Article 1, Chapter 63 of Title 5, Guam Code Annotated, to read:

"**§63114.2. Ray Parts.**

(a) It *shall* be unlawful for any person to possess, sale, offer for sale, take, purchase, barter, transport, export, import, trade or distribute ray parts in Guam.

(b) Notwithstanding Subsection (a), any person with a valid license or permit issued by the Director of the Department of Agriculture to conduct research and who possesses ray parts *shall not* be held in violation of this Act. Research data and findings made pursuant to a license or permit shall be reported to *I Maga'lahi* and *I Liheslatura* as a condition of the license or permit.

(c) Notwithstanding Subsection (a), a person in possession of ray parts for subsistence and traditional and cultural sharing purposes *shall not* be held in violation of this Act."

Section 4. Shark Feeding Prohibited. A new §63114.3 is hereby *added* to Article 1, Chapter 63 of Title 5, Guam Code Annotated, to read:

"**§63114.3. Shark Feeding Prohibited.**

(a) It *shall* be unlawful for any person to conduct any activity related to the feeding of sharks in Guam's territorial marine waters.

(b) Persons engaged in the taking of marine life that results in captured, injured, or dead fish being incidentally eaten by sharks *shall not* be

considered in violation of this Section; provided, that the purpose of the taking of marine life is *not* the feeding of sharks.

(c) Chumming or feeding fish for the purpose of harvesting marine species is permitted.

(d) As used in this Section:

Commercial activity means to engage in any action or to attempt to engage in any action for compensation in any form. The action or actions may include, but are *not* limited to, providing, or attempting to provide, guide services, charters, tours, and transportation to and from the location or locations for which such services are provided.

Compensation means money, barter, trade, credit, and other instruments of value, goods, and other forms of payment.

Feeding means the introduction of or an attempt to introduce any food or other substance into the water to attract marine life for any purpose other than to take the marine life."

Section 5. Rules and Regulations. A new §63114.4 is hereby *added* to Article 1, Chapter 63 of Title 5, Guam Code Annotated, to read:

"§63114.4. Rules and Regulations.

The Director of the Department of Agriculture *shall* develop rules and regulations, in accordance with the Administrative Adjudication Act (AAA), Title 5, Guam Code Annotated, Chapter 9, to carry out the provisions of this Act. Such rules and regulations may be revisited annually for revision through the AAA process."

Section 6. Consultation. A new §63114.5 is hereby *added* to Article 1, Chapter 63 of Title 5, Guam Code Annotated, to read:

"§63114.5. Consultation.

Every five (5) years this Act *shall* be reviewed by the Department of Agriculture to determine if changes are necessary. In so doing, the Department *shall* consult with the University of Guam Marine Laboratory, the National Oceanic and Atmospheric Administration, local fishermen, including the Guam Fishermen's Co-Operative Association, the Marianas Underwater Fishing Federation, and the Guam Organization of Salt Water Anglers, to have local input to balance scientific data presented.

The report *shall* be forwarded to *I Liheslaturan Guåhan* thirty (30) days after completion."

Section 7. Penalties. §63129 of Article 1, Chapter 63 of Title 5, Guam Code Annotated is hereby *amended* to read:

"**§63129. Penalty.**

(a) Any person violating §63104, §63105, §63106, §63107, §63108, §63114.1 or §63114.2 of this Article is guilty of a felony punishable by imprisonment of *not more than* five (5) years, or by a fine of *not less than* Five Hundred Dollars ($500), *nor more than* Five Thousand Dollars ($5,000), or by both, per violation.

(b) Any person violating §63114.3 of this Chapter or any rule adopted thereunder *shall* be subject to:

(1) seizure and forfeiture of a commercial marine license, vessel, or shark feeding equipment; and

(2) an administrative fine of *at least* Twenty-five Thousand Dollars ($25,000) per violation; *provided*, that the violator may be assessed administrative fees and costs and attorneys fees and costs.

(c) Any person violating §§ 63606.1 or 63606.2 of this Chapter *shall* be guilty of a felony, and upon conviction thereof may be imprisoned

for *not more than* five (5) years, or fined *not more than* One Hundred Thousand Dollars ($100,000), or both.

(d) A violation of any other provision of this Article or its supporting regulations *shall* be guilty of a misdemeanor, and upon conviction thereof, *shall* be punishable by a fine of *not less than* Fifty Dollars ($50), *nor more than* Five Hundred Dollars ($500), or by imprisonment of *not more than* ninety (90) days, or by both fine and imprisonment. In addition, all pelagic drift nets or their components, equipment for their manufacture, containers for such nets, fish or fish products gathered through the use of a pelagic drift net, and all conveyances including aircraft, vehicles and vessels used for their transport *shall* be subject to forfeiture, and may be seized by an authorized government of Guam official under process issued by the Superior Court, *except* that such seizure without such process may be made when the seizure is incidental to an arrest or a search pursuant to a search warrant, or as provided by § 63128 of this Article."

Section 8. Severability. *If* any provision of this law or its application to any person or circumstance is found to be invalid or contrary to Law, such invalidity *shall not* affect other provisions or applications of this law which can be given effect without the invalid provisions or application, and to this end the provisions of this Law are severable.