

FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FOURTH REGULAR SESSION, 2007

**PUBLIC LAW NO. 15-124
SENATE BILL NO. 15-100, HS1, HD2**

AN ACT

TO AMEND THE COMMONWEALTH CODE TO CRIMINALIZE THE TAKING OF RAYS FROM CNMI WATERS; TO AUTHORIZE THE DIVISION OF FISH AND WILDLIFE TO REGULATE THE TAKING AND INTERACTION OF SAID RAYS; TO CRIMINALIZE THE FEEDING OF SHARKS WITHOUT A PERMIT WITHIN THE NEAR SHORE WATERS OF THE COMMONWEALTH; AND FOR OTHER PURPOSES.

**BE IT ENACTED BY THE FIFTEENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings and Purpose.** The Legislature finds that a SCUBA diving
2 location commonly called "Eagle Ray City" is a popular dive destination in the waters off
3 Saipan due to the regular gathering of Spotted Eagle Rays. The Legislature finds that this
4 dive site is popular with tourists because it is rare to find naturally occurring gatherings on a
5 regular basis. The congregation of Spotted Eagle Rays is easily photographed; each photo
6 taken home with the tourist is free advertising showing the great beauty and grand scale of
7 aquatic life in the CNMI. The Legislature further finds that Eagle Ray City is popular with
8 local residents and good for the economy in that it is accessible only by boat; divers (tourist
9 and resident alike) need to hire local guides and secure the services of local boats and
10 captains to reach this spot. This type of ecotourism is beneficial to the CNMI's economy,
11 fits within the advertising campaigns offered by the Marianas Visitors Authority and should
12 be nurtured, protected and grown.

13 The Legislature finds that evidence suggests the Eagle Rays have been recently
14 hunted to such an extent as to threaten their population levels and as to instill an unnatural
15 fear of divers, thereby threatening one aspect of the Commonwealth's revenues. The
16 Legislature finds that Spotted Eagle Rays specifically, and rays generally, are not traditional

1 food fishes in the CNMI. Fishing specifically for such rays is not a tradition in the CNMI;
2 the recent practice of doing so is detrimental to the welfare of the Commonwealth and
3 should be prohibited.

4 The Legislature finds that, recently, it was reported to the government that some tour
5 operators were un-thoughtfully engaging in the practice of shark feeding in areas
6 traditionally used by children to swim, notably Saipan's Grotto, one of our premier dive
7 attractions. That this practice is dangerous and should be discouraged is self-evident. The
8 Legislature finds that feeding sharks in the near shore waters of the CNMI without a permit
9 should be made a crime to ensure that any feeding of sharks is done in a responsible fashion,
10 if at all.

11 The Legislature finds and declares that this Act is necessary for the protection of the
12 welfare of the residents of the Commonwealth and is a proper use of the Legislative power
13 granted by Section 1 of Article II of the Commonwealth Constitution. It is the purpose of
14 this act to criminalize the taking of rays and to empower the Director of the Division of Fish
15 and Wildlife to promulgate regulations necessary to regulate the taking of said fishes. It is
16 further the intent of this act to criminalize the feeding of sharks within the near-shore waters
17 of the Commonwealth without obtaining a permit from the Director of the Division of Fish
18 and Wildlife. It is not the intent of this act to affect in any way the statutes concerning
19 fishing for sharks by utilizing baited hooks.

20 **Section 2. Amendment.** Chapter 6 of Division 5 of Title 2 of the Commonwealth
21 Code is hereby amended by the addition of a new article as follows:

22 **"Article 4. Miscellaneous Prohibitions and Protections.**

23 **§5641. Protection of Rays.**

24 (a) Prohibited acts. It shall be unlawful for any person, within the CNMI or any
25 place subject to the jurisdiction thereof, to knowingly, or with wanton disregard for the
26 consequences of his act, feed, take, possess, sell, purchase, barter, offer to sell, purchase or
27 barter, transport, export or import, at any time or in any manner any RAY, alive or dead, or
28 any part thereof, without being permitted to do so as provided in this section, or to violate
29 any permit or regulation issued pursuant to this section.

1 (b) Criminal penalties. A person convicted under this section shall be punishable as
2 follows:

3 (1) First Offense. A person may be punished by imprisonment of not more
4 than six (6) months, or a fine of not more than \$1,000, or both.

5 (2) Second or Subsequent Offense. A person convicted of a second or
6 subsequent offense may be punished by imprisonment of not more than one (1) year,
7 or a fine of not more than \$3,000, or both.

8 (3) The commission of each taking or other act prohibited by this section with
9 respect to a ray shall constitute a separate violation of this section.

10 (c) Civil Penalties. It shall be unlawful for any person, within the Commonwealth or
11 any place subject to the jurisdiction thereof, to take, possess, sell, purchase, barter, offer to
12 sell, purchase or barter, transport, export or import, at any time or in any manner, any RAY,
13 alive or dead, or any part thereof, without being permitted to do so as provided in this
14 section, or violates any permit or regulation issued pursuant to this section, may be assessed
15 a civil penalty by the Director of not more than \$5,000 for each such violation. Each
16 violation shall be a separate offense. No penalty shall be assessed unless such person is
17 given notice and opportunity for a hearing with respect to such violation. Upon any failure
18 to pay the penalty assessed under this subsection, the Director shall request the Attorney
19 General to institute a civil action in a court of the Commonwealth to collect the penalty and
20 such court shall have jurisdiction to hear and decide any such action. In hearing any such
21 action, the court must sustain the Director's action if supported by substantial evidence.

22 (d) Application. Nothing herein shall be construed to apply to any employee of the
23 governments of the United States or the Commonwealth acting within the scope of their
24 employment.

25 (e) Taking and using for scientific or exhibition purposes.

26 (1) Whenever, after investigation, the Director of the Division of Fish and
27 Wildlife shall determine that it is compatible with the preservation of rays to permit
28 the taking, possession, and transportation of specimens thereof for scientific
29 investigations or the educational purposes of museums, aquaria, scientific societies,

1 or zoological parks, or that it is necessary to permit the taking of such fishes for the
2 protection of aquacultural or other interests in any particular locality, he may
3 authorize the taking of such fishes pursuant to regulations which he is hereby
4 authorized to prescribe: Provided, that said fishes may not be taken for any purpose
5 unless, prior to such taking, a permit to do so is procured from the Director.

6 (2) The regulations promulgated pursuant to subsection (e)(1) above shall
7 include provisions regulating the interaction with including feeding of rays by
8 commercial tour operators, and the interaction of SCUBA divers and snorkelers with
9 said fishes. The Division of Fish and Wildlife shall promulgate the said regulations
10 within 120 days of the effective date of this Act.

11 (f) Definitions. As used in this section, the following terms have the following
12 definitions:

13 (1) "Person" includes natural persons, associations, partnerships, corporations
14 and any legal entity whatsoever.

15 (2) "Ray" means animals in the Order Myliobatiformes, including but not
16 limited to: Eagle Rays (*Aetobatus narinari*); Manta Rays (*Manta birostris*); and
17 Blue-spotted Rays (*Taeniura lymma*).

18 (3) "Take" means to pursue, shoot, shoot at, poison, wound, kill, capture,
19 trap, collect, or molest. The accidental catching of a ray by a person fishing with
20 hook and line does not amount to a taking if the ray is immediately returned to the
21 water.

22 **§5642. Feeding of sharks.**

23 (a) Prohibited acts. It is unlawful for any person, within the near shore waters of the
24 CNMI to knowingly, or with wanton disregard for the consequences of his act feed in any
25 manner any SHARK, without first obtaining a permit from the Director of the Division of
26 Fish and Wildlife, or violates any permit or regulation issued pursuant to this section.

27 (b) Criminal penalties. A person convicted under this section shall be punishable as
28 follows:

1 (1) **First Offense.** A person may be punished by imprisonment of not more
2 than six (6) months, or a fine of not more than \$1,000, or both.

3 (2) **Second or Subsequent Offense.** A person convicted of a second or
4 subsequent offense may be punished by imprisonment of not more than one (1) year,
5 or a fine of not more than \$3,000, or both.

6 (3) The commission of each act prohibited by this section with respect to a
7 shark shall constitute a separate violation of this section.

8 (c) **Civil Penalties.** It shall be unlawful for any person, within the Commonwealth or
9 any place subject to the jurisdiction thereof, to take, possess, sell, purchase, barter, offer to
10 sell, purchase or barter, transport, export or import, at any time or in any manner, any
11 SHARK, alive or dead, or any part thereof, without being permitted to do so as provided in
12 this section, or violates any permit or regulation issued pursuant to this section, may be
13 assessed a civil penalty by the Director of not more than \$5,000 for each such violation.
14 Each violation shall be a separate offense. No penalty shall be assessed unless such person is
15 given notice and opportunity for a hearing with respect to such violation. Upon any failure
16 to pay the penalty assessed under this subsection, the Director shall request the Attorney
17 General to institute a civil action in a court of the Commonwealth to collect the penalty and
18 such court shall have jurisdiction to hear and decide any such action. In hearing any such
19 action, the court must sustain the Director's action if supported by substantial evidence.

20 (d) **Application.** Nothing herein shall be construed to apply to any employee of the
21 governments of the United States or the Commonwealth acting within the scope of their
22 employment.

23 (e) **Feeding Permits.** Whenever, after investigation, the Director of the Division of
24 Fish and Wildlife shall determine that it is compatible with the safety of the people of the
25 Commonwealth to permit the feeding of sharks outside of the near shore waters of the
26 CNMI, he may authorize the feeding of such fishes pursuant to regulations which he is
27 hereby authorized to prescribe; provided, that said fishes may not be fed unless, prior to such
28 taking, a permit to do so is procured from the Director.

1 (f) Definitions. As used in this section only, the following terms have the following
2 definitions:

3 (1) "Feed" means (A) to place within or near the mouth of a shark anything
4 edible by a shark, including but not limited to fish or meat of any kind, whether alive
5 or dead, whole, chopped or ground; (B) to intentionally put into the ocean blood of
6 any kind with the intent of attracting a shark or sharks; (C) to chum in any manner
7 whatsoever when using SCUBA equipment with the knowledge that a shark is in the
8 vicinity or with the intent of attracting a shark or sharks. It does not include fishing
9 with a line and baited hook if the fisherperson is on land or in a boat.

10 (2) "Near shore waters of the CNMI" means: the waters extending 1000 feet
11 seaward from the high tide line of any point of land within the Commonwealth; the
12 waters 1000 feet from any portion of exposed reef within the jurisdiction of the
13 Commonwealth; and the area commonly known as the Saipan Lagoon,
14 encompassing the area from the reef crest to the shore, from Coral Ocean Point to the
15 northern end of Wing Beach including, but not limited to: Lagunan Chalan Kanoa,
16 Lagunan Garapan and Lagunan Tanapag.

17 (3) "Person" includes natural persons, associations, partnerships, corporations
18 and any legal entity whatsoever.

19 (4) "Shark" means an animal commonly known as a shark and includes all
20 animals in the Orders Hexanchiformes, Pristiophoriformes, Squatiniformes,
21 Heterodontiformes, Orectolobiformes, Lamniformes, and Carcharhiniformes.

22 **Section 3. Fish and Game Revolving Fund.** All fees and fines collected pursuant
23 to the provisions of this Act shall be deposited into the Fish and Game Revolving Fund
24 Account No. 6045 and allocated to the Division of Fish and Wildlife for the purpose of
25 enforcing the provisions of this Act. The said funds shall be used only for enforcement
26 purposes including, but not limited to, hiring enforcement personnel and purchasing
27 collateral equipment and may not be reprogrammed or expended for any other purpose.
28 These funds shall not be reprogrammed or subject to fiscal year limitation. The expenditure

1 authority shall be the Secretary of the Department of Natural Lands and Resources with the
2 concurrence of the Director of the Division of Fish and Wildlife.

3 **Section 4. Regulations and Enforcement.** The Division of Fish and Wildlife shall
4 promulgate rules and regulations necessary to implement the provisions of this Act. The
5 Division of Fish and Wildlife shall enforce the provisions of this Act with the assistance of
6 the Department of Public Safety, the Coastal Resources Management, and the Division of
7 Environmental Equality.

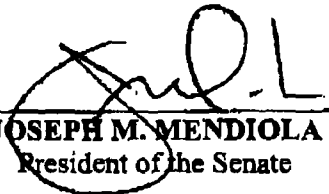
8 **Section 5. Severability.** If any provision of this Act or the application of any such
9 provision to any person or circumstance should be held invalid by a court of competent
10 jurisdiction, the remainder of this Act or the application of its provisions to persons or
11 circumstances other than those to which it is held invalid shall not be affected thereby.

12 **Section 6. Savings Clause.** This Act and any repealer contained herein shall not be
13 construed as affecting any existing right acquired under contract or acquired under statutes
14 repealed or under any rule, regulation or order adopted under the statutes. Repealers
15 contained in this Act shall not affect any proceeding instituted under or pursuant to prior
16 law. The enactment of this Act shall not have the effect of terminating, or in any way
17 modifying, any liability, civil or criminal, which shall already be in existence at the date this
18 Act becomes effective.

19 **Section 7. Effective Date.** This Act shall take effect upon its approval by the
20 Governor or upon its becoming law without such approval.

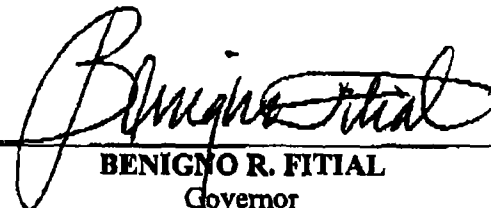
CERTIFIED BY:

ATTESTED BY:


JOSEPH M. MENDIOLA
President of the Senate


PETE F. REYES
Acting Senate Legislative Secretary

APPROVED this 3rd day of January, 2007⁸


BENIGNO R. FITIAL
Governor
Commonwealth of the Northern Mariana Islands