

SECOND REGULAR SESSION, 2000

A BILL FOR AN ACT

To regulate the taking of certain species of marine and terrestrial organisms, to prohibit or limit certain fishing methods; and for other purposes.

BE IT ENACTED BY THE TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Short Title. This Act shall be known and may be cited as the “Marine Protection Act
2 of 2000.”

3 Section 2. Purpose. The purpose of this Act is to promote sustainably and develop the marine
4 resources of the Commonwealth while also preserving the livelihood of the fishermen of the
5 Commonwealth. The legislature recognizes the importance of protecting our near shore resources. For too
6 long, commercial fishing has gone unregulated near our reefs. There has been no conscious effort to
7 promote sustainability in reef fish management. As a result, tourism has suffered. Scuba diving in the
8 Commonwealth, especially Saipan is not what it used to be. With a concerted effort to balance the needs of
9 fishermen and the tourism industry, however, we can maximize the benefits of our coral reef ecosystem,
10 and preserve this resource for future generations.

11 Section 3. Definition. The following definitions are to be used interpreting this Act. Any term
12 not listed below is to be accorded its ordinary dictionary definition:

- 13 (1) “Cultured species” means any species produced through aquaculture or mariculture
14 systems, authorized by the proper authorities;
- 15 (2) “Exclusive economic zone” means that area contiguous to the territorial sea, the
16 inner boundary of which is the seaward boundary of the territorial sea, and the outer
17 boundary is a line every point of which is two hundred nautical miles seaward of the
18 nearest point on the baseline as defined in this Act;
- 19 (3) “To fish” means to catch, take, or harvest fish, or to attempt to take, catch, or harvest
20 fish using any method whatsoever;
- 21 (4) “Commercial Fishing” means any attempt to catch, take or harvest fish by a vessel
22 containing 3 or more crew working for pay.
- 23 (5) “Fish”, as a noun, means any species of animal, other than birds, which lives in the
24 sea;

- 1 (6) "Fishery zones" means the internal waters, territorial sea, and exclusive economic
- 2 zone as defined in this Act, and all other waters over which the Commonwealth may
- 3 have jurisdiction in accordance with international laws;
- 4 (7) "Marine resources" means all species of marine animals and plants other than marine
- 5 birds;
- 6 (8) "Secretary" means the Secretary of the Department of Lands and Natural Resources;
- 7 (9) "Person" means any individual, corporation, partnership, association, or other
- 8 private sector entity; the government of the Commonwealth or any of its
- 9 subdivisions; and any foreign government, or subdivision thereof;
- 10 (10) "Take" means to harass, destroy, sell, damage, harm, pursue, hunt, shoot, wound,
- 11 kill, trap, capture, or collect, or attempt to engage in any such conduct;
- 12 (11) "Local Waters" means that area seaward of the baseline, the inner boundary of
- 13 which is the baseline and the outer boundary is a line every point of which is twelve
- 14 nautical miles seaward of the nearest point on the baseline.
- 15 (12) "Shark Fining" means the taking of any species of shark, (class chondrichthyes,
- 16 subclass elasmobranchii) the subsequent removal of the fins, and discarding of the
- 17 fish.

18 Section 4. Prohibited Acts. It shall be unlawful for any person within the fishery zones of the

19 Commonwealth to:

- 20 (1) fish for commercial purposes for, sell, or buy any of the following species of
- 21 groupers from April 1 to July 31, inclusive:
 - 22 (a) Plectropomus areolatus ()
 - 23 (b) P. Leavis ()
 - 24 (c) P. Leopardus ()
 - 25 (d) Epinephelus microdon ()
 - 26 (e) E. Fuscoguttatus ()
- 27 (2) fish for commercial purposes for, sell, or buy any of the following species:
 - 28 (a) Juvenile parrotfish – *Bolbometopon muricatum* () which means for
 - 29 purposes of this Act, a parrotfish less than 25 inches inches in length; and
 - 30 (b) Juvenile wrasse – *Cheilinus undulatus* () which means for purposes of this
 - 31 Act, a wrasse less than 25 inches in length.
- 32 (3) Fish for commercial purposes within 1000 feet from any shoreline, or reef within the
- 33 territorial waters of the Commonwealth.

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- 1 (3) Commercially export, or fish for, sell, or buy for commercial export the following
2 species:
- 3 (a) Adult parrotfish – *Bolbometopon muricatum* (Kemedukl); and
4 (b) Adult wrasse – *Cheilunus undulatus* ().
- 5 (4) fish for commercial purposes for, sell, or rabbitfish () from March 1 to May 31,
6 inclusive;
- 7 (5) fish for commercial purposes for, sell or buy the following species of rock lobsters
8 (): raiklius, bleyached, or melech smaller than six (6) inches in total length of the
9 carapace, as measured from the tip of the rostrum midway between the eyes to the
10 end of the carapace, or a berried female of any size whatsoever;
- 11 (6) fish while using any form of underwater breathing apparatus other than a snorkel;
- 12 (7) fish using any chemical compound or organic substance that is intended to stun, kill,
13 or in any way disable fish.
- 14 (8) commercially export black teatfish (), white teatfish (), prickly redfish (), sandfish
15 (), humphead parrotfish (), coconut crab (*Birgus latro* (Ketat)), mangrove crab
16 (*Schylla serrata* ()), rock lobster (), and wrasse (), except cultured species thereof;
- 17 (9) buy or sell any coconut crab (*Birgus latrol*) smaller than four (4) inches in the
18 greatest distance across the width of its carapace or a berried female coconut crab of
19 any size whatsoever;
- 20 (10) buy or sell any mangrove crab (*Scylla serrata*) smaller than six (6) inches in the
21 greatest distance across the width of its carapace or a berried female of any size
22 whatsoever;
- 23 (11) commercially export clam (*Tridacnae gigas* ()); *T. Squamosa* (); *T. derasa* (); *T.*
24 *maxima* (); and *Hippopus hippopus* () meat, or part thereof except cultured species;
- 25 (12) fish with a gill net or surround net have a mesh size of less than three (3) inches
26 measured diagonally;
- 27 (13) fish, with a kesokes net having a mesh size of less than three (3) inches measured
28 diagonally;
- 29 (14) retain possession of, or abandon, a kesokes net having a mesh size of less than three
30 (3) inches measured diagonally or with a bag portion having a mesh size less than
31 three (3) inches measured diagonally. This subsection will come into effect six
32 months after the effective date of this Act;
- 33 (15) Within the territorial waters of the commonwealth engage in the practice of shark
34 fining;

1 (16)until such time as the regulations promulgated pursuant to Section 5 are in effect,
2 take aquarium fish.

3 Section 5. Permits and Aquarium Fish.

4 (a) The taking of fish for the following purposes is allowed only with a valid and
5 current permit from the Secretary or his designee:

6 (1) for aquarium use; and

7 (2) for scientific research, maricultural research, or medical research.

8 (b) The Secretary shall, within 90 days of the effective date of this Act promulgate
9 regulations regarding the taking and export of fish for aquarium purposes.

10 Section 6. Regulation. The Secretary shall promulgate such regulations as he deems necessary to
11 protect the species identified in Section 4 above from overharvesting, or to overharvesting, or to
12 otherwise carry out the purposes of this Act.

13 Section 7. Labeling. Within six (6) months of the enactment of this Act, the Secretary shall
14 promulgate regulations instituting a labeling and reporting system by which all exporters of fish report the
15 number of fish by species exported.

16 Section 8. Exportation of fish:

17 No person or body corporate shall export any species of reef fish without first obtaining a permit
18 issued by the Secretary. The Secretary shall promulgate regulations for the issuance of permits to export
19 reef fish, taking into consideration the fish population, and the overall health of the coral reef habitat.

20 Section 9. Enforcement.

21 Any person violating this Act shall be prosecuted by the Attorney General of the Commonwealth to the full
22 extent possible under law.

23 (1) The provision of this Act and any regulations or permits issued pursuant thereto
24 shall be enforced by the Secretary or his designee. The Secretary or his designee
25 may utilize by agreement, with or without reimbursement, the personnel, services,
26 and facilities of any other agency of the Commonwealth government or of any local
27 government for purposes of enforcing this Act.

28 (a) The judges of the courts of the Commonwealth may, upon proper oath or
29 affirmation showing probable cause, issue warrants required for
30 enforcement of this Act and any regulations issued thereunder.

31 (b) Any person authorized by the Secretary or his designee to enforce this Act
32 may detain for inspection and inspect any package, crate, or container,
33 including its contents, and all accompanying documents, upon importation
34 and exportation. Such person may make arrests without a warrant for any

1 violation of this Act if he has reasonable grounds to believe that the person
2 to be arrested is committing the violation in his presence or view, and may
3 execute and serve any arrest warrant, search warrant, or other warrant or
4 civil or criminal process issued by any officer or court competent
5 jurisdiction for enforcement of this Act. Any marine resources protected
6 by this Act shall be held by any person authorized by the Secretary or his
7 designee pending civil or criminal proceedings, or the institution of any
8 action for forfeiture of such marine resources except that the Secretary or
9 his designee may, in lieu of holding such marine resources related thereto,
10 property, or item, permit to own or consignee to post a bond or other
11 surety satisfactory to the Secretary or his designee, but upon forfeiture of
12 any such property, it shall be disposed of (other than by sale to the general
13 public) by the Secretary or his designee in such a manner, consistent with
14 the purposes of this Act, as the Secretary or his designee shall prescribe by
15 regulation.

16 (c) All marine resources protected by this Act taken possessed, sold,
17 purchased, offered for sale or purchase, offered for sale or purchase,
18 transported, delivered, received, carried, shipped, exported, or imported
19 contrary to the provisions of this Act, any regulation made pursuant
20 thereto, or any permits issued hereunder shall be subject to forfeiture to the
21 Commonwealth. All traps, nets, and other equipment, vessels, vehicles,
22 aircraft, and other means of transportation used to aid the taking,
23 possessing, selling, purchasing, offering for sale or purchase, transporting,
24 delivering, receiving, carrying, shipping, exporting, or importing of any
25 such marine resources related thereto in violation of this Act, any
26 regulation made pursuant thereto, or any permit issued thereunder shall be
27 subject to forfeiture to the Commonwealth upon conviction of a criminal
28 violation pursuant to Section 9 (1) of this Act.

29 (d) All provisions of law relating to the seizure, forfeiture, and condemnation
30 of a vessel for violation of the Commonwealth law, the disposition of such
31 vessel or the proceeds from the sale thereof, and the remission or
32 mitigation of such forfeiture, shall apply to the seizures and forfeitures
33 incurred, or alleged to have been incurred, under the provisions of this
34 Act, insofar as such provisions of law are applicable and not inconsistent

1 with the provisions of this Act; except that all powers, rights, and duties
2 conferred or imposed by the customs and admiralty and maritime laws
3 upon any officer or employee of the Department of Lands and Natural
4 Resources shall, for the purposes of this Act, be exercised or performed by
5 the Secretary or by such persons as he may designate.

6 (e) The Attorney General shall enjoin any person who is alleged to be in
7 violation of any provision of this Act or regulation issued under authority
8 thereof.

9 (2) The Secretary is authorized to promulgate such regulations pursuant to the
10 Administrative Procedure Act as may be appropriate to enforce this Act.

11 Section 9. Penalties

12 (A) Anyone who violates subsections 1-5, 7-10, or 12-15 of Section 4 herein shall, upon
13 conviction, be penalized as follows: upon the first conviction, be fined not less than five hundred
14 dollars (\$500.00) and sentenced to serve up to thirty (30 days in jail); upon the second conviction,
15 be fined not less than one thousand dollars (\$1,000.00) and sentenced to serve up to six (6)
16 months in jail, upon any further conviction, be fined five thousand dollars (\$5,000.00) and
17 sentenced to serve up to one year in jail. A person convicted of shark fining under this chapter
18 shall be subject to the maximum penalties as set forth herein, and no portion of any prison term
19 imposed shall be suspended.

20 (B) Items used of any act in violation of this law shall be subject to civil forfeiture
21 proceeding brought by the Commonwealth.

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

27 Section 11. Savings Clause. This Act and any repealer contained herein shall not be construed as
28 affecting any existing right acquired under contract or acquired under statutes repealed or under any rule,
29 regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any
30 proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of
31 terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at
32 the date this Act becomes effective.

33 Section 12. Effective Date. This Act shall take effect upon its approval by the Governor or upon
34 its becoming law without such approval.

Date: 16 August 2000

Introduced By: /s/ Rep. Dino M. Jones

Reviewed for Legal Sufficiency:

Stephen Mackenzie