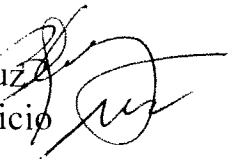


I MINA' TRENTA I UNO NA LIHESLATURAN GUÅHAN
2011 (First) Regular Session

Bill No. 44-31 (COR)

Introduced by:

B.J.F. Cruz
R.J. Respicio



AN ACT TO PROHIBIT THE POSSESSION, SELLING, OFFERING FOR SALE, TRADING, OR DISTRIBUTION OF SHARK FINS AND RAY PARTS BY AMENDING §63101 AND §63129 AND ADDING A NEW §63114.1 AND §63114.2 TO CHAPTER 63 OF TITLE 5 OF THE GUAM CODE ANNOTATED

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GUAM

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that it is the responsibility of the Government of Guam to protect and preserve Guam's limited natural resources. Upon discovery that a resource is in serious jeopardy, it is necessary that our government enact local measures to stop activities that contribute to the endangerment of our resources.

I Liheslaturan Guåhan finds that Sharks are one of the top predators in the marine food chain and play an important role in our ocean's ecosystem. Sharks have characteristics that make them more vulnerable to overfishing than most fish, and data from local, federal, and international agencies show a decline in the shark populations both locally and worldwide. Unlike other fish species, most sharks do not reach reproductive maturity until seven to twelve years of age and then only give birth to a small litter of young. Thus, sharks cannot rebuild their populations quickly once they are overfished.

1 Sharks, rays, and skates are part of the same subclass of cartilaginous fish.
2 Unfortunately, rays are caught for the sale of their parts based on supposed
3 medicinal claims. Rays only give birth to one or two pups at a time and the
4 females take a year off between litters. Like sharks, this low reproductive rate
5 makes them vulnerable to overfishing. Their large size, migratory behavior, low
6 birth rate, and large size at maturity make them highly vulnerable to fishing
7 pressure.

8 The practice of shark finning, where a shark is caught, the fin is cut off, and
9 the shark is returned to the water, causes tens of millions of sharks to die a slow
10 death each year. Some sharks starve to death, other fish slowly eat sharks, and
11 some drown because most sharks need to keep moving to force water through their
12 gills for oxygen.

13 Sharks and rays are an essential element of the ocean's ecosystem, and by
14 reducing the demand for shark fins and rays, the Government of Guam must also
15 ensure that sharks and rays will not become extinct. Therefore, it is the intent of *I*
16 *Liheslaturan Guåhan* to enact local fines and penalties in addition to those
17 prescribed by U.S. Public Law 111-348.

18 **Section 2.** New items (x), (y), (z), and (aa) are hereby *added* to § 63101 of
19 Chapter 63, 5 GCA to read as follows:

20 “(x) Ray - is defined as animals in the Order Myliobatiformes,
21 including but not limited to Eagle Rays (*Aetobatus narinari*), Manta Rays
22 (*Manta birostris*) and Blue-spotted Rays (*Taeniura lymma*).

23 (y) Shark - is defined as an animal commonly known as a shark and
24 includes all animals in the Orders Hexanchiformes, Pristiophoriformes,
25 Squatiformes, Heterodontiformes, Orectolobiformes, Lamniformes and
26 Carcharhiniformes.

27 (z) Shark Fin – is defined as the raw or dried fin or tail of a shark.

1 (aa) Ray Part - is defined as any part of a ray.”

2 **Section 3.** Item (s) of § 63101 of Chapter 63, Title 5 of the Guam Code
3 Annotated is hereby *amended* to read as follows:

4 “(s) Take - is defined as hunt, pursue, catch, capture, angle, seize, kill, trap,
5 harm, shoot in any way or by an agency or device; every attempt to do so acts or to
6 assist any other person in the doing of or the attempts to do such acts. Except that
7 the accidental catching of a shark or ray by a person fishing with hook and line
8 does not amount to a taking if the shark or ray is immediately returned to the
9 water.”

10 **Section 4.** A new Section 63114.1 is hereby *added* to Chapter 63 of Title 5,
11 Guam Code Annotated to read:

12 “**§63114.1. Shark Fins.**

13 (a) It shall be unlawful for any person to possess, sell, take, purchase, barter,
14 transport, export or import, offer for sale, trade, or distribute shark fins, alive or
15 dead, or any part thereof except as permitted by the department for educational and
16 research purposes consistent with federal law.

17 (b) Notwithstanding subsection (a), a person in possession of a shark for
18 subsistence purposes, (non-commercial) only shall not be subject to the penalties
19 of this act.

20 (c) Criminal Penalties. A person convicted under this section shall be
21 punishable as follows:

22 (1) First Offense - Imprisonment of not more than six (6) months or a
23 fine of not more than One Thousand Dollars (\$1,000) or both.

24 (2) Second or Subsequent Offense(s) - Imprisonment of not more than
25 one (1) year or a fine of not more than Three Thousand Dollars (\$3,000) or
26 both.

1 (3) Each ‘taking’ or any other act prohibited by this section with
2 respect to a shark shall constitute separate violations.

3 (d) Civil Penalties. It shall be unlawful for any person within Guam waters
4 or any place subject to the jurisdiction thereof, to take, possess, sell, purchase,
5 barter, offer to sell, purchase or barter, transport, export or import, at any time or in
6 any manner, any shark, alive or dead, or any part thereof, without being permitted
7 to do so as provided in this section, or violates any permit or regulation issued
8 pursuant to this section, may be assessed a civil penalty by the Department of
9 Aquatics and Wildlife Resources of not more than Five Thousand Dollars (\$5.000)
10 for each such violation. Each violation shall be a separate offense. No civil
11 penalty shall be assessed unless such person is given notice and opportunity for a
12 hearing with respect to such violation. Upon any failure to pay the civil penalty
13 assessed under this subsection, the Director of the Department of Aquatics and
14 Wildlife Resources shall request the Attorney General to institute a civil action in
15 the Superior Court of Guam to collect the penalty and such court shall have
16 jurisdiction to hear and decide any such action. In hearing any such action, the
17 court must sustain the Director's action if supported by substantial evidence.”

18 **Section 5.** A new Section 63114.2 is hereby *added* to Chapter 63 of Title 5,
19 Guam Code Annotated to read:

20 “**§63114.2. Ray Parts.**

21 (a) It shall be unlawful for any person to possess, sell, take, purchase, barter,
22 transport, export or import, offer for sale, trade, or distribute ray parts, alive or
23 dead, or any part thereof except as permitted by the department for educational and
24 research purposes consistent with federal law.

25 (b) Notwithstanding subsection (a), a person in possession of a ray for
26 subsistence purposes, (non-commercial) only shall not be subject to the penalties
27 of this act.

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

3 (1) First Offense - Imprisonment of not more than six (6) months or a
4 fine of not more than One Thousand Dollars (\$1,000) or both.

5 (2) Second or Subsequent Offense(s) - Imprisonment of not more than
6 one (1) year or a fine of not more than Three Thousand Dollars (\$3,000) or
7 both.

8 (3) Each 'taking' or any other act prohibited by this section with
9 respect to a ray shall constitute separate violations.

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

25 **Section 6.** Section 63129 of Chapter 63 of Title 5, Guam Code Annotated is
26 hereby *amended* to read as follows:

27 “§ 63129. **Penalty.**

1 Any person violating § 63104, § 63105, § 63106, § 63107, ~~or~~ § 63108, or §
2 63116.3 of this Article is guilty of a felony punishable by imprisonment of not
3 more than five (5) years, or by a fine of not less than Five Hundred Dollars (\$500),
4 nor more than Five Thousand Dollars (\$5,000), or by both. Any person violating §
5 63606.1 or § 63606.2 of this Chapter shall be guilty of a felony, and upon
6 conviction thereof may be imprisoned for not more than five (5) years, or fined not
7 more than One Hundred Thousand Dollars (\$100,000), or both. A violation of any
8 other provision of this Article or its supporting regulations shall be guilty of a
9 misdemeanor, and upon conviction thereof, shall be punishable by a fine of not less
10 than Fifty Dollars (\$50), nor more than Five Hundred Dollars (\$500), or by
11 imprisonment of not more than ninety (90) days, or by both fine and imprisonment.
12 In addition, all pelagic drift nets or their components, equipment for their
13 manufacture, containers for such nets, fish or fish products gathered through the
14 use of a pelagic drift net, and all conveyances including aircraft, vehicles and
15 vessels used for their transport shall be subject to forfeiture, and may be seized by
16 the Governor under process issued by the Superior Court except that such seizure
17 without such process may be made when the seizure is incidental to an arrest or a
18 search pursuant to a search warrant, or as provided by § 63128 of this Article.”