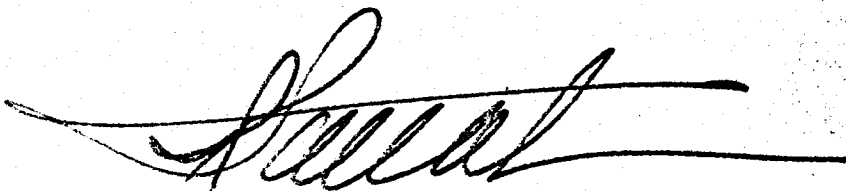


SIXTEENTH GUAM LEGISLATURE
1981 (FIRST) Regular Session

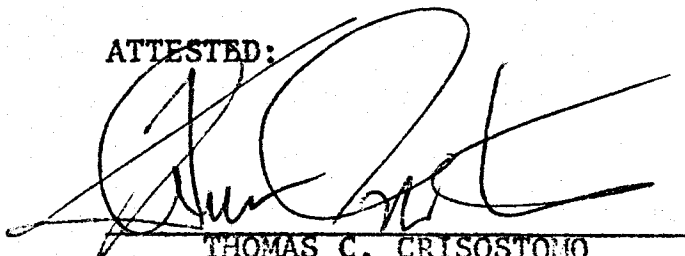
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 282, "An Act to amend provisions of the Government Code relative to the taking of fish and birds," was on the 12th day of August 1981, duly and regularly passed.



THOMAS V. C. TANAKA
Speaker

ATTESTED:



THOMAS C. CRISOSTOMO
Legislative Secretary

This Act was received by the Governor this 12th day of August, 1981, at 3:50 o'clock P..M.



SHERRA L. FRANCISCO
Assistant Staff Officer
Governor's Staff

APPROVED:



PAUL M. CALVO
Governor of Guam

DATED: 9/11/81 3:05 P
P.L. 16-39

SIXTEENTH GUAM LEGISLATURE
1981 (FIRST) Regular Session

Bill No. 282
(As Substituted
by the Committee
on Economic
Development)

Introduced by: J. Q. Torres

C. T. C. Gutierrez
J. H. Underwood

AN ACT TO AMEND PROVISIONS OF THE GOVERNMENT
CODE RELATIVE TO THE TAKING OF FISH AND BIRDS.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. Section 12300 of the Government Code is repealed
3 and reenacted to read:

4 "Section 12300. Definitions. As used in this Article:

5 (a) 'Angling' means fishing in a manner which
6 lures the fish to swallow a hook in an attempt to
7 pierce the body of the fish internally;

8 (b) 'Firearm' means any weapon, the operating
9 force of which is an explosive. This definition in-
10 cludes pistols, revolvers, rifles, shotguns, machine
11 guns, automatic rifles, noxious gas projectors, mortars,
12 bombs, cannons and submachine guns. The specific
13 mention of certain weapons does not exclude from the
14 definition other weapons operated by explosives;

15 (c) 'Fish' means any aquatic animal life, in-
16 cluding but not limited to oysters, clams, mollusks,
17 mussels, crustaceans and other shellfish;

1 (d) 'Fish Weir' means an apparatus for catching
2 fish, consisting of a pocket or trap, with one or more
3 wings or leaders or both, and remaining in a fixed
4 location. Any reference to 'fish weir' in this Article
5 includes any part or component thereof, including any
6 pole, support, net, brush, wire, mesh, rope or other
7 item or material. For purposes of this Article, there
8 are two (2) types of fish weirs:

9 (1) 'main weir' means the central pocket or
10 trap of any fish weir and its leader (main
11 entrance) and wings (side entrance); and

12 (2) 'auxiliary weir' means any supplementary
13 trap or pocket and its leader or wings which are
14 attached to the leader or wings of a main weir;

15 (e) 'Game' means all native or introduced species
16 of wild birds or wild animals;

17 (f) 'Snagging' means fishing in a manner with
18 jerking motions with hooks and line in an attempt to
19 pierce the body of the fish externally;

20 (g) 'Take' means hunt, pursue, catch, capture,
21 angle, seize, kill, trap, wound, shoot in any way or
22 by any agency or device; every attempt to do such acts
23 or to assist any other person in the doing of or the
24 attempt to do such acts;

25 (h) 'Traditional Fishing Methods' means subsis-
26 tence-level cultural fishing practices in which the
27 catch is not marketed, but rather is shared within the
28 family or community for purposes of home consumption.
29 Traditional methods most commonly include, but are not
30 necessarily limited to:

- 1 (1) 'cast net' (talaya),
2 (2) 'drag net/seine' (chinchulon mahala),
3 (3) 'surround net' (chinchulon umesugon),
4 (4) 'trap net' (chinchulon managam),
5 (5) 'butterfly net' (chinchulon ababang),

6 and

- 7 (6) 'lalago'.

8 (i) 'Vehicle' includes every description of
9 carriage or other contrivance used, or capable of
10 being used, as means of transportation on, below, or
11 above the land, including boat trailers, but does not
12 include aircraft;

13 (j) 'Vessel' includes every description of water-
14 craft or other contrivance used, or capable of being
15 used, as means of transportation in water; and

16 (k) 'Waters of Guam' means that area of shore and
17 waters seaward of the mean high water line (mark)."

18 Section 2. A new Section 12306.1 is added to the Government
19 Code to read:

20 "Section 12306.1. Use of electrical devices. It shall
21 be unlawful for any person to take fish by means of any
22 device which operates by shocking with an electric current
23 (either AC or DC)."

24 Section 3. A new Section 12307.1 is added to the Government
25 Code to read:

26 "Section 12307.1. Possession of electric shocking
27 devices. It shall be unlawful for any fisherman, person
28 in the habit of fishing, or person who is in the water or
29 close by the shore where fish can be taken, to possess,

1 in the absence of satisfactory cause, any device capable
2 of emitting an electric discharge into the water."

3 Section 4. Section 12308 of the Government Code is repealed
4 and reenacted to read:

5 "Section 12308. Fishing equipment and methods. The
6 use of nets, flails, hooks and other devices and methods
7 which may result in the taking of, or damage to, fish in
8 violation of regulations governing fishing shall be unlaw-
9 ful."

10 Section 5. A new Section 12308.1 is added to the Government
11 Code to read:

12 "Section 12308.1. Fishing with gill nets (tekin).

13 (a) It shall be unlawful to abandon or discard a
14 gill net in the waters of Guam.

15 (b) It shall be unlawful to leave a gill net,
16 whether attended or unattended, in the waters of Guam
17 for more than six (6) consecutive hours. For the
18 purposes of this Section, the six (6) hour consecutive
19 period continues to run if the gill net is not moved
20 at least fifty (50) yards within a six (6) hour period
21 from the time of its initial placement in the waters
22 of Guam.

23 (c) It shall be unlawful to use a gill net with a
24 length greater than one thousand (1,000) feet."

25 Section 6. A new Section 12308.2 is added to the Government
26 Code to read:

27 "Section 12308.2. It shall be unlawful to wilfully
28 destroy coral growth for purposes of flushing fish from
29 their habitat or for clearing an area for net fishing."

1 Section 7. Section 12310 of the Government Code is repealed
2 and reenacted to read:

3 "Section 12310. Fish Weirs. (a) It shall be unlawful
4 for any person to place or maintain a fish weir in the
5 waters of Guam unless he holds a valid license from the
6 Director of Agriculture, hereinafter referred to as
7 Director. The Director may, at his discretion, issue such
8 a license imposing such conditions on the face thereof as
9 are necessary so as not to unjustly restrict the fishing of
10 others nor result in the violation of provisions of this
11 Article and supporting regulations.

12 (b) Limitations and Prohibitions.

13 (1) Main Weir: No wing shall exceed three
14 hundred (300) feet in length. No leader shall exceed
15 five hundred (500) feet in length.

16 (2) Auxiliary Weir: No wing shall exceed one
17 hundred-fifty (150) feet in length. No leader shall
18 exceed two hundred fifty (250) feet in length.

19 (3) The mesh of the netting used in the construc-
20 tion of fish weirs, main or auxiliary, shall be such
21 as to permit the passage of objects or organisms
22 measuring less than one (1) inch in diameter or one
23 (1) inch square.

24 (4) No permit shall be issued authorizing more
25 than one (1) main weir and two (2) auxiliary weirs for
26 the area covered by such permit.

27 (5) The area covered by a single permit shall be
28 contiguous, but this shall not be construed to
29 authorize installations of fish weirs anywhere within
30 such area if otherwise prohibited.

1 (6) No person shall place, install, construct,
2 maintain or operate any fish weir, including any part
3 or component of a fish weir, except as authorized by a
4 permit issued under this Article.

5 (c) Location of Fish Weirs. No fish weir or any part
6 or component thereof shall be located within one hundred
7 (100) feet of the mean high water mark, one hundred-fifty
8 (150) feet of any boat channel, six hundred (600) feet of
9 a sewage outlet opening, or two hundred (200) feet from the
10 fish weir of another permittee, or outside the area covered
11 by the permit. No permit will be issued for the location of
12 a fish weir at any other site determined by the director
13 to be detrimental to the best interest of the public or
14 responsible fisheries management.

15 (d) Application for Permit. Any applicant for a
16 permit to place and operate one or more fish weirs in the
17 waters of Guam shall submit complete and signed applications
18 for the placement and operation thereof to the director in
19 a form prescribed by him. The application shall show
20 (1) the name and address of the applicant; (2) the area
21 requested to be covered by the permit; and (3) the number
22 of fish weirs (pocket or traps) applied for.

23 (e) Investigation. Upon receipt of a complete and
24 signed application, the director shall promptly cause an
25 investigation of all aspects of the application to be made.

26 (f) Issuance of Permit. When all the requirements set
27 forth in this section have been met, and the application has
28 been approved by the director, he shall issue a permit in a
29 form prescribed by him. The original copy shall be given to
30 the permittee and a duplicate copy shall be retained in the
31 Department of Agriculture.

1 A fee of Twenty-Five Dollars (\$25) shall be paid for
2 each fish weir pocket or trap before the permit is issued.
3 A permit shall be valid for one (1) year from the date of
4 issuance unless otherwise revoked. No permit may be
5 transferred except upon approval by the director. Upon
6 approval or transfer of a permit, the permittee shall write
7 his signature, and the transferee shall write his signature
8 and address in the appropriate space provided upon the
9 permit. The director shall then affix his signature of
10 approval.

11 (g) Installation and Operation of Fish Weir. At least
12 one (1) fish weir must be constructed and placed in opera-
13 tion within sixty (60) days from the date of issuance of the
14 permit, and sixty (60) days after any subsequent removal or
15 destruction during the term of the permit. No owner of a
16 fish weir shall leave a fish weir in the water unattended
17 for a period of fifteen (15) days or more.

18 (h) Submission of Monthly Catch Records Report. Each
19 permittee shall be required to submit monthly catch records
20 to the Department of Agriculture, Division of Aquatic and
21 Wildlife Resources, commencing thirty (30) days after the
22 weir is placed in operation and every subsequent thirty (30)
23 day period until its removal.

24 (i) Removal of Fish Weirs. The owner of a fish weir
25 must remove such fish weirs from the water within thirty
26 (30) days after notice of expiration of his permit unless
27 such permit is renewed.

28 (j) Revocation of Permit. The director may revoke a
29 permit for any violation of this regulation upon the
30 completion of a hearing held for such purposes. Notice of

1 the hearing shall be given to the permittee ten (10) days in
2 advance and shall state the violations charged, and the date,
3 time and place of the hearing. Any order of revocation
4 entered pursuant to such hearing shall be effective thirty
5 (30) days after notice of the order of revocation to the
6 permittee by which time he shall surrender his permit to
7 the director and remove his fish weir from the water.

8 (k) Disturbance of Fish Weirs. It shall be unlawful
9 for any person not authorized by the owner to remove fish
10 from a fish weir. It shall be unlawful for any person
11 other than the owner to remove, damage or otherwise willfully
12 disrupt the operation of a fish weir operating under a
13 lawful permit. It shall also be unlawful to use gill nets
14 within one hundred (100) feet of a fish weir operating under
15 a lawful permit."

16 Section 8. Section 12321 of the Government Code is repealed
17 and reenacted to read:

18 "Section 12321. Regulations. Regulations implementing
19 this Article shall be formulated, approved and issued in
20 accordance with the procedures set forth in the Administra-
21 tive Adjudication Act, which regulations may include but
22 shall not be limited to the following:

23 (a) to fix, close, terminate, shorten or divide
24 an open season or make open seasons conditional;

25 (b) to prescribe the time of day when taking is
26 permitted;

27 (c) to regulate bag or creel limits and possession
28 limits;

1 (d) to regulate buying, selling or transporting
2 fish and game;

3 (e) to regulate the size and type of any device
4 used for taking and regulate any method of taking;

5 (f) to regulate or restrict the places where
6 taking is permitted;

7 (g) to provide for the issuance of annual hunting
8 and fishing licenses under this Article;

9 (h) to set a fee for any license issued: however,
10 in no event shall such fee exceed the sum of Five
11 Hundred Dollars (\$500); and

12 (i) to otherwise implement or carry out the
13 purposes of this Article."

14 Section 9. Section 12322 of the Government Code is repealed
15 and reenacted to read:

16 "Section 12322. Illegal use of nets, vessels including
17 engines, motors, and all vessel accessories, traps, fire-
18 arms, electrical devices, vehicles, seizure, forfeiture
19 proceeding; sale or destruction. Any net, vessel, including
20 engines, motors and all vessel accessories, traps, firearms,
21 electrical devices, and vehicles used for taking or trans-
22 porting fish or game taken in violation of the provisions
23 of this Article is a public nuisance. Every person autho-
24 rized to make an arrest for such violation shall seize and
25 keep such net, vessel, including engines, motors and all
26 vessel accessories, trap, firearm, electrical device, or
27 vehicle and report the seizure to the Department of
28 Agriculture.

1 The Department of Agriculture shall commence proceeding
2 in the Superior Court by petitioning the court for a judgment
3 forfeiting the article or articles seized. Upon the filing
4 of such petition, the clerk of court shall fix a time for a
5 hearing and cause notices to be posted for fourteen (14) days
6 in at least two (2) public places in the place where the
7 court is held and in the Commissioner's Office of the village
8 wherein the person from whom the article or articles were
9 seized resides, setting forth the substance of the petition
10 and the time and place fixed for its hearing. Upon proof
11 that the article or articles seized were used in violation
12 of this Article, the court shall order the article or
13 articles forfeited. Any article so forfeited shall be sold,
14 used or destroyed by the Department of Agriculture. The
15 proceeds from all such sales shall be paid into the Wildlife
16 Conservation Fund."

17 Section 10. Section 12323 of the Government Code is repealed
18 and reenacted to read:

19 "Section 12323. Penalty. Any person violating any
20 provisions of this Article and supporting regulations shall
21 be guilty of a misdemeanor, and upon conviction thereof,
22 shall be punished by a fine of not less than Fifty Dollars
23 (\$50), nor more than Five Hundred Dollars (\$500) or by
24 imprisonment of not more than ninety (90) days, or by
25 both such fine and imprisonment. Provided that a person
26 violating Sections 12303, 12304, 12305, 12306 or 12307 of
27 this Article is guilty of a felony punishable by imprisonment
28 for not more than five (5) years, or by a fine of not less
29 than Five Hundred Dollars (\$500), nor more than Five Thousand
30 Dollars (\$5,000), or by both."

1 Section 11. Section 12385 of the Government Code is repealed
2 and reenacted to read:

3 "Section 12385. Mesh size of fishing nets: net, minimum
4 size. It shall be unlawful for any person to use net (other
5 than small hand nets) with a stretched mesh of less than one
6 and one-half (1 1/2) inches, provided, however, that:

7 (a) persons catching live fish for aquarium
8 purposes may obtain permits from the Director of
9 Agriculture for the use of small mesh nets to capture
10 aquarium type of fish only. For purposes of this
11 regulation, the manahak, (rabbitfish) ti'ao (juvenile
12 goatfish), i'e' (juvenile carangid), and aguas (juvenile
13 mullet), are not considered aquarium type fishes. A
14 small hand net is defined as a framed net, usually with
15 a handle attached and the greatest frame opening not
16 exceeding twelve (12) inches.

17 (b) persons engaging in tuna fishing may apply for
18 permits from the Director of Agriculture to capture live
19 bait fish such as minnow (spratelloides), ginyo
20 (atherinidae), fadya (engraulidae), and other suitable
21 bait fish; but will not include the aguas, ti'ao, i'e',
22 and manahak.

23 (c) that the above provisions stipulated in Sub-
24 sections (a) and (b) are not applicable in any areas
25 designated as conservation areas where the taking of
26 all seasonal fishes are prohibited.

27 This restriction shall not apply to traditional
28 methods when used for the taking of such seasonal
29 juveniles such as rabbitfish (manahak), skipjack (i'e'),
30 goatfish (ti'ao), herring (menis) and mullet (aguas)."

1 Section 12. A new Section 12388 is added to the Government
2 Code to read:

3 "Section 12388. Any violation of this Article shall
4 be punished as prescribed in Sections 12322 and 12323 of the
5 Government Code."

6 Section 13. A new Section 12386 is added to the Government
7 Code to read:

8 "Section 12386. Fishing area restrictions. The
9 following areas shall be subject to the following restric-
10 tions:

11 (a) No net fishing shall be permitted in the
12 following area:

13 (1) Luminao Barrier Reef, on the Philippine
14 Sea side from Cabras Island to the extreme western
15 tip of the Glass Breakwater."

16 Section 14. A new Section 12387 is added to the Government
17 Code to read:

18 "Section 12387. The use of poisons, electrical devices
19 and mesh nets for scientific purposes. (a) The Department
20 of Agriculture shall have the authority to issue permits for
21 the use of poison, electrical devices or small mesh nets
22 for the purpose of bona fide scientific research.

23 (b) Limitations and Prohibitions.

24 (1) Each person employing a restricted device or
25 compound shall be required to have a permit in his
26 possession; and

27 (2) The permit shall specify (i) the name of the
28 permittee, (ii) the device or compound for which the
29 permit was issued, (iii) the area in which the device
30 or compound is to be used, and (iv) the duration of
31 the permit, which will, in no case, exceed one (1) week,
32 at which time it may be renewed.

1 (c) Application for Permits. Any applicant of a permit
2 for the use of a restricted device or compound in the waters
3 of Guam shall submit complete and signed applications for
4 the use thereof to the Director of Agriculture (hereinafter
5 referred to as director) in a form prescribed by him. The
6 applications shall show:

- 7 (1) the name and address of the applicant;
8 (2) the device or compound that is to be used;
9 (3) the area requested to be covered by the
10 permit;
11 (4) the time span for which the permit is to be
12 valid;
13 (5) a brief description of the research project;
14 and
15 (6) the academic affiliation of the applicant.

16 (d) Investigation. Upon receipt of a complete and
17 signed application, the director shall promptly cause an
18 investigation of all aspects of the application to be made,
19 the duration of which shall not exceed three (3) days.

20 (e) Issuance of Permit. When all the requirements set
21 forth in this Section have been met and the application has
22 been approved by the director, he shall issue a permit in a
23 form prescribed by him. The original copy shall be given
24 to the permittee and a duplicate copy shall be retained by
25 the Director of Agriculture. The permit shall be non-trans-
26 ferable.

27 (f) A duly issued and valid permit shall exempt the
28 holder thereof from violation of Sections 12306.1, 12307.1
29 and, when traditional methods are used, Section 12385 of
30 this Code."

1 Section 15. Section 12313 of the Government Code is repealed
2 and reenacted to read:

3 "Section 12313. Unprotected wild birds. The following
4 wild birds may be taken in the daytime:

- 5 (a) Black dronogos
- 6 (b) Rock doves (domestic pigeons)
- 7 (c) Black-headed mannikin
- 8 (d) European tree sparrow."

9 Section 16. The provisions of this Act shall become
10 effective forty-five (45) days after enactment.