

TITLE 2: NATURAL RESOURCES  
DIVISION 5: ANIMALS, PLANTS AND FOOD

**§ 5109. Enforcement, Remedies, and Penalties.**

(a) The chief, pursuant to regulations issued by the director, shall have the power to issue any necessary order to enforce any regulation issued under this chapter, and the terms of any license or permit issued pursuant to this chapter. The order may require that any person violating the regulation or term cease and desist from such violation immediately or within a stated period of time, and may require that the person take any mitigating measures as may be necessary to reverse or reduce any significant adverse effect of the violation.

(b) At the request of the chief, transmitted through and with the approval of the director, the Attorney General shall institute a civil action in the Commonwealth Superior Court for a temporary restraining order, injunction, or other appropriate remedy to enforce any regulation or order issued under this chapter, or any term of any license or permit issued pursuant to this chapter, or to collect any penalty assessed under subsection (c) of this section.

(c) (1) Any commercial fisherman, hunter, or trapper who violates any regulation or order issued under this chapter relating to fish or game, or any term of any license or permit issued under this chapter relating to fish or game, may be assessed a civil penalty by the chief of not more than \$1,000 for each violation.

(2) Any person not subject to subsection (c)(1) of this section who knowingly and willfully violates any regulation or order issued under this chapter relating to fish or game, or any term of any license or permit issued under this chapter relating to fish or game, may be assessed a civil penalty by the chief of not more than \$1,000 for each violation. Any such person who otherwise commits any such violation may be assessed a civil penalty by the chief of not more than \$100.

(3) Any person engaged in business as an importer or exporter of fish, wildlife, or plants, who violates any regulation or order issued under this chapter relating to endangered or threatened species, or any term of any license or permit issued under this chapter relating to endangered or threatened species, other than reporting or other administrative requirements, may be assessed a civil penalty by the chief of not more than \$5,000 for each violation.

(4) Any person not subject to subsection (c)(3) of this section who knowingly and willfully violates any regulation or order issued under this chapter relating to endangered or threatened species, or any term of any license or permit issued under this chapter relating to endangered or threatened species, other than reporting or other administrative requirements, may be assessed a civil penalty by the chief of not more than \$5,000 for each violation. Any such person who otherwise commits any such violations, or any person who fails to comply with any reporting or other administrative requirements, may be assessed a civil penalty by the chief of not more than \$500.

(5) No penalty may be assessed under this subsection (c) of this section unless the person charged with a violation is given notice and opportunity for a hearing with respect to the violation. Each violation is a separate offense. The chief may collect or compromise any penalty provided for in this subsection

**TITLE 2: NATURAL RESOURCES**  
**DIVISION 5: ANIMALS, PLANTS AND FOOD**

(c) of this section. In addition to any other penalty provided for under this subsection (c) of this section for any violation, the chief may suspend, modify, revoke, or cancel any license or permit issued to the violator under this chapter, and the Commonwealth shall not be liable for the payment of any compensation in connection with it.

(d) Any person who knowingly and willfully violates any regulation or order issued under this chapter, or any term of any license or permit issued under this chapter, shall, upon conviction, be fined not more than \$5,000 or imprisoned for not more than six months, or both, if the violation relates to any endangered or threatened species (other than reporting or other administrative requirements), or be fined not more than \$2,000 or be imprisoned for not more than 30 days, or both, for any other violation.

(e) (1) Any conservation officer, any other person authorized by the director, or any person authorized by the Director of Finance, to enforce this chapter with respect to any threatened or endangered species, may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation, may search with or without a warrant any person entering or leaving the Commonwealth, may seize any item including its container and any other contents of such container, found during such inspection or search, which the person making the inspection has reasonable grounds to believe is being imported or exported in violation of this chapter, and may arrest with or without a warrant any person entering or leaving the Commonwealth if he or she has reasonable cause to believe that the person is committing a violation of this chapter.

(2) Any conservation officer making an inspection pursuant to 2 CMC § 5103(c) may seize, with or without a warrant, any item subject to forfeiture pursuant to subsection (f) of this section.

(3) Any judge of any court of the Commonwealth may, within the jurisdiction of such court, upon proper oath or affirmation showing probable cause, issue such warrants, orders, or other process as may be required for enforcement of this chapter or any regulation issued under this chapter, including warrants for the seizure of any item subject to forfeiture pursuant to subsection (f) of this section.

(4) Any item seized pursuant to this section shall be held by any person authorized by the chief pending disposition of civil or criminal proceedings, or the institution of an action in rem for the forfeiture of such item pursuant to subsection (f) of this section, except that the chief may, in lieu of holding such item, permit the owner, consignee, or other responsible person to post a bond or other surety satisfactory to the chief.

(5) Upon forfeiture of any item pursuant to subsection (f) of this section, or the abandonment or waiver of any claim to any item seized pursuant to subsection (e) of this section, the director may, with the approval of the Governor, utilize such item in the administration of this chapter or in any other program or activity of the department. Otherwise, the item shall be disposed of as provided by laws and regulations applicable to excess property of the Commonwealth; provided, that any endangered or threatened species, or part thereof, or

**TITLE 2: NATURAL RESOURCES**  
**DIVISION 5: ANIMALS, PLANTS AND FOOD**

any item made thereof in whole or in part, shall not be disposed of by sale to the general public.

(f) (1) All fish, game, or threatened or endangered species, or part thereof, or any item made of any threatened or endangered species in whole or in part, taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported or imported in violation of any provision of this chapter, any regulation or order issued under this chapter, or any term of any license or permit issued pursuant to this chapter, shall be subject to forfeiture to the Commonwealth. The chief is authorized to give aging program administrator all fish, or game species seized or confiscated for consumption by the elderly; provided, that such items are safe for human consumption and are not listed as threatened or endangered species by the United States government. The Department of Natural Resources shall make fish or game seized in the Commonwealth of the Northern Mariana Islands available to the resident aging program administrators in their respective islands.

(2) Any item prohibited by any regulation, order, permit or license issued under this chapter, used to aid in the taking of any fish or game, shall be subject to forfeiture to the Commonwealth.

(3) Any gun, trap, net, or other equipment, other than a vessel, vehicle, aircraft, or other means of transportation, used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting, or importing of any endangered or threatened species, or of any part thereof, or of any item made of any endangered or threatened species in whole or in part, in violation of any provision of this chapter, any regulation or order issued under this chapter, or any term of any license or permit issued under this chapter, shall be subject to forfeiture to the Commonwealth upon conviction of a criminal violation pursuant to subsection (d) of this section.

(g) Notwithstanding any other provision of this chapter, no civil or criminal penalty shall be imposed against any person who committed a violation or an offense based on a good faith belief that he was acting to protect himself or any other individual from bodily harm, or was necessarily acting to protect any pet, livestock, or other farm animal from death or major injury, or to protect against major loss of property, from any endangered or threatened species.

(h) Whenever a corporation or other entity is subject to any criminal penalty under this section, any officer or agent of the corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same penalty.

(i) The remedies and penalties prescribed in this section shall be concurrent and cumulative, and the exercise of one shall not preclude the exercise of the others, and these remedies and penalties shall be in addition to any other remedy or penalty afforded by any other law or regulation.

(j) Hearings under this chapter, and appeals from and judicial review of any administrative action or decision under this chapter, shall be conducted as otherwise provided by law.

**TITLE 2: NATURAL RESOURCES**  
**DIVISION 5: ANIMALS, PLANTS AND FOOD**

(k) Any penalty or fine collected pursuant to this section shall be deposited into the Fish and Game Conservation Revolving Fund.

**Source:** PL 2-51, § 10, modified; amended by PL 8-19, § 2; subsection (f)(1) amended by PL 11-53, § 2; subsection (k) amended by PL 13-8, § 3.

**Commission Comment:** With respect to the references to the “chief” of the Division of Fish and Wildlife, the “director” of the Department of Natural Resources, and the “Director of Finance,” and see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

PL 11-53 that amends subsection (f)(1) took effect January 14, 1999. Section 1 of PL 11-53 stated findings as follows:

Section 1. Findings. The Legislature finds that P.L. 8-19 allows endangered species that have been confiscated by the Division of Fish and Wildlife to be given to the elderly for their consumption. The intent behind this law was to provide additional nutrition for the elderly, and to see that confiscated animals, such as turtles and fruit bats, were not just wasted.

It now appears that this law may cause difficulties with federal funding. The Commonwealth is now attempting to get such funding from U.S. Fish and Wildlife pursuant to the U.S. Endangered Species Act. This money will be used primarily for brown tree snake exclusion and control. Approximately \$300,000 is at stake.

U.S. Fish and Wildlife has been objecting to this funding because of the existence of P.L. 8-19. This law would preclude our receiving the money, because it would allow the consumption of federally endangered species, in violation of federal law.

This bill seeks to solve this problem by amending Public Law 8-19.

PL 13-8 took effect June 11, 2002. Contained in PL 13-8 were findings, severability, and savings clause provisions. According to PL 13-8:

Section 1. Findings and Purpose. The Legislature finds that Public Law No. 2-51 established a Fish and Wildlife Division within the Department of Lands and Natural Resources. Through Public Law 2-51, all collections of license fees issued are to be “covered into the Fish and Game Conservation Fund and is authorized to be appropriated only for the purpose of the administration of the Department.” The Legislature further finds that the protection, conservation and survival of the CNMI’s fish and wildlife will be best served if the collections from all licenses and permits issued and penalties or fines assessed are dedicated to fish and game conservation programs. Therefore, it is the intent and purpose of this legislation to re-establish the Fish and Game Conservation Fund as a revolving fund and to appropriate all moneys deposited into it for the administration of programs under the Division of Fish and Wildlife.