

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

§ 5631. Non-traditional Fishing Methods Prohibited.

(a) Except as provided in subsections (b) and (c), it shall be unlawful for any commercial and non-commercial fishermen to use explosives, poisons, electric shocking devices, scuba tank or hookah when fishing for reef fish and harvesting other marine life within waters of the Commonwealth, provided whoever, that the use of throw nets (talaya), or the use of the following types of nets provided the net mesh size are no smaller than two inches, drag nets (chenchulun lagua), surround nets (chenchulun umesugon) or trap nets (chenchulun managam) shall be legal in the waters surrounding the First Senatorial District when used for non-commercial purposes only. Non-commercial purpose means fish caught for personal or immediate family use. Any sales or distribution beyond ones immediate family shall be a violation of this law.

(b) The use of the following types of nets, drag nets (chenchulun lagua), surround nets (chenchulun umesugon) or trap nets (chenchulun managam) shall be legal in the waters surrounding the First Senatorial District when used for non-commercial purposes to catch Bigeye Scad (Atulai) during its seasonal run provided the net mesh size is not less than one-half inch. The fee for the mesh net under this subsection shall be \$25.00 for every 50-feet net in length for each Atulai seasonal run.

(c) The use of the following types of nets drag nets (chenchulun lagua), surround nets (chenchulun umesugon) or trap nets (chenchulun managam) shall be legal in the waters surrounding the First Senatorial District when used for non-commercial purposes to catch Juvenile Goat Fish (Tiao) during its seasonal run provided the net mesh size is not less than one-half inch. The fee for the mesh net under this subsection shall be \$25.00 for every 50-feet net in length for each Tiao seasonal run.

(d) Except as provided in subsection (e), the use of the following types of nets, provided the net mesh size are no smaller than three inches, drag nets (chenchulun lagua), surround nets (chenchulun umesugon) or trap nets (chenchulun managam) shall be legal in the waters surrounding the Second Senatorial District when used for non-commercial purposes only. Non-commercial purpose means fish caught for personal or immediate family use. Any sales or distribution beyond ones immediate family shall be a violation of this law.

(e) The use of drag nets (chenchulun lagua), surround nets (chenchulun umesugon) or trap nets (chenchulun managam) with the net mesh size no smaller than one and one-half inches shall be legal in the waters surrounding the Second Senatorial District when used for non-commercial purposes to catch Bigeye Scad (Atulai) during its seasonal run.

Source: PL 12-14, § 3; amended by PL 12-77, § 3; amended by PL 12-87, § 2; PL 17-13 § 2 (August 24, 2010); (b) amended by PL 17-57 § 2(a) (October 6, 2011); amended by PL 18-32 § 2 (Jan. 10, 2014); subsections (d) and (e) added by PL 18-48 § 2 (May 5, 2014), modified.

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Commission Comment: PL 12-14 that created this article took effect August 25, 2000. PL 12-14 contained short title, findings, severability, and savings clause provisions as follows:

Section 1. Short Title. This act shall be cited as “The Fair Fishing Act of 2000.”

Section 2. Findings. The First CNMI Youth Congress introduced and passed a bill to prohibit non-traditional fishing methods in the CNMI. The First CNMI Youth Congress further finds that non-traditional fishing methods allow for a greater catch than traditional methods. Traditionally, the purpose of fishing was to provide food for the family, not for commercial gain. Non-traditional fishing methods, such as breathing assistance devices and the use of explosive devices are being used to harvest more fish which reduces the number of fish available for people who fish using traditional methods.

The Legislature supports the urgency of such legislative measure to preserve the very limited supply of edible fish in our waters.

...

Section 7. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 8. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

PL 12-77 became effective on November 30, 2001 and contained short title, findings, severability, and savings clause provisions. According to PL 12-77:

Section 1. Short Title. This act may be cited as the “Fair Fishing Amendment Act of 2001.”

Section 2. Findings. The legislature finds that Section 3, of PL 12-14, is difficult to enforce without a clear marking of the 1,000 feet outside the reef or lagoon on the coastal waters of the Commonwealth. The Division of Fish and Wildlife have recommended to away with the 1,000 feet.

PL 12-87 took effect February 19, 2002 and contained findings and purpose, severability, and savings clause provisions. According to PL 12-87:

Section 1. Findings & Purpose. Public Law 12-14 was enacted to protect the supply of edible fish in the local waters. It prohibited non-traditional fishing methods when fishing for reef fish and harvesting other marine life within the lagoon or reef and within 1000 feet outside the lagoon or reef in the coastal waters of the Commonwealth. The Division

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of Fish and Wildlife, however, pointed the difficulty of enforcing the 1000 foot limitations. Therefore, Public Law 12-77 was enacted to amend Public Law 12-14 by eliminating the 1000 foot restriction, thus prohibiting all nontraditional fishing methods within the entire waters of the Commonwealth. This Act now authorized fishing by SCUBA and hookah throughout the waters of the Commonwealth except as herein prohibited.

PL 17-13 § 2 amends Section 3 of PL 12-14, which was codified in 2 CMC § 5631. Section 3 of PL 12-14 (as codified in 2 CMC § 5631) was amended by PL 12-77 and PL 12-87. Although PL 17-13 does not mention that 2 CMC § 5631 was amended by PL 12-77 and PL 12-87, the only proper codification of PL 17-13 § 2 is to place it here in 2 CMC § 5631.

Public Law 17-13 (effective August 24, 2010) included the following:

AN ACT

To amend Section 3 of Public Law 12-14, as it applies to the surrounding waters of the municipality of Rota, to ensure that such regulations do not restrict the rights of persons to engage in non-commercial net-fishing, provided that such right be restricted to non-commercial net fishing for the purpose of obtaining fish for personal or immediate family consumption, to also ensure that the definition of "non-traditional fishing methods" is not misinterpreted to include non-commercial net-fishing; and for other purposes.

Section 1. Findings. The local delegation of Rota finds that Article XIV, Section 1 of the Commonwealth Constitution, mandates that "the marine resources shall be managed, controlled, protected and preserved by the Legislature for the benefit of the people." The Division of Fish and Wildlife, in furtherance of Public Law 12-14, "the Fair Fishing Act of 2000," further discussed herein, recently proposed the promulgation of regulations banning the use of many forms of nets for fishing, such regulations to be imposed throughout the CNMI. The Legislature finds that such proposed regulations fail to take into account the economic and social realities of the CNMI and the need for non-commercial net-fishing as a source of food for the people of the CNMI that have traditionally relied on such fishing methods to support and sustain themselves and their families. The Legislature further notes that Public Law 12-14, "the Fair Fishing Act of 2000," which prohibits certain non-traditional fishing methods, has been misinterpreted by the Department of Lands and Natural Resources and the Division of Fish and Wildlife to extend to all "non-traditional" net-fishing methods. The Legislature notes that the Division of Fish and Wildlife has adopted a narrow interpretation of Public Law 12-14 and has determined, in effect, that "non-traditional" fishing methods include the use of all fishing nets except the throw net (talaya). The Legislature, in light of such misinterpretation of the Legislature's intent in enacting Public Law 12-14, finds that Section 3 of Public Law 12-14 must also be amended to ensure that the rights of persons to engage in non-commercial net-fishing be safeguarded, provided that such rights be

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restricted to non-commercial net-fishing for the purpose of obtaining fish for personal or immediate family consumption.

Public Law 17-57 (effective October 6, 2011) included the following:

AN ACT

To amend 2 CMC § 5631 and § 5634, as it applies to the surrounding waters of the municipality of Tinian, to ensure that such regulations do not restrict the rights of persons to engage in non-commercial net-fishing; and for other purposes.

Section 1. Findings. The local delegation of Tinian finds that Article XIV, Section 1 of the Commonwealth Constitution, mandates that “the marine resources shall be managed, controlled, protected and preserved by the Legislature for the benefit of the people.” The Division of Fish and Wildlife, in furtherance of Public Law 12-14, “the Fair Fishing Act of 2000,” further discussed herein, recently proposed the promulgation of regulations banning the use of many forms of nets for fishing, such regulations to be imposed throughout the CNMI. The Legislature finds that such proposed regulations fail to take into account the economic and social realities of the CNMI and the need for non-commercial net-fishing as a source of food for the people of the CNMI that have traditionally relied on such fishing methods to support and sustain themselves and their families.

The Legislature notes that the Division of Fish and Wildlife has adopted a narrow interpretation of “non-traditional” fishing methods including the use of all fishing nets except the throw net (talaya). The Legislature finds that current law must be specifically amended to ensure that the rights of persons to engage in non-commercial net-fishing be safeguarded provided that such rights be restricted to non-commercial net-fishing for the purpose of obtaining fish for personal or immediate family consumption.

PL 18-32 (Jan. 10, 2014) contained, in addition to savings and severability clauses, the following Findings and Purpose section:

Section 1. Findings and Purpose. The Legislature finds that non-commercial net-fishing has been a traditional source of food for the people of the CNMI. Fishing has traditionally been relied upon to support and sustain families. The Legislature is cognizant that certain nets with net mesh not smaller than two inches are authorized in the waters surrounding the First Senatorial District. The intent of this Act is to authorize certain nets with net mesh of not less than one-half inch to catch Bigeye Scad (Atulai) and to allow nets to catch goat fish (Tiao) during their respective seasonal run.

PL 18-48 (May 5, 2014) purported to amend “2 CMC 5631, as amended by PL 17-57...” to add new subsections (a) and (b). PL 17-57 was no longer in effect, having been amended by PL 18-32. However, as the provisions of the new subsections (a) and (b) were consistent with the provisions of PL 18-32,

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the Commission redesignated the new subsection (a) as subsection (d) and new subsection (b) as subsection (e) and added them to the version of this section created by PL 18-32. PL 18-48 contained, in addition to savings and severability clauses, the following Findings and Purpose section:

Section 1. Findings and Purpose. The Legislature finds that non-commercial net-fishing as a source of food for the people of the CNMI has traditionally been relied to support and sustain themselves and their families. The Legislature is cognizant that certain nets with net mesh not smaller than three inches are authorized in the waters surrounding the Second Senatorial District. The intent of this Act is to authorize certain nets with net mesh of not less than one and one-half inches to catch Bigeye Scad (Atulai) during its seasonal run. The authorization of a smaller net mesh during the Atulai season is to maximize the harvesting of Atulai once they reach at least two inches in circumference.