

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

§ 5641. Protection of Rays.

(a) *Prohibited Acts.* It shall be unlawful for any person, within the CNMI or any place subject to the jurisdiction thereof, to knowingly, or with wanton disregard for the consequences of his act, feed, take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner any ray, alive or dead, or any part thereof, without being permitted to do so as provided in this section, or to violate any permit or regulation issued pursuant to this section.

(b) *Criminal Penalties.* A person convicted under this section shall be punishable as follows:

(1) First Offense. A person may be punished by imprisonment of not more than six months, or a fine of not more than \$1,000, or both.

(2) Second or Subsequent Offense. A person convicted of a second or subsequent offense may be punished by imprisonment of not more than one year, or a fine of not more than \$3,000, or both.

(3) The commission of each taking or other act prohibited by this section with respect to a ray shall constitute a separate violation of this section.

(c) *Civil Penalties.* It shall be unlawful for any person, within the Commonwealth or any place subject to the jurisdiction thereof, to take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner, any ray, alive or dead, or any part thereof, without being permitted to do so as provided in this section, or violates any permit or regulation issued pursuant to this section, may be assessed a civil penalty by the Director of not more than \$5,000 for each such violation. Each violation shall be a separate offense. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Upon any failure to pay the penalty assessed under this subsection, the Director shall request the Attorney General to institute a civil action in a court of the Commonwealth to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In hearing any such action, the court must sustain the Director's action if supported by substantial evidence.

(d) *Application.* Nothing herein shall be construed to apply to any employee of the governments of the United States or the Commonwealth acting within the scope of their employment.

(e) *Taking and Using for Scientific or Exhibition Purposes.*

(1) Whenever, after investigation, the Director of the Division of Fish and Wildlife shall determine that it is compatible with the preservation of rays to permit the taking, possession, and transportation of specimens thereof for scientific investigations or the educational purposes of museums, aquaria, scientific societies, or zoological parks, or that it is necessary to permit the taking of such fishes for the protection of aquacultural or other interests in any particular locality, he may authorize the taking of such fishes pursuant to regulations which he is hereby authorized to prescribe: Provided, that said fishes may not be taken for any purpose unless, prior to such taking, a permit to do so is procured from the Director.

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(2) The regulations promulgated pursuant to subsection (e)(1) above shall include provisions regulating the interaction with including feeding of rays by commercial tour operators, and the interaction of SCUBA divers and snorkelers with said fishes. The Division of Fish and Wildlife shall promulgate the said regulations within 120 days of the effective date of this article.

(f) *Definitions.* As used in this section, the following terms have the following definitions:

(1) "Person" includes natural persons, associations, partnerships, corporations and any legal entity whatsoever.

(2) "Ray" means animals in the Order *Myliobatiformes*, including but not limited to: Eagle Rays (*Aetobatus narinari*); Manta Rays (*Manta birostris*); and Blue-spotted Rays (*Taeniura lymma*).

(3) "Take" means to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest. The accidental catching of a ray by a person fishing with hook and line does not amount to a taking if the ray is immediately returned to the water.

Source: PL 15-124, § 2(5641), modified.

Commission Comment: The Commission deleted numbers that repeated words and changed "this Act" to "this article" pursuant to 1 CMC § 3806(d) and (e).

PL 15-124 was enacted on January 3, 2008, and contained the following findings and purpose in addition to severability and savings provisions.

Section 1. Findings and Purpose. The Legislature finds that a SCUBA diving location commonly called "Eagle Ray City" is a popular dive destination in the waters off Saipan due to the regular gathering of Spotted Eagle Rays. The Legislature finds that this dive site is popular with tourists because it is rare to find naturally occurring gatherings on a regular basis. The congregation of Spotted Eagle Rays is easily photographed; each photo taken home with the tourist is free advertising showing the great beauty and grand scale of aquatic life in the CNMI. The Legislature further finds that Eagle Ray City is popular with local residents and good for the economy in that it is accessible only by boat; divers (tourist and resident alike) need to hire local guides and secure the services of local boats and captains to reach this spot. This type of ecotourism is beneficial to the CNMI's economy, fits within the advertising campaigns offered by the Marianas Visitors Authority and should be nurtured, protected and grown.

The Legislature finds that evidence suggests the Eagle Rays have been recently hunted to such an extent as to threaten their population levels and as to instill an unnatural fear of divers, thereby threatening one aspect of the Commonwealth's revenues. The Legislature finds that Spotted Eagle Rays specifically, and rays generally, are not traditional food fishes in the CNMI. Fishing specifically for such rays is not a tradition in the CNMI; the recent practice of doing so is detrimental to the welfare of the Commonwealth and should be prohibited,

The Legislature finds that, recently, it was reported to the government that some tour operators were un-thoughtfully engaging in the practice of

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shark feeding in areas traditionally used by children to swim, notably Saipan's Grotto, one of our premier dive attractions. That this practice is dangerous and should be discouraged is self-evident. The Legislature finds that feeding sharks in the near shore waters of the CNMI without a permit should be made a crime to ensure that any feeding of sharks is done in a responsible fashion, if at all.

The Legislature finds and declares that this Act is necessary for the protection of the welfare of the residents of the Commonwealth and is a proper use of the Legislative power granted by Section 1 of Article II of the Commonwealth Constitution. It is the purpose of this act to criminalize the taking of rays and to empower the Director of the Division of Fish and Wildlife to promulgate regulations necessary to regulate the taking of said fishes. It is further the intent of this act to criminalize the feeding of sharks within the near-shore waters of the Commonwealth without obtaining a permit from the Director of the Division of Fish and Wildlife. It is not the intent of this act to affect in any way the statutes concerning fishing for sharks by utilizing baited hooks.