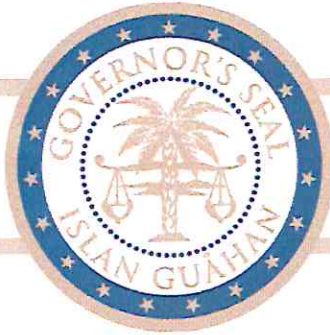


I Mina'trentai Singko Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
53-35 (COR) As substituted by the Committee on Economic Development, Agriculture, Maritime Transportation, Power and Energy Utilities, and Emergency Response; and amended on the Floor	Sabina Flores Perez Clynton E. Ridgell Tina Rose Muña Barnes	AN ACT TO ADD NEW §§ 63101(dd) AND 63116.3, AND AMEND §§ 63129 AND 63128 , ALL OF ARTICLE 1, CHAPTER 63, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE PROHIBITION OF FISHING WITH THE USE OF A SELF-CONTAINED UNDERWATER BREATHING APPARATUS (SCUBA) AND SIMILAR DEVICES IN THE WATERS OF GUAM OR IN ANY VESSEL IN THE WATERS OF GUAM.	2/22/19 1:32 p.m.	3/7/19	Committee on Economic Development, Agriculture, Maritime Transportation, Power and Energy Utilities, and Emergency Response	11/13/19 3:00 p.m.	2/19/20 8:03 a.m.	Request: 3/7/19 3/11/19	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES	
	3/3/20	AN ACT TO ADD NEW §§ 63101(dd) AND 63116.3, AND AMEND §§ 63128 AND 63129, ALL OF ARTICLE 1, CHAPTER 63, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE PROHIBITION OF FISHING WITH THE USE OF A SELF-CONTAINED UNDERWATER BREATHING APPARATUS (SCUBA) AND SIMILAR DEVICES IN THE WATERS OF GUAM OR IN ANY VESSEL IN THE WATERS OF GUAM.	3/11/20	3/11/20	3/23/20	35-78	3/20/20	Received: 3/20/20 Mess and Comm. Doc. No. 35GL-20-1671.	

LOURDES A. LEON GUERRERO
MAGA'HAGA • GOVERNOR



JOSHUA F. TENORIO
SIGUNDO MAGA'LÄHI • LIEUTENANT GOVERNOR

March 20, 2020

Speaker Tina Rose Muña Barnes

HONORABLE TINA ROSE MUÑA BARNES

Speaker

I Mina'trentai Singko Na Liheslaturan Guåhan

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

MAR 20 2020
Time 5:20 ()AM (X)PM
Received By: [Signature]

Re: Substitute Bill No. 53-35 (COR) – An Act to Add New §§ 63101(d)(d) and 63116.3, and Amend §§ 63128 and 63129, all of Article 1, Chapter 63, Title 5, Guam Code Annotated, Relative to the Prohibition of Fishing with the Use of a Self-Contained Underwater Breathing Apparatus (Scuba) and Similar Devices in the Waters of Guam or in any Vessel in the Waters of Guam

Dear Madame Speaker:

While we respond to this immediate emergency before us, it is important that we do not lose sight of the status of Guam's marine preserves. Fishing is a way of life for our people. It is deeply woven into our cultures and history. We must do all we can to protect it. I agree with *I Liheslaturan Guahan* and now sign Substitute Bill No. 53-35 into law as **Public Law No. 35-78**.

Senseremente,

LOURDES A. LEON GUERRERO

Maga'hagan Guåhan

Governor of Guam

Enclosure(s): Substitute Bill No. 53-35 (COR) *nka* Public Law 35-78

cc via email: *Sigundo Maga'låhen Guåhan*
Compiler of Laws

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'HÅGAN GUÅHAN

This is to certify that **Substitute Bill No. 53-35 (COR)**, "AN ACT TO *ADD NEW* §§ 63101(dd) AND 63116.3, AND *AMEND* §§ 63128 AND 63129, ALL OF ARTICLE 1, CHAPTER 63, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE PROHIBITION OF FISHING WITH THE USE OF A SELF-CONTAINED UNDERWATER BREATHING APPARATUS (SCUBA) AND SIMILAR DEVICES IN THE WATERS OF GUAM OR IN ANY VESSEL IN THE WATERS OF GUAM," was on the 11th day of March 2020, duly and regularly passed.




Tina Rose Muña Barnes
Speaker

Attested:



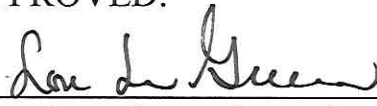
Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 11th day of March,
2020, at 3:08 o'clock P.M.



Assistant Staff Officer
Maga'håga's Office

APPROVED:



Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 3/20/2020

Public Law No. 35-78

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 53-35 (COR)

As substituted by the Committee on
Economic Development, Agriculture,
Maritime Transportation, Power and Energy
Utilities, and Emergency Response; and
amended on the Floor.

Introduced by:

Sabina Flores Perez
Clynton E. Ridgell
Tina Rose Muña Barnes
Telena Cruz Nelson
William M. Castro
Régine Biscoe Lee
Kelly Marsh (Taitano), PhD
James C. Moylan
Louise B. Muña
Joe S. San Agustin
Amanda L. Shelton
Telo T. Taitague
Jose "Pedo" Terlaje
Therese M. Terlaje
Mary Camacho Torres

**AN ACT TO *ADD* NEW §§ 63101(dd) AND 63116.3, AND
AMEND §§ 63128 AND 63129, ALL OF ARTICLE 1,
CHAPTER 63, TITLE 5, GUAM CODE ANNOTATED,
RELATIVE TO THE PROHIBITION OF FISHING WITH
THE USE OF A SELF-CONTAINED UNDERWATER
BREATHING APPARATUS (SCUBA) AND SIMILAR
DEVICES IN THE WATERS OF GUAM OR IN ANY
VESSEL IN THE WATERS OF GUAM.**

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
2 considers it the duty of the government of Guam to protect and preserve our island’s
3 limited natural resources. Despite the establishment of marine preserves, Guam’s
4 stock of certain species of fish is still declining at an alarming rate.

5 *I Liheslaturan Guåhan* finds that the Guam Department of Agriculture’s
6 Division of Aquatic and Wildlife Resources in 2009 recognized SCUBA fishing as
7 a “serious threat to all reef fish stocks.” These results suggest that SCUBA fishing
8 impacts reef fish populations and that the restriction of this fishing method will
9 ensure refuge for fish populations in deeper waters.

10 *I Liheslaturan Guåhan* intends for Guam to join sixty-three (63) other
11 countries, states, and islands to ban SCUBA fishing to preserve and to aid in the
12 recovery of large, economically and culturally important coral reef species, and to
13 improve the sustainability of coral reef fisheries.

14 **Section 2.** A new § 63101(dd) is *added* to Article 1, Chapter 63, Title 5,
15 Guam Code Annotated, to read:

16 “(dd) SCUBA Diving – is defined as a form of underwater diving in
17 which a diver uses any apparatus or device that contains compressed air or a
18 mixture of air and gas; including, but not limited to, SCUBA (self-contained
19 underwater breathing apparatus), Nitrox, and surface supplied air, and
20 rebreathers.”

21 **Section 3.** A new § 63116.3 is *added* to Article 1, Chapter 63, Title 5, Guam
22 Code Annotated, to read:

23 “**§ 63116.3. Fishing With SCUBA Devices.**

24 (a) It is unlawful to take any fish with a spear or any other device
25 used for the purpose of taking fish while SCUBA diving, as defined in §
26 63101(dd) of this Article, unless otherwise authorized pursuant to § 63123 of
27 this Article.

1 (b) Enforcement. Any person empowered by law to enforce this
2 Chapter and any rule or regulation adopted by the Department of Agriculture
3 pursuant thereto *shall* have the authority to stop and board any vessel or any
4 motor vehicle subject to this Section for the purpose of inspection or to
5 determine compliance with this Section or any such rule or regulation. Any
6 person empowered by law to enforce this Chapter may issue a citation and a
7 notice to appear at the Traffic Court Division of the Superior Court of Guam
8 pursuant to 5 GCA § 60107(b)(1).

9 (c) Possession. Any person deemed in possession of fish taken while
10 SCUBA diving *shall* be in violation of this Section and subject to the
11 applicable fines or terms of imprisonment contained in § 63129(a). It is prima
12 facie evidence of a violation of this Section if a person is:

13 (1) in possession of any SCUBA diving equipment;

14 (2) in possession of fish or spearguns, spears, or similar
15 equipment; and

16 (3) in or near the water where fish can be taken or aboard any
17 fishing vessel or boat.”

18 **Section 4.** § 63129 of Article 1, Chapter 63, Title 5, Guam Code Annotated,
19 is *amended* to read:

20 **“§ 63129. Penalty.**

21 (a) Any person violating § 63104, § 63105, § 63106, § 63107, §
22 63108, § 63114.1, § 63114.2, or § 63116.3 of this Article is guilty of a felony
23 punishable by imprisonment of *not more than* five (5) years, or by a fine of
24 *not less than* Five Hundred Dollars (\$500), *nor more than* Five Thousand
25 Dollars (\$5,000), or by both, per violation.

26 (b) Any person violating § 63114.3 of this Chapter or any rule
27 adopted thereunder *shall* be subject to:

1 (1) seizure and forfeiture of a commercial marine license,
2 vessel, or shark feeding equipment; and

3 (2) an administrative fine of *at least* Twenty-five Thousand
4 Dollars (\$25,000) per violation; *provided*, that the violator may be
5 assessed administrative fees and costs and attorneys' fees and costs.

6 (c) Any person violating § 63606.1 or § 63606.2 of this Chapter
7 *shall* be guilty of a felony, and upon conviction thereof may be imprisoned
8 for *not more than* five (5) years, or fined *not more than* One Hundred
9 Thousand Dollars (\$100,000), or both.

10 (d) A violation of any other provision of this Article or its supporting
11 regulations *shall* be guilty of a misdemeanor, and upon conviction thereof,
12 *shall* be punishable by a fine of *not less than* Fifty Dollars (\$50), *nor more*
13 *than* Five Hundred Dollars (\$500), or by imprisonment of *not more than*
14 ninety (90) days, or by both fine and imprisonment. In addition, all pelagic
15 drift nets or their components, equipment for their manufacture, containers for
16 such nets, fish or fish products gathered through the use of a pelagic drift net,
17 and all conveyances including aircraft, vehicles and vessels used for their
18 transport *shall* be subject to forfeiture, and may be seized by an authorized
19 government of Guam official under process issued by the Superior Court,
20 *except* that such seizure without such process may be made when the seizure
21 is incidental to an arrest or a search pursuant to a search warrant, or as
22 provided by § 63128 of this Article.”

23 **Section 5.** § 63128 of Article 1, Chapter 63, Title 5, Guam Code Annotated,
24 is *amended* to read:

25 “§ 63128. **Illegal Use of Nets, Vessels Including Engines, Motors**
26 **and All Vessel Accessories, Paraphernalia, Beasts of Burden, Traps,**

1 **Firearms, Electrical Devices, or Vehicles; Seizure; Forfeiture**
2 **Proceeding; Sale or Destruction.**

3 Any net, vessel including engines, motors and all vessel accessories,
4 paraphernalia, including SCUBA diving equipment, spearguns, or spears,
5 beast of burden, trap, firearm, electrical device or vehicle used for taking or
6 transporting fish or game taken in violation of the provisions of this Article is
7 a public nuisance. Every person authorized to make an arrest for such
8 violation *shall* seize and keep such net, vessel including engines, motors and
9 all vessel accessories, paraphernalia, including SCUBA diving equipment,
10 spearguns, or spears, trap, firearm, electrical device or vehicle and report the
11 seizure to the Department of Agriculture.

12 The Department of Agriculture *shall* commence proceedings in the
13 Superior Court by petitioning the court for a judgment forfeiting the items
14 seized. Upon the filing of such petition, the clerk of court *shall* fix a time for
15 a hearing and cause notices to be posted for fourteen (14) days in *at least* two
16 (2) public places in the place where the court is held and in the Mayor's Office
17 of the village wherein the person from whom the items were seized resides,
18 setting forth the substance of the petition and the time and place fixed for its
19 hearing. Upon proof that the items seized were used in violation of this
20 Article, the court shall order such items forfeited. Any article so forfeited *shall*
21 be sold, used or destroyed by the Department of Agriculture. The proceeds
22 from all such sales *shall* be paid into the Wildlife Conservation Fund.”

23 **Section 6.** The Department of Agriculture *shall* transmit a report to *I*
24 *Liheslaturan Guåhan* within thirty (30) days of the passage of this Act on the hiring
25 status of the additional two (2) Conservation Officers authorized in the FY 2020
26 Budget Act; provided, that if said Conservation Officers are not hired within said
27 thirty (30) days, the Department of Agriculture *shall* continue to transmit a report on

1 a monthly basis regarding the status of such hiring. Further, the Department of
2 Agriculture *shall* transmit a report to *I Liheslaturan Guåhan* within thirty (30) days
3 of the passage of this Act on its enforcement efforts to curb the incidence of
4 overfishing and poaching of the marine preserves, and proposed limitations on the
5 additional size and catch of various species.

6 **Section 7. Authorization for the Compiler of Laws to Alphabetize and**
7 **Renumber Sections as Necessary.** The Compiler of Laws may alphabetize, reorder,
8 and renumber any provisions of this Act as needed to improve clarity or avoid
9 conflicts with other provisions of law.

10 **Section 8. Severability.** If any provision of this Act or its application to any
11 person or circumstance is found to be invalid or contrary to law, such invalidity *shall*
12 *not* affect other provisions or applications of this Act that can be given effect without
13 the invalid provision or application, and to this end the provisions of this Act are
14 severable.