## BILL STATUS

<table>
<thead>
<tr>
<th>BILL NO.</th>
<th>SPONSOR</th>
<th>TITLE</th>
<th>DATE INTRODUCED</th>
<th>DATE REFERRED</th>
<th>CMTE REFERRED</th>
<th>PUBLIC HEARING DATE</th>
<th>DATE COMMITTEE REPORT FILED</th>
<th>FISCAL NOTES</th>
<th>NOTES</th>
</tr>
</thead>
<tbody>
<tr>
<td>53-35 (COR)</td>
<td>Sabina Flores Perez, Clynton E. Ridgell, Tina Rose Muña Barnes</td>
<td>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.</td>
<td>2/22/19</td>
<td>3/7/19</td>
<td>Committee on Economic Development, Agriculture, Maritime Transportation, Power and Energy Utilities, and Emergency Response</td>
<td>11/13/19 3:00 p.m.</td>
<td>2/19/20 8:03 a.m.</td>
<td>As substituted by the Committee on Economic Development, Agriculture, Maritime Transportation, Power and Energy Utilities, and Emergency Response</td>
<td>Request: 3/7/19 3/11/19</td>
</tr>
</tbody>
</table>

### SESSION DATE

<table>
<thead>
<tr>
<th>SESSION DATE</th>
<th>TITLE</th>
<th>DATE PASSED</th>
<th>TRANSMITTED</th>
<th>DUE DATE</th>
<th>PUBLIC LAW NO.</th>
<th>DATE SIGNED</th>
</tr>
</thead>
</table>
March 20, 2020

HONORABLE TINA ROSE MUÑA BARNES  
Speaker  
I Mina ‘trentai Singko Na Lihesluracion Guåhan  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

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 Lihesluracion Guåhan and now sign Substitute Bill No. 53-35 into law as Public Law No. 35-78.

Senseremente,

LOURDES A. LEON GUERRERO  
Maga ‘hågan 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
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: 3/09/2020

Public Law No. 35-78
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
Teo 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.

BE IT ENACTED BY THE PEOPLE OF GUAM:
Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* considers it the duty of the government of Guam to protect and preserve our island’s limited natural resources. Despite the establishment of marine preserves, Guam’s stock of certain species of fish is still declining at an alarming rate.

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

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

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

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

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

“§ 63116.3. Fishing With SCUBA Devices.

(a) It is unlawful to take any fish with a spear or any other device used for the purpose of taking fish while SCUBA diving, as defined in § 63101(dd) of this Article, unless otherwise authorized pursuant to § 63123 of this Article.
(b) Enforcement. Any person empowered by law to enforce this Chapter and any rule or regulation adopted by the Department of Agriculture pursuant thereto shall have the authority to stop and board any vessel or any motor vehicle subject to this Section for the purpose of inspection or to determine compliance with this Section or any such rule or regulation. Any person empowered by law to enforce this Chapter may issue a citation and a notice to appear at the Traffic Court Division of the Superior Court of Guam pursuant to 5 GCA § 60107(b)(1).

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

(1) in possession of any SCUBA diving equipment;
(2) in possession of fish or spearguns, spears, or similar equipment; and
(3) in or near the water where fish can be taken or aboard any fishing vessel or boat.”

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

“§ 63129. Penalty.
(a) Any person violating § 63104, § 63105, § 63106, § 63107, § 63108, § 63114.1, § 63114.2, or § 63116.3 of this Article is guilty of a felony punishable by imprisonment of not more than five (5) years, or by a fine of not less than Five Hundred Dollars ($500), nor more than Five Thousand Dollars ($5,000), or by both, per violation.
(b) Any person violating § 63114.3 of this Chapter or any rule adopted thereunder shall be subject to:
(1) seizure and forfeiture of a commercial marine license, vessel, or shark feeding equipment; and

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

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

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

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

“§ 63128. Illegal Use of Nets, Vessels Including Engines, Motors and All Vessel Accessories, Paraphernalia, Beasts of Burden, Traps,
Firearms, Electrical Devices, or Vehicles; Seizure; Forfeiture Proceeding; Sale or Destruction.

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

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

Section 6. The Department of Agriculture shall transmit a report to I Liheslaturan Guåhan within thirty (30) days of the passage of this Act on the hiring status of the additional two (2) Conservation Officers authorized in the FY 2020 Budget Act; provided, that if said Conservation Officers are not hired within said thirty (30) days, the Department of Agriculture shall continue to transmit a report on
a monthly basis regarding the status of such hiring. Further, the Department of
Agriculture shall transmit a report to I Lihteslutan Guåhan within thirty (30) days
of the passage of this Act on its enforcement efforts to curb the incidence of
overfishing and poaching of the marine preserves, and proposed limitations on the
additional size and catch of various species.

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

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