

(H. B. 595)
(Reconsidered)

(No. 5)

(Approved April 15, 2005)

AN ACT

To amend subsections (a), (b), (d), (g), (h), (i), (j), (k), (l) and (q) of Section 5 of Act No. 278 of November 29, 1998, as amended, known as the “Puerto Rico Fisheries Act,” to the effect that any attempt by the Department of Natural and Environmental Resources to regulate fisheries in Puerto Rico must take into account the position of recognized fishermen groups as well as of the Fishing Advisory Board for the approval thereof, as well as to increase the number of commercial fishermen from two (2) to four (4) and of recreational fishermen from one (1) to three (3) in the Fishing Advisory Board.

STATEMENT OF MOTIVES

The public policy on fishing in all its modalities in Puerto Rico was established through the approval of Act No. 278 of November 29, 1998, known as the “Puerto Rico Fisheries Act.” One of the objectives of this law is to protect and foster the breeding, increase and development of fish in the waters of Puerto Rico and regulate fishing activities.

The law itself declared that all aquatic organisms and semi-aquatic organisms found in bodies of water which are not private property are of public domain. It furthermore established that said bodies of water could be used for fishing so that the catch could be freely exploited and commercialized, subject to the provisions of this Act and the regulations promulgated thereunder. The Act mentions that the regulations shall be drafted by the Department of Natural and Environmental Resources, which

shall have the power to promote the best use, conservation and management of fishing resources according to the needs of the people of Puerto Rico.

Regulation 6768, known as the “Puerto Rico Fishing Regulation,” is drafted pursuant to the provisions of the Act proper, and introduced on February 11, 2004. Said Regulation, which in the judgment of the fishermen themselves establishes a number of limitations to fishing activities, if implemented would bring about the disappearance of many fishermen and thus an evident negative impact on the battered economy of that agricultural sector. As written, said Regulation is greatly burdensome to this “Entrepreneurial Class” which although humble, deserves the respect and attention of the Department of Natural and Environmental Resources as well as of the Legislature of Puerto Rico.

It is important that in view of this situation, this Legislature act expeditiously and diligently because if this Regulation continues in effect the future of this “Entrepreneurial Class,” consisting of our humble fishermen, would be destined to disappear. It is for this reason that we, called for by the Constitution of the Commonwealth of Puerto Rico to legislate, are bound to amend this Act so that in the future the Secretary of Natural and Environmental Resources shall have to take into consideration the opinion of these humble workers regarding the approval of regulations that would affect them.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.-Subsections (a), (b), (d), (g), (h), (i), (j), (k), and (l) are hereby amended and a new subsection (q) added to Section 5 of Act No. 278 of November 29, 1998, as amended, to read as follows;

“Section 5.-Powers and Duties of the Secretary

The Secretary shall have those powers and duties convenient and necessary to enact the public policy as stated in this Act and to protect fishery resources so they may be enjoyed by the People of Puerto Rico. To such effects the Secretary shall have the powers and duties stated below, without this being construed as a limitation:

- a. Approve, amend and repeal regulations for the enforcement of this Act pursuant to subsection (g) of this Section and the procedures established in Act No. 170 of August 12, 1998, as amended, known as the “Administrative Procedures Act.”
- b. Regulate the use, operation, quantity, size and construction materials of the fishing gear used in jurisdictional waters of the Commonwealth of Puerto Rico pursuant to subsection (q) of this Section.
- c. Issue, renew, deny suspend or revoke fishing permits and licenses.
- d. Establish, through regulations pursuant to subsection (q) of this Section, the fishing methods or gear that may be used according to the type of fishing license or permit or according to location.
- e. Declare closed seasons.
- f. Seize the fishing gear or fishing vessels that have been used in violation of the provisions of this Act or its regulations, in addition of impounding the catch.
- g. Establish, through regulations pursuant to subsection (q) of this Section, identification systems for fishing gear and fishing vessels.
- h. Regulate, pursuant to subsection (q) of this Section, fish imports when it is shown that the species of fish to be imported

pose a potential hazard to native or established species, their natural communities or habitats or to the public health.

- i. Establish plans pursuant to subsection (q) of this Section, for the sustainable management of aquatic resources under the jurisdiction of the Commonwealth of Puerto Rico, which may include, jointly with the Secretary of the Department of Agriculture, the establishment of measures to limit the open access to fisheries, whether by limiting the number of fishermen or the amount of fishing gear or limiting the total allowable catch of a fishery. Efforts shall be made to obtain the participation of other Commonwealth agencies, such as Department of Agriculture, of all Federal agencies and organizations which regulate and promote fishing, of commercial and recreational fishermen as well as of similar entities in the countries of the Caribbean Basin.
- j. Establish through regulations pursuant to subsection (q) of this Section, the fees to be charged for issuing fishing licenses and permits and allow the issue of recreational licenses in commercial establishment and in Recreational Fishing Associations or Clubs. Children under the age of fifteen (15) are hereby exempted from the payment of these fees if accompanied by an adult who holds a fishing license.
- k. Regulate, pursuant to subsection (q) of this Section, the catch and establish quotas for fishing live fish.
- l. Establish, through regulations, the specific requirements for each type of license or permit pursuant to subsection (q) of this Section.

- m. File civil suits and damages in any court of Puerto Rico or the United States of America to recover the total value of damages caused to the environment or the natural resources upon any violation of this Act or the regulations thereunder. The total amount of the settlement to be collected to such effects shall be deposited in the Puerto Rico Fishing Special Management Fund on behalf of the Department.
- n. Resort to the courts of Puerto Rico or of the United States of America, represented by the Secretary of Justice, by the attorneys of the Department or by a private attorney contracted for such a purpose, to petition the enforcement of an order issued by the Secretary or to petition the remedy requested by the Department through any civil action.
- o. Contract the professional services of attorneys and experts for counsel or representation in their respective fields and legal matters of their professional expertise and to set their corresponding compensation.
- p. Prohibit the fishing, catching, transportation, possession or export of young aquatic species intended for aquariums.
- q. Create a Fishing Advisory Board to advise the Secretary in the formulation of public policy related to recreational and commercial fishing; issue recommendations on the administrative mechanisms to be implemented for managing the fishing resources; and review the Fishing Regulations to be established to issue recommendations on possible amendments, if necessary.

The Fishing Advisory Board shall be constituted by four (4) members from among the commercial fishermen representatives of the four cardinal points of Puerto Rico, to wit, the north, south, east and west; three (3) representatives from among the recreational fishermen, of which two (2) represent the marine environment and one the lake and river environments, two (2) representatives of an organization which promotes the conservation of marine resources, one (1) biologist specializing in marine resources from an academic entity, one (1) biologist specializing in marine resources from the Department of Natural and Environmental Resources, one (1) representative of the Caribbean Fisheries Council and one (1) representative from the Department of Agriculture.

Said Board shall be bound to consider the recommendations and amendments of the commercial and recreational fishermen of Puerto Rico duly recognized by the pertinent authorities, and shall allow them active participation in the regulatory process.”

Section 2.-This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 5 (H.B. 595) (Reconsidered) of the 1st Session of the 15th Legislature of Puerto Rico:

AN ACT to amend subsections (a), (b), (d), (g), (h), (i), (j), (k), (l) and (q) of Section 5 of Act No. 278 of November 29, 1998, as amended, known as the “Puerto Rico Fisheries Act,” to the effect that any attempt by the Department of Natural and Environmental Resources to regulate fisheries in Puerto Rico must take into account the position of recognized fishermen groups as well as of the Fishing Advisory Board for the approval thereof, as well as to increase the number of commercial fishermen from two (2) to four (4) and of recreational fishermen from one (1) to three (3) in the Fishing Advisory Board,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 1st of February of 2006.

Francisco J. Domenech
Director