

AN ACT

To amend Title 27 of the Palau National Code to increase illegal foreign fishing penalties and broaden the definition of “fishing” to include using fish aggregating devices, and for other related purposes.

THE PEOPLE OF PALAU REPRESENTED IN THE OLBIL ERA KELULAU DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings.

2 Currently, the Palau National Code provides for some illegal foreign fishing
3 penalties that range from \$50,000 to \$250,000. The Olbil Era Kelulau finds that even
4 though these figures seem high, they are lower than the illegal foreign fishing
5 penalties imposed by the Republic of Palau’s island neighbors, such as the Federated
6 States of Micronesia. As a result, the Olbil Era Kelulau finds that it is necessary to
7 amend some of Palau’s fishing penalties to increase some of them to be commensurate
8 with the Micronesian region.

9 Also, fish aggregating devices are oftentimes used when foreigners fish in
10 Palau’s waters, but the use of those devices is not included in the Palau National
11 Code’s definition of “fishing,” which makes difficult the prosecution of fishermanwho
12 illegally use this method of fishing in Palau’s waters. As a result, the Olbil Era
13 Kelulau finds that fish aggregating devices must be included as a method of fishing in
14 Palau’s waters.

15 Section 2. Amendment. 27 PNC § 102is amended to state as follows:

16 “§ 102. Definitions.

17 In this chapter:

18 (a) ...

19 ...

20 (f) “Fish aggregating device” or “fish aggregation device” means any man-
21 made device, or natural floating object, whether anchored or not anchored, that is
22 capable of aggregating fish.

23 (g) ...

1 (h) ...

2 (i)...

3 (j)...

4 (k) ...

5 (l)...

6 (m)...

7 (n)...

8 (o)...

9 (p)...

10 (q) ...”

11 Section 3.Amendment. 27 PNC § 182 is amended to state as follows:

12 “§ 182. Criminal penalties.

13 (a) ...

14 (b) Any offense described as a prohibited act by section 181(a), (b), (c), (d), (e),
15 or (k) is punishable by a fine of not less than five hundred thousand dollars
16 (\$500,000) and not more than one million dollars (\$1,000,000).

17 (c) Any offense described as a prohibited act by section 181(f), (g), (h), (i), or
18 (j) is punishable by a fine of not less than five hundred thousand dollars (\$500,000)
19 for each violation; except that if in the commission of any such offense the person uses
20 a dangerous weapon, engages in conduct that causes bodily injury to any officer
21 authorized to enforce the provisions of this chapter, or places any such officer in fear
22 of imminent bodily injury, the offense [is] punishable by a fine of not less than five
23 hundred thousand dollars (\$500,000) and not more than one million dollars
24 (\$1,000,000) for each violation. Each day of continuing violation shall be considered a
25 separate offense.

26 (d) ...

27 (e) Any person who reports an act prohibited by section 181 to law
28 enforcement authorities shall be entitled to receive a reward upon conviction of the
29 reported offender. The reward shall amount to 3% of any fine collected pursuant to
30 this section.”

1 Section 4. Amendment. 27 PNC § 183 is amended to state as follows:

2 “§ 183. Civil penalties.

3 (a) Any person who is found by the Supreme Court in a civil proceeding to
4 have committed an act prohibited by section 181 of this title shall be liable to the
5 national government for a civil penalty of no less than two hundred fifty thousand
6 dollars (\$250,000) and no more than one million dollars (\$1,000,000) for each
7 violation. Each day of continuing violation shall constitute a separate offense.

8 (b) . . .”

9 Section 5. Amendment. 27 PNC § 185 is amended to state as follows:

10 “§ 185. Revenues.

11 All revenues, including fees collected pursuant to section 169 and all fines and
12 proceeds of sale of all forfeitures shall be transmitted immediately upon collection to
13 the National Treasury and shall be divided and distributed in accordance with the
14 formula set forth in section 174(c) of this title.”

15 Section 6. Amendment. 27 PNC § 205 is amended to state as follows:

16 “§ 205. Tampering with, failing to operate, or destruction of an automatic
17 location communicator.

18 Anyperson who willfully tampers with, destroys, or interferes with in any way,
19 an automatic location communicator, or violates section 203(a)(4), shall be guilty of a
20 class C felony and upon conviction shall be sentenced for a term of imprisonment not
21 to exceed two years, fined an amount ranging from \$500,000 to \$1,000,000, or both.”

22 Section 7. Amendment. 27 PNC § 1203 is amended to state as follows:

23 “§ 1203. Definition.

24 (a) . . .

25 ...

26 (d) “To fish” or “fishing” means:

27 (1) searching for, catching, taking, or harvesting fish;

28 (2) attempting to search for, catch, take, or harvest fish;

29 (3) engaging in any other activity which can reasonably be expected to
30 result in the locating, catching, taking, or harvesting of fish;

1 (4) placing, searching for, or recovering fish aggregating devices or
2 associated electronic equipment such as radio beacons;

3 (5) any operations at sea directly in support of, or in preparation for,
4 any activity described in paragraphs (1) to (4); or

5 (6) the use of any vehicle on sea or air, including aircraft, in relation to
6 any activity described in paragraphs (1) to (5) except for emergencies
7 involving the health or safety of crew members or the safety of the vessel.

8 (e) . . .

9 . . .”

10 Section 8. Amendment. 27 PNC §1209 is amended to state as follows:

11 “§ 1209. Criminal penalties.

12 (a) Anyone who violates subsections (a)-(e), (g)-(j), (l)-(o) or (q) of section 1204
13 herein shall, upon conviction, be penalized as follows: upon the first conviction, be
14 fined not less than one thousand dollars (\$1,000); upon the second conviction, be fined
15 not less than five thousand dollars (\$5,000) and sentenced to serve up to thirty (30)
16 days in jail; upon the third conviction, be fined not less than ten thousand dollars
17 (\$10,000) and sentenced to serve up to six (6) months in jail; any conviction after a
18 third conviction, be fined not less than twenty-five thousand dollars (\$25,000) and
19 sentenced to serve up to one (1) year in jail. In assessing fines under this subsection,
20 the court shall take into account any and all prior violations of subsections (a)-(e), (g)-
21 (j), (l)-(o), or (q) whether such violation resulted in convictions or not.

22 (b) Anyone who violates subsection (f) of section 1204 shall, upon conviction,
23 be fined not less than five thousand dollars (\$5,000) or imprisoned for not more than
24 one (1) year, or both.

25 (c) Anyone who violates subsection (k) of section 1204 shall, upon conviction,
26 be fined not less than three thousand dollars (\$3,000) or imprisoned for a period of
27 not more than two (2) years, or both, for each violation.

28 (d) Anyone who violates subsection (p) of section 1204 shall, upon conviction,
29 be fined not less than four thousand dollars (\$4,000) or imprisoned for a period of not
30 less than six (6) months and not more than two (2) years, or both, for each violation.

1 (e) Any person who reports an act prohibited by section 1204 to law
2 enforcement authorities shall be entitled to receive a reward upon conviction of the
3 reported offender. The reward shall amount to 3% of any fine collected pursuant to
4 this section.”

5 Section 9. Amendment, 27 PNC § 1210 is amended to state as follows:

6 § 1210. Civil penalties.

7 (a) ...

8 (b) Any person who is found by the Supreme Court in a civil proceeding to have
9 committed an act prohibited by this chapter, shall be liable to the affected state and
10 national government jointly for a civil penalty of no less than two hundred fifty
11 thousand dollars (\$250,000) and no more than one million dollars (\$1,000,000) for
12 each violation.

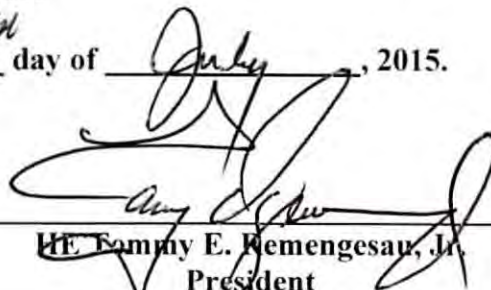
13 ...

14 (g) All revenues collected pursuant to this subsection shall be transmitted
15 immediately upon collection to the National Treasury and shall be distributed in
16 accordance with the formula set forth in section 174(c) of this title.”

17 Section 10. Effective Date. This Act shall take effect upon its approval by the
18 President of the Republic of Palau or upon its becoming law without such approval,
19 except as otherwise provided by law.

PASSED: July 16, 2015

Approved this 27th day of July, 2015.


Emmey E. Remengesau, Jr.
President
Republic of Palau