

ENACT [sic]

To tax alcoholic beverages within Koror State.

THE PEOPLE OF KOROR REPRESENTED IN THE LEGISLATURE OF THE STATE OF KOROR DO
ENACT AS FOLLOWS:

1 SECTION 1. POLICY. It is the policy of the State of Koror to enact a tax
2 on alcoholic beverages in order to provide funding for the maintenance of public
3 health and order, to assist in the maintenance of public health and in the
4 reduction of medical and societal costs related to the use of alcoholic
5 beverages, to encourage the savings of funds, to educate the society on the
6 negative affects of alcohol, to help in the rehabilitation of alcoholics, to
7 provide for the security of the society from the bad influence of alcohol and
8 other drugs, and for other public purposes.

9 SECTION 2. DEFINITIONS.

10 A. "Administrator" means the person appointed, pursuant to the Koror
11 Constitution Arts. VI and VII, as the Koror State Executive Administrator.

12 B. "Alcoholic beverage" means any beverage intended for human consumption
13 that contains at least one percent (1%) alcohol (ethyl alcohol, hydrated oxide
14 of ethyl, or other alcohol) by volume. Alcoholic beverages include, but are
15 not limited to, those beverages commonly known as beer, stout, ale, lager, sake,
16 wine, spirits, liqueurs, and liquor, but do not include any substance that is
17 issued pursuant to an order made by a licensed doctor, nurse, or health worker
18 for the treatment of an illness.

19 C. "Beer" means any alcoholic beverage that contains not more than fifteen
20 percent (15%) alcohol by volume and that is made by a process of alcoholic
21 fermentation of cereal, grains, hops, or malts; it includes those alcoholic
22 beverages commonly sold or known as beer, stout, ale, and lager. If an
23 alcoholic beverage would be beer except that it contains more than 15% percent
24 alcohol by volume, it shall be treated herein as liquor.

25 D. "Buyer" means any person who purchases or otherwise obtains for valuable
26 consideration (regardless of whether for cash, credit, exchange, or set-off)
27 any alcoholic beverage from a seller.

28 E. "Gallon" means 128 fluid ounces and is one U.S. gallon of liquid measure
29 equivalent to 231 cubic inches.

1 F. "Liquor" means and includes all distilled or rectified spirits, brandy,
2 cordial (regardless of whether the base be wine or liquor), whisky, bourbon,
3 rum, gin, vodka, any alcoholic beverage with more than 24% alcohol by volume,
4 all other dilutions and mixtures of one or more of the foregoing, and all
5 alcoholic beverages other than wine and beer.

6 G. "Person" means any individual human being or a club, cooperative,
7 partnership, joint venture, corporation, sole proprietor, business, estate,
8 trust, government entity (other than the national government of the Republic of
9 Palau), or other association however organized or operated.

10 H. "Sale" includes and means the acts of transferring, for valuable
11 consideration, title, possession, and ownership of a thing from one person to
12 another person.

13 I. "Seller" means every person who executes or performs a sale of or sells
14 or conveys ownership (regardless of whether for cash, credit, exchange, or
15 setoff) of any alcoholic beverage to another person.

16 J. "State" means the State of Koror.

17 K. "Wine" means an alcoholic beverage that is made from fruit, either
18 fermented or not, and that has at least seven percent (7%) but no more than 24%
19 alcohol by volume; it includes all natural, clear, or sparkling and other wines,
20 champagne, vermouth, sake, and any other alcoholic beverage known as wine. Any
21 alcoholic beverage that would be wine except that it has greater the 24% alcohol
22 by volume shall be treated herein as liquor.

23 SECTION 3. IMPOSITION OF TAX; COLLECTION; PAYMENT.

24 A. Beginning July 1, 1989, the following taxes, payable to the State, are
25 imposed :

26 (1) upon alcoholic beverages as follows:

27 (a) beer--\$.05 per each 12 fluid ounces or portion thereof;

28 (b) wine--\$.10 per each 16 fluid ounces or portion thereof; and

29 (c) liquors--\$.25 per each 30 fluid ounces or portion thereof.

30 B. Such tax is imposed and assessed at the time of the first sale, within
31 the State, of such alcoholic beverage by the first seller in the State of it to
32 the first buyer of it upon such first buyer.

33 C. There is hereby created a presumption that, if the seller's place of
34 business is within the State, then the seller's first sale of the item took
35 place within the State.

36 D. Such seller shall collect from such buyer such tax at the time of the
37 seller's sale of such alcoholic beverage.

1 E. On the tenth day of every month immediately following the end of each
2 quarter (viz. April, July, October and January) beginning October, 1989, such
3 seller shall:

4 (1) pay to the State all such taxes as were due to or collected by it,
5 pursuant to Section 3 of this Act, from sales in the previous quarter, and

6 (2) submit to the State a statement on form to be supplied by the State,
7 signed by the seller's representative under oath, stating:

8 (a) for alcoholic beverages, the number of cans and bottles of each size
9 of beer, wine, liquor that it (i) sold in the previous quarter and (ii) had in
10 its inventory in the State on the first day and on the last day of such previous
11 quarter. The seller shall attach to the statement invoices, receipts, and other
12 documents to support such statement.

13 SECTION 4. ENFORCEMENT; PENALTIES.

14 A. Seller's Liability.

15 If a seller shall fail to comply with Section 3 above, the seller shall
16 nevertheless be fully liable for all taxes imposed by this Act but not
17 collected by such seller.

18 B. Seller's Records.

19 Every person who is the first seller within the State of any alcoholic
20 beverages shall keep records that show at least the following information: (1)
21 the date of receipt of and the number of cases (and the number of bottles and
22 cans in each case) of beer, wine, and other liquors that it receives; (2) the
23 date of each sale of, the identity of each buyer of, and the number of cases of
24 beer, wine and other liquors sold to each buyer; and (3) any other information
25 that the State may need in enforcing this Act. Such seller, for at least two
26 years after the date of sale, shall keep such records in good and intelligible
27 order and shall allow the State to inspect and audit them during reasonable
28 business hours.

29 C. Interest.

30 If a seller fails to make the payment to the State that section 3E(1) above
31 requires, then the seller shall be liable for interest at the rate of twelve
32 percent (12%) per year on the payment not made.

33 D. Audit; Liability.

34 (1) If a seller submits the statement that section 3E(2) above requires,
35 but the State's inspection and audit of such seller's business and financial
36 records shows that the seller's statement is erroneous, then the seller shall
37 be liable, in addition to any tax and interest thereon that may be due pursuant

1 to section 3 hereof, for (a) the expenses of such inspection and audit and (b)
2 a civil penalty in the amount of twenty percent (20%) of the tax that such
3 audit and accounting shows is due for such month.

4 (2) If a seller fails to submit the statement that section 3E(2) above
5 requires, then (a) the State may perform an audit and accounting of such
6 seller's business and financial records and (b) the seller shall be liable, in
7 addition
8 to any tax and interest thereon that may be due pursuant to section 3 hereof,
9 for (i) the expenses of such audit and accounting and (ii) a civil penalty in
10 the amount of twenty percent (20%) of the tax that such audit and accounting
11 shows is due for such month.

12 E. Attorney Fees and Court Costs.

13 If a seller fails to comply with any section of this Act or regulations
14 hereunder, then it shall be liable for all of the States' court and legal costs
15 (including attorney fees) that it incurs in enforcing this Act.

16 F. Lien.

17 (1) Any taxes, penalties, or interest that this Act imposes but which the
18 seller fails to pay in accordance with this Act constitute a lien upon all of
19 the seller's property.

20 (2) Any person who may purchase another person's property that is or was
21 subject to the taxes, interest, or penalties that this Act imposes shall be
22 considered to have purchased it subject to the tax lien imposed herein.

23 G. Enforcement.

24 (1) The Administrator shall have the following powers:

25 (a) make all assessments and collect all taxes and other charges imposed
26 by this Act;

27 (b) if a person fails to report and to pay the taxes due by this Act,
28 or if the Administrator has good and substantial reason to question the amount
29 of taxes reported and paid, he may assess taxes upon the person based upon his
30 good faith estimate of what the taxes should be, provided that his estimate is
31 based upon significant information;

32 (c) inspect the records, bank accounts and statements, checks, invoices,
33 tax records, and other business and financial records of the seller and person
34 liable for the taxes imposed by this Act;

35 (d) prescribe the forms and other documents necessary or appropriate to
36 enforce this Act;

37 (e) refund taxes improperly paid;

1 (f) issue rules and regulations necessary or appropriate to implement this
2 Act; and

1 (g) delegate functions and responsibilities hereunder.

2 (2) The State, if it believes that the seller or other person who is
3 liable for the tax imposed by this Act, has the right to seek to enjoin the
4 person's business from continuing to operate unless such taxes and other
5 charges imposed by this Act are paid.

6 H. It shall be a misdemeanor for any person to violate any part of section
7 3 of this Act or to fail to perform any other duty as required by this Act or
8 by the regulations hereunder. Upon conviction of such violation, the offender
9 may be punished by up to ninety (90) days in jail and a fine up to 100.00.

10 H. [sic] Liability For Costs.

11 Every person who violates any provision hereof or who necessitates the
12 State to enforce this Act and thereby causes the State to incur legal costs
13 (including reasonable attorney fees) shall be liable for such costs.

14 SECTION 5. APPEAL.

15 Any seller or other person who is aggrieved by any action of the
16 Administrator may submit, within thirty (30) days after such action, a written
17 appeal and request for a personal appearance to the House of Traditional Leaders
18 and shall deliver to the Administrator a copy of such appeal and request. The
19 House of Traditional Leaders, within 45 days of its receipt of such request,
20 may provide a hearing to such person and shall give written notice thereof at
21 least 5 days before such hearing to such person. Within forty-five (45) days
22 after the later of either (1) the date on which the House of Traditional
23 Leaders receives such written appeal or (2) the conclusion of the hearing (if
24 one was had) and submission of all documents relating to the appeal to it, the
25 House of Traditional Leaders shall issue its written decision thereon to such
26 seller.

27 SECTION 6. SEVERABILITY; SAVINGS CLAUSE.

28 A. If a court of competent jurisdiction holds that a portion or portions of
29 this Act are unlawful, such holding shall not affect or invalidate any of the
30 remaining parts of this Act.

31 B. No provision of this Act shall apply or be construed to apply in any way
32 so as to conflict with the laws held constitutional by a court of competent
33 jurisdiction or with the constitution of the Republic of Palau.

1 SECTION 7. EFFECTIVE DATE.

2 This Act becomes effective upon its being approved by the House of
3 Traditional Leaders or upon its becoming law with such approval.
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6 PASSED ON: June 21, 1989
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8 CERTIFIED BY: _____/s/_____

9 Roman Yano
10 Speaker

ATTESTED TO BY: [signed by other]

for Rena Iluches
Clerk

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13 APPROVED THIS 10th DAY OF July 1989.
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17 _____/s/_____

18 Ibedul Yutaka M. Gibbons
19 Koror State High Chief
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