

ENACT [sic]

To tax petroleum products and other liquid and gaseous fuels within Koror State.

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

SECTION 1. POLICY. It is the policy of the State of Koror to enact a tax on liquid and gaseous fuel and on petroleum products in order to conserve them, in order to encourage the savings of funds in financially difficult times, in order to provide funds for maintainance of roads and other public lands and waters, in order to further the public health and welfare, and for other public purposes.

SECTION 2. DEFINITIONS.

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

B. "Buyer" means any person who purchases or otherwise obtains for valuable consideration (regardless of whether for cash, credit, exchange, set-off, or otherwise) any liquid fuel or pressurized gas from a seller.

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

D. "Liquid fuel" means and includes all liquids that are ordinarily, practically, or commercially used in internal combustion engines for the generation or power or used otherwise as fuel and includes (but is not limited to) liquified petroleum gases, all distillates and condensates from petroleum, natural gas, coal, coal tar, and from vegetable ferments, such distillates and condensates being ordinarily designated as gasoline (including aviation fuel or fuel used for or in airplaines), oil, diesel fuel, naptha, benzol, benzine, and alcohol but excluding kerosene used for individual consumption but not excluding it if used for or in commercial purposes.

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

F. "Pressurized gases" means all gases that are sold while under more than normal atmospheric pressure and include but are not limited to butane, propane, acetylene, and oxygen.

G. "Sale" includes and means the acts of transferring, for valuable consideration, title, possession, control, or ownership of a thing from one person to another person.

H. "Seller" means every person who executes or performs a sale of or sells or conveys ownership (regardless of whether for cash, credit, exchange, set-off, or otherwise) of any liquid fuel or pressurized gases to another person.

I. "State" means the State of Koror.

SECTION 3. IMPOSITION OF TAX; COLLECTION; PAYMENT.

A. Beginning January 1, 1990, the following taxes, payable to the State, are imposed:

(1) five one-hundredths dollar (\$.05) upon each gallon of liquid fuel;

(2) five percent of the sale price upon the sale of pressurized gases.

B. Such tax is imposed and assessed at the time of the first sale, within the State, of such liquid fuel or pressurized gas by the first seller in the State of it to the first buyer of it upon such first buyer. There is hereby created a presumption that, if the seller's place of business is within the State, then the seller's first sale of the item took place within the State.

C. Such seller shall collect from such buyer such tax at the time of the seller's sale of such liquid fuel or pressurized gas.

D. On the tenth day of every month immediately following the end of each quarter (e.g. April, July, October and January) beginning April, 1990, such seller shall:

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

(2) submit to the State a statement on a form to be supplied by the State, signed by the seller's representative under oath, stating for liquid fuel, the number of gallons, and for pressurized gases, the number of cylinders or other containers for each type of gas and the number of cubic feet of gases that it (i) sold in the previous month and (ii) had in its inventory in the State on the first day and on the last day of such previous month; the seller shall attach to the statement invoices, receipts, and other documents to support such statement.

SECTION 4. ENFORCEMENT; PENALTIES.

A. Seller's Liability. If a seller shall fail to comply with Section 3C above, the seller shall nevertheless be fully liable for all taxes imposed by this Act but not collected by such seller.

B. Seller's records. Every seller of liquid fuel and of pressurized gases shall keep records that show at least the following information: (1) the date of receipt of and the number of gallons of all liquid fuel and pounds of pressurized gases of each type that it receives; (2) the date of each sale of, the identity of each buyer of, and the number of gallons of liquid fuel and the pounds of pressurized gases it sold to each buyer; and (3) any other information that the State may need in enforcing this Act. Such sellers, for at least two years after the date of sale, shall keep such records in good and intelligible order and shall allow the State to inspect and audit them during reasonable business hours.

C. Interest. If a seller fails to make the payment to the State that Section 3D(1) above requires, then the seller shall be liable for interest at the rate of twelve (12%) per year on the payment not made.

D. Audit; Liability. (1) If a seller submits the statement that section 3D(2) above requires, but the State's inspection and audit of such seller's business and financial records shows that the seller's statement is erroneous, then the seller shall be liable, in

addition to any tax and interest thereon that may be due pursuant to Section 3 hereof, for (a) the expenses of such inspection and audit and (b) a civil penalty in the amount of fifty percent (50%) of the tax that such audit and accounting shows is due for such month, (2) if a seller fails to submit the statement that Section 3D(2) above requires, then (a) the State may perform an audit and accounting of such seller's business and financial records and (b) the seller shall be liable, in addition to any tax and interest thereon that may be due pursuant to Section 3 hereof, for (i) the expenses of such audit and accounting and (ii) a civil penalty in the amount of fifty percent (50%) of the tax that such audit and accounting shows is due for such month.

E. Attorney Fees and Court Costs. If a seller fails to comply with any section of this Act or regulations hereunder, then it shall be liable for all of the State's court and legal costs (including attorney fees) that it incurs in enforcing this Act.

F. Lien. (1) Any taxes, penalties, or interest that this Act imposes but which the seller fails to pay in accordance with this Act constitute a lien upon all of the seller's property and (2) Any person who may purchase another person's property that is or was subject to the taxes, interest, or penalties that this Act imposes shall be considered to have purchased it subject to the tax lien imposed herein.

G. Enforcement. (1) The Administrator shall have the following powers: (a) make all assessments and collect all taxes and other charges imposed by this Act; (b) if a person fails to report and to pay the taxes due by this Act, or if the Administrator has good and substantial reason to question the amount of taxes reported and paid, he may assess taxes upon the person based upon his good faith estimate of what the taxes should be, provided that his estimate is based upon significant information; (c) inspect the records, bank accounts and statements, checks, invoices, tax records, and other business and financial records of the seller and person liable for the taxes imposed by this Act; (d) prescribe the forms and other documents necessary or appropriate to enforce this Act; (e) refund taxes improperly

padi; (f) issue rules and regulations necessary or appropriate to implement this Act; and (g) delegate functions and responsibilities hereunder, and (2) The State, if it believes that the seller or other person who is liable for the tax imposed by this Act, has the right to seek to enjoin the person's business from continuing to operate unless such taxes and other charges imposed by this Act are paid.

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

I. Civil Penalty. Every person who violates any provision hereof shall be liable for a civil penalty equal to twice the amount of the tax that should have been paid.

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

SECTION 5. APPEAL. Any seller or other person who is aggrieved by any action of the Administrator may submit, within thirty (30) days after such action, a written appeal and request for a personal appearance to the House of Traditional Leaders and shall deliver to the Administrator a copy of such appeal and request. The House of Traditional Leaders, within 45 days of its receipt of such request, may provide a hearing to such person and shall give written forty-five (45) days after the later of either (1) the date on which the House of Traditional Leaders receives such written appeal or (2) the conclusion of the hearing (if one was held) and submission of all documents relating to the appeal to it, the House of Traditional Leaders shall issue its written decision thereon to such seller.

SECTION 6. SEVERABILITY; SAVINGS CLAUSE.

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

