

A BILL FOR AN ACT

To provide in the Koror State Code for the disposal of wrecked or abandoned ocean vessels within the State of Koror, and for other related purposes.

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

SECTION 1. AMENDMENT TO CODE.

Title 11 of the Koror State code is hereby amended by adding the following:

"Chapter 4: Wrecked or Stranded vessels

Section 401. The Legislature of the State of Koror is responsible for promoting the well-being and welfare of the people of the State of Koror, and the Legislature may enact any law necessary for the exercise of such responsibilities. In addition, the States of the Republic of Palau are responsible for all necessary law enforcement not otherwise provided for.

The Legislature further finds that over the years, many ocean vessels have been wrecked, stranded, or abandoned within the territorial waters of the State of Koror. Neither the Koror State Government nor the National Government has any laws related to wrecked, stranded, or abandoned vessels within the State of Koror.

Ocean vessels which are wrecked, stranded, or abandoned in Koror waters present eyesores which detract from the beauty of the natural environment, and such vessels may also create hazards to navigation, and to the health and well being of the people of Koror. Materials on board such vessels may create pollution or other environmental hazards that may be a detriment to the marine environment of Koror.

The Koror State Legislature desires to implement by law certain practices for the proper care, removal, and disposal of wrecked, stranded, or abandoned ocean going vessels, and their contents, and to place the burden of such practices upon the persons responsible for the wreckage, stranding, or abandonment of ocean vessels, or upon owners or operators of such vessels.

SECTION 402. DEFINITION.

A. "State" shall mean the State of Koror, and all territory of the State of Koror as set forth in Article I, sections, 1 and 2 of the Koror State Constitution.

B. "Vessel" shall mean all ocean going vessels powered by Motor, sail, or by any other method, or with no power source, regardless of tonnage or size This Act is intended to apply to any and all boats or other ocean craft, including but not limited to barges and submarines. The term "vessel" may also apply to any aircraft, including but not limited to jets, airplanes, helicopters, gliders, and any other contrivance used or designed for navigation or flight in the air.

C. "Stranded" shall be defined as a vessel having come to a stationary position in the State of Koror and having any structural part of said vessel within ten (10) feet of the surface of the ocean at mean low tide; it shall also include but not limited to any vessel that may drift at high tide, and become stationary at low tide; it shall also include but not be limited to any vessel that has run aground or become stationary above or partly above the mean high tide level. This definition shall apply to all vessels stranded accidentally, voluntarily, or for any other cause or reason whatsoever. The intent of this definition is to apply to any vessel either wholly submerged, wholly above the water and on dry land, or to any vessel that may be part submerged and part

above water.

D. "Person" shall mean any individual or any other entity cognizable under applicable laws, including but not limited to incorporated or unincorporated associations, trusts, venture, enterprises, State or National Governments, or any agencies or branches thereof, or any other form of association organized for commercial gain.

E. "Operator" shall be defined as a person legally in charge of a vessel by way of contract, ownership, or registration of the vessel, and shall not be limited to the person actually driving or otherwise directing a vessel at the time of becoming stranded or upon being abandoned. The intent of this section is to place all duties, responsibilities, liabilities, and prohibitions of this Act upon the person who has custody or control of a vessel at the time it is stranded or abandoned in the State.

F. "Abandoned" shall mean, in addition to the definition of "Stranded" hereinabove, any vessel that has been stranded and which has remained stranded in the State for a period of one-hundred and eighty (180) days or more, regardless of the intent of the owner or operator, or any other person having an interest in the vessel.

#### SECTION 403. REGULATION OF WRECKED OR STRANDED VESSELS.

A. Initial Treatment of Vessel. Upon learning of a vessel stranded in the State, the Koror State Marine Rangers shall identify the location of the vessel, and shall go to the site of the vessel. The Koror State Marine Rangers shall be responsible for overseeing the removal of all salvageable materials from such vessel, and shall assist in the removal of personnel or materials from the vessel. The Rangers shall also cause the occupants of the vessel, if any, to secure the vessel by way of anchor or anchors, to prevent the vessel from shifting or moving. The operator of the vessel shall cause the vessel to be secured by way of anchors before the last person leaves the vessel. Any other agencies of the State or National Government may participate in the removal personnel or any other materials from the vessel. A wrecked or stranded vessel shall remain anchored with disposed of pursuant to this Act.

If the vessel cannot be removed from its wrecked or stranded position, all fluids and other chemicals or toxic materials shall be removed from the vessel, including the bilge, and transported away for the proper and sanitary disposal. The operator of the vessel shall be responsible for the removal of all such fluids and materials. The rangers shall oversee the removal and transportation and disposal of all fluids and other toxic or hazardous materials from the vessel. Any other agencies of the State or National Government may assist in the removal of fluids or other materials from the vessel.

B. If the wrecked or stranded vessel may not be salvaged, or otherwise removed for further use, within one (1) month of the date it became wrecked or stranded, then it may be disposed of by this Act. The one (1) month limitation imposed by this section may be extended by the State Executive Administrator for a period not to exceed sixty (60) days, upon the advice and consent with the House of Traditional Leaders; such extension may only be granted after the owner or operator submits a written request detailing the efforts taken as of the date of the written request, the proposed completion date of all further actions.

C. Upon the expiration of time described in section B hereinabove, the Koror State Marine Rangers may cause the removal and disposal of said vessel. The Rangers shall first inspect such vessel to determine if any fluids, fuels, or other chemicals or substances remain on the vessel, and shall remove any such materials prior to the disposal of the vessel. The vessel shall be removed or disposed of as described in section 405 below.

#### SECTION 404. ABANDONED VESSELS.

A. The owner or the last known operator of an abandoned vessel within the State shall remove or cause the removal of such vessel within one-hundred and eighty (180) days of the effective date of this Act. The removal of the vessel by the owner or operator shall conform with the procedures set forth in section 405 below, and shall comply with all other laws, traditional or

legislative, in the State of Koror, and all applicable national or United States laws. The period allowed for removal may be extended for no more than one-hundred and eighty (180) days beyond the initial deadline imposed by this Act; but the period shall not be extended unless the owner or last known operator submits a written request for an extension of time; the written request shall contain a description and documentation of efforts taken to remove the vessel, the proposed actions to be taken, and the expected completion date. No extension of time shall be valid unless such written request for extension is granted by the House of Traditional Leaders.

B. In the event that the owner or the last known operator of an abandoned vessel cannot be identified, then Koror State Government may proceed with the removal of said vessel pursuant to section 405 below. Before undertaking such removal the State Executive Administrator shall be responsible for providing notice of the proposed removal as follows:

1. provide at least thirty (30) days notice as set forth herein;
2. post a notice in at least 2 conspicuous places on such abandoned vessel;
3. provide at least four (4) radio announcements regarding the proposed removal of such abandoned vessel, each such notice at least 1 week apart;
4. post a notice at the Judiciary Building in Downtown Koror, and in the Koror State Government Office;
5. the notice called for herein shall contain a description of the vessel, its location as precisely as possible, the proposed removal date, and a statement that any person having an interest in the abandoned vessel must contact Koror State Government in writing prior to the date stated for the removal in the notice.

In the event that the owner or the last known operator is identified, he shall be responsible for all costs incurred as set forth in section 406 below.

SECTION 405 A. No stranded or abandoned vessel may be moved from its position, or otherwise removed or demolished or dismantled,

unless all of the following conditions occur:

1. all engine fluids, including all fuels, all oils, all radiator fluids, transmission fluids, all clutch fluids, and any other chemical or petroleum product necessary for the operation of the vessel shall be removed from the vessel; and
2. any and all containers of any of the fuels, oils, or fluids mentioned in subsection 1 above shall be removed from the vessel; and
3. any and all cargo, freight, tackle, apparel, equipment, or any other matter which is not a fixture of, or attached to, such vessel shall be removed from the vessel; and
4. any and all hazardous or toxic chemicals or substances shall be removed from such vessel; and
5. the bilge of such vessel shall be emptied into containers for transport to shore and proper disposal; and
6. nothing shall remain on such vessel that may float away from the vessel, or float from the vessel to the surface if such vessel is submerged; and
7. proper notice has been given, if necessary, to section 404 hereinabove; and
8. the person or entity demolishing, dismantling, or otherwise removing such vessel notifies Koror State Government of the date of such demolition, dismantling, or other removal of the vessel; and
9. all applicable laws are compared with.

a..[SIC] All stranded or abandoned vessels shall be demolished, dismantled, or otherwise removed as follows:

1. by the removal of such vessel from its stranded or abandoned position to a location in at least eighty (80) feet of water, where it may be sunk for use as an artificial reef;
2. by the dismantling of the vessel, and the disposal of the pieces of the vessel, in areas of water at least one-hundred (100) feet deep;
3. by a combination of the methods specified hereinabove.

No other methods of destruction or demolition or removal, such as burning, shall be allowed, unless determined to be necessary by the House of Traditional Leaders after review of a written request by the person or entity desiring to demolish, destroy, or otherwise remove the stranded, or abandoned vessel.

SECTION 406. A. The costs and all expenses incurred by the Koror State Marine Rangers, or by any other entity of a State or the National Government, for undertaking any of the procedures or activities set forth in this Act, shall be paid by the operator, or last known operator, and owner of any stranded or abandoned vessel, and they shall be jointly and severally liable for all such costs and expenses. The costs and expenses allowable under this section include, but are not limited to, the following:

1. fuel, oil, and other transportation costs;

2. employees wages, including overtime;
3. costs of all equipment and materials provided for a stranded or abandoned vessel;
4. costs of hiring experts or special equipment, including air fare and shipping costs;
5. costs for all materials used for storage, removal, disposal, or clean-up, of contents of a vessel;
6. any and all other costs or fees incurred as a result of the enforcement of any provision of this Act.

B. In the event that an owner, operator, or last known operator fails to abide by the provisions of this section, then the Koror State Government or any State entity, or entity of the National Government, may file a civil suit to cover cost and other fees in the appropriate division of the Supreme Court of the Republic of Palau.

SECTION 407. Any person or entity who violates any provision of this Act upon plea of guilty or conviction shall pay a fine in the amount of no less than \$1000.00 (one-thousand dollars), or and no more than \$10,000.00 (ten-thousand dollars) for each separate offense. Each day of a violation constitutes a separate offense. Subsequent offenses shall incur a fine greater than any fine levied for a previous offense.

The owner, the operator, the last known operator, or any combination of the above, may be penalized under this section.

SECTION 408. Any provision of this Act may be waived after submission of a written request to the House of Traditional Leaders; the House of Traditional Leaders may waive any provision of this Act as submitted to them in writing. The waiver allowable under this section shall only apply to procedures and time limits described by this Act. No waiver of costs or fees incurred as a result of this Act may be granted, and no waiver of the penalties imposed for a violation of this Act may be granted.

SECTION 409. In the event that any portion of this Act is declared invalid by a court of competent jurisdiction, then the remaining portions shall continue in full force and effect.

SECTION 410. This Act shall become effective upon approval by the House of Traditional Leaders, or by operation of the Koror State Constitution, whichever occurs first.

DATE PASSED: October 14, 1992

CERTIFIED BY

ATTESTED TO BY:

/s/ \_\_\_\_\_  
Roman Yano, Speaker

/s/ \_\_\_\_\_  
Marlena Sato, Clerk

APPROVED ON THIS 20<sup>th</sup> DAY OF October 1992.

/s/ \_\_\_\_\_  
IBEDUL YUTAKA M. GIBBONS  
HIGH CHIEF