

**AN ACT**

To establish labeling requirements for imported packages of food, medicine products, and other products; to amend the requirement for foreign investment approval certificates; to amend the business activities which require local ownership; to amend Title 28 to provide new definitions relating to taxis and tour operation; to amend and heighten the regulatory requirements for tour operation; to require drug testing for tour operators; to create tour operation exemptions and corresponding fees; to amend the Land Court operation deadline; and for other related purposes.

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

**Section 1. Legislative Findings.**

The Olbiil Era Kelulau finds that consumers in the Republic have been detrimentally affected by ingesting imported products labeled in foreign languages, such as medicines, harmful substances and food products, simply because they could not read the package label. The labels on packages should inform consumers by providing accurate information regarding their content and quantity in a language consumers understand. This way, consumers and medical professionals will be able to make the proper choice in regards to the products they wish to purchase. Informed consumers are essential to the fair and efficient functioning of a free market economy. It is the policy of the Olbiil Era Kelulau to require that persons involved in the packaging and labeling of imported consumer commodities provide proper labeling for such commodities.

**Section 2. Short title.**

This act shall be known and may be cited as the “Republic of Palau Labeling Act.”

**Section 3. Definitions.**

In this chapter,

(a) “Consumer commodity” means a food, drug, harmful chemical or biological substance, or cosmetic product and any other article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household.

(b) “Harmful biological substance” means a bacteria, virus or other microorganism or a toxic substance derived from or produced by an organism that can be used to cause death, injury or disease in humans, animals or plants.

(c) “Harmful chemical substance” means a solid, liquid, or gas that through its chemical or physical properties, along or in combination with one or more other chemical substances, can be used to cause death, injury or disease in humans, animals or plants.

(d) “Label” means any written, printed, or graphic matter affixed to any consumer commodity or affixed to or appearing on a package containing any consumer commodity.

(e) “Package” means any container or wrapping in which any consumer commodity is enclosed for use in the delivery or display of that consumer commodity to retail purchasers, but does not include:

(1) shipping containers or wrappings used solely for the transportation of any consumer commodity in bulk or in quantity to manufacturers, packers, or processors, or to wholesale or retail distributors thereof; or

(2) shipping containers or outer wrappings used by retainers to ship or deliver any commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity.

(f) “Person” includes any firm, corporation, or association.

(g) “Principal display panel” means the part of a label that is most likely to be displayed, presented, shown or examined under normal and customary conditions of display for retail sale.

**Section 4. Nonconforming labels prohibited.**

It shall be unlawful for any person to import or cause to be imported into the Republic a packaged consumer commodity unless it conforms to the provisions of this Act and regulations promulgated under the authority of this Act.

**Section 5. Contents of label.**

(a) Any imported, packaged consumer commodity sold or distributed in the Republic, except to the extent exempted under regulations promulgated by the Bureau



of Customs & Border Protection pursuant to Section 6(b) of this Act, shall bear a label that specifies at a minimum:

(1) the identity of the commodity including a detailed statement of content, such as nutrition facts, and composition of medicine products or harmful chemical and biological substances;

(2) the name and place of business of the manufacturer, packer, or distributor;

(3) the net quantity of contents (in terms of weight or mass, measure, or numerical count), which shall be separately and accurately stated in a uniform location upon the principal display panel of that label, using the most appropriate units and which shall appear in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matter on the package.

(b) The label of any package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package shall bear a statement of the net quantity (in terms of weight or mass, measure, or numerical count) of each such serving.

(c) The contents of any label of any package of a consumer commodity required by this Act shall be written in Palauan or English.

**Section 6. Local relabeling.**

(a) If goods arrive at the point of importation into the Republic of Palau with labels not in compliance with Section 5 above, the person importing or causing the goods to be imported may provide a sworn affidavit attesting to his intent to re-label the goods in such a manner to bring the goods into compliance with Section 5. The affidavit will include a description of the non-conforming goods and the names and locations of any retail establishment where the non-conforming goods will be offered for sale after re-labeling. Upon provision of this affidavit to the Bureau of Customs & Border Protection, the goods will be released by the Bureau to the importer.

(b) Affidavits completed under section (a) above will be provided by the Bureau of Customs & Border Protection to the Division of Environmental Health within the

Ministry of Health's Bureau of Public Health. The Division of Environmental Health will have the authority to inspect the retail establishments listed in the affidavit to ensure the nonconforming goods have been relabeled so as to comply with the requirements listed in Section 5.

**Section 7. Rules and regulations.**

(a) The Bureau of Customs & Border Protection shall promulgate regulations with respect to any consumer commodity as defined by this Act within six (6) months of the enactment of this Act.

(b) If the Bureau of Customs & Border Protection finds that, because of the nature, form, or quantity of a particular consumer commodity, or for other good and sufficient reasons, full compliance with all otherwise applicable requirements of this Act is impracticable or is not necessary for the adequate protection of consumers, the Bureau of Customs & Border Protection shall promulgate regulations exempting such commodity from those requirements to the extent and under such conditions as the Bureau of Customs & Border Protection determines to be consistent with this Act.

(c) In carrying into effect the provisions of this Act, the Bureau of Customs & Border Protection will consult with the Ministry of Health in regards to promulgating rules, and may further cooperate with any department or agency of the Republic as needed.

**Section 8. Enforcement.**

Imports into the Republic of any consumer commodity covered by this Act shall be enforced by the Bureau of Customs & Border Protection.

**Section 9. Penalties.**

(a) The Bureau of Customs & Border Protection shall seize any consumer commodity covered by this Act and not in compliance with Section 5 of this Act or regulations promulgated pursuant to the Bureau of Customs & Border Protection's authority in Section 6.

(b) Any person found in violation of this Act shall be liable for a civil fine equal to the retail value of the consumer commodity, as assessed by the Bureau of Customs & Border Protection, in addition to the seizure and forfeiture of the goods.

**Section 10. Amendment. 28 PNC § 103 is hereby amended to state as follows:**

**“§ 103. Requirement of foreign investment approval certificate.**

...

**(b) No non-citizen shall acquire any ownership interest or make any investment in an existing business enterprise in the Republic owned wholly by citizens until that business enterprise obtains a foreign investment approval certificate approving such acquisition. For the purposes of this subsection, “ownership interest” or “investment” shall not include the lending of money by a non-citizen to a business enterprise or individual so long as that non-citizen lender has no ownership interest in, management authority or control over, or employment relationship to the borrower.**

...”

**Section 11. Amendment. 28 PNC § 105 is hereby amended to state as follows:**

**“§ 105. Local ownership requirement.**

**The following business activities are reserved exclusively for citizens and business enterprises in which citizens have an ownership interest and shall not be permitted to be undertaken by any business enterprise in which no citizen has an ownership interest; provided, however, that business activities described in subsections (a), (b), (f), (g), (j), and (k), with the exception of fishing for farm-raised fish and maricultured species, are reserved exclusively for citizens and provided further, that the provisions of this chapter shall apply only prospectively, and that non-citizens currently holding business permits issued under 28 PNCA Chapter 1 or investment approval certificates for any of the business activities listed below, either solely or jointly with citizens, shall be permitted to continue such business activities only for the current term of their present business permits, with no renewal thereof except in accordance with the provisions of this chapter that do not conflict with any terms regarding extension or renewal included in such permits:**

...

**(f) tour guides, fishing guides, diving guides, and any other form of water transportation services, including rentals of any land or water transportation vehicle.**

...

(i) equipment rentals for both land and water within the Republic, including equipment for purpose of tourism, but not including rentals of land or water transportation vehicles.

(j) ...

(k) surfing businesses.

(l) any such other business as the Board may determine.”

Section 12. Amendment. Section 102 of Title 28 of the Palau National Code is amended as follows:

“(a) ...

...

(m) “operator” means any individual who is in direct control of the mechanical and/or electrical operation of a vehicle or vessel.

(n) “President” means the President of the Republic.

(o) “Republic” means the Republic of Palau.

(p) “Secretary” means the Secretary to the Foreign Investment Board established under Section 104 of this chapter.

(q) “taxi” means any motorized vehicle driven upon any street or highway within the Republic of Palau for the purpose of transporting passengers in exchange for remuneration in cash, cash equivalent, or other property. This definition does not include tour buses as defined in subsection (s) of this section.

(r) “tour boat” means any motorized water craft, vehicle, or vessel, including, but not limited to, sport-fishing, and dive vessels, used to transport passengers in exchange for remuneration in cash, cash equivalent, or other property.

(s) “tour bus” means any motorized vehicle designed to carry six or more passengers and used to transport passengers for profit.

(t) “water excursion” means any trip, on any vessel transporting passengers within the waters of the Republic of Palau, including but not limited to trips for the purpose of, diving or snorkeling, marine sightseeing, watersports, fishing, sailing, kayaking, jet-skiing, and surfing or windsurfing in exchange for remuneration in cash, cash equivalent, or other property.



(u) ...”

**Section 13. Amendment. The following will be inserted into the code as Section 122 of Title 28:**

“(a) No non-citizen may operate a tour boat, tour bus, or taxi, except as provided for in Section 124 of Title 28.

(b) No owner of a tour boat, tour bus, or taxi may employ, direct, authorize or allow a non-citizen to operate any tour boat, tour bus, or taxi, except as provided for in Section 124 of Title 28.”

**Section 14. Amendment. 7 PNC § 124 is hereby amended to read as follows:**

“§ 124. Licensing of master and engineer.

(a) The Ministry shall make such rules and regulations as it may deem necessary concerning the examination and licensing of masters and engineers and the complement of licensed officers and crew of vessels licensed to operate within the waters of the Republic pursuant to this title. The Ministry shall further promulgate rules and regulations, in accordance with 6 PNC Chapter 1, concerning the examination and licensing of all tour boat operators, as defined in Title 28 Section 102, including fees thereof.

(b) Applicants for licenses issued pursuant to subsection (b) of this section shall be required to be eighteen (18) years of age or older, and the employer or owner of the tour boat shall also be required to provide proof of adequate liability insurance for the operation of a tour boat.

(c) Tour boat operator licenses shall be valid for a period of three years from the date of issue.

(d) . . . .”

**Section 15. Amendment. The following will be inserted into the code as Section 127 of Title 7:**

“§ 127. Tour boat operators.

All tour boat operators shall be in full compliance with all rules and applicable regulations promulgated by the Ministry of Public Infrastructure, Industries, Commerce, and Trade.”

Section 16. **Amendment.** 42 PNC Section 404 is hereby amended to read as follows:

“§ 404. Classes; age requirements.

(a) The following classes of operators’ licenses are established:

(1) ...

...

(7) all vehicles designed to carry six or more passengers and used, primarily in connection to transport passengers for profit, or as part of the services provided by an established business.

(b) ...

(1) ...

(A) ...

(B) twenty-one years, in the case of an operator’s license or learner’s permit issued under paragraphs (5), (6), or (7) of subsection (a) of this section; and

(2) in the case of an operator’s license or learner’s permit issued under paragraphs (4), (5), (6), or (7), of subsection (a) of this section, all applicants shall also be the holder of an operator’s license issued under paragraph (3) of subsection (a) of this section, all applicants for an operator’s license issued under paragraphs (6) or (7) of subsection (a) of this section.

(c) ...”

Section 17. **Amendment.** 42 PNC Section 410 is hereby amended to read as follows:

“§ 410. Term.

Every operator’s license shall be valid for five years from the date of issue unless suspended or revoked as provided for in this chapter.”

Section 18. **Amendment.** The following will be inserted into the code as Section 123 of Title 28:

“§ 123. Drug testing for tour bus and taxi operators.



(a) All operators of tour buses and taxis shall be required to undergo random testing for the use of illegal drugs. Rules and regulations for such drug testing shall be promulgated by the Bureau of Public Safety, in accordance with 6 PNC Chapter 1, and shall include provisions for the payment for such testing by the tour bus or taxi operator's employer, or him or herself should the operator be self-employed. The cost of such testing shall not be deducted by an employer from the operator's salary. The tests shall be conducted by a physician, medical officer, laboratory technician, or certified nurse approved to conduct such testing by the Bureau of Health Services and the Bureau of Public Safety.

(b) In addition to the rules and regulations contained in and issued pursuant to this chapter, any tour bus, or taxi operator who tests positive for the use of illegal drugs or who refuses to submit to drug testing, shall have his or her license immediately suspended pending further criminal proceedings pursuant to this Act.

(c) In addition to the other penalties provided for in 42 PNC 514, in the case of any person operating a tour bus or taxi, who is convicted of violating 42 PNC 514, for an offense while on duty, that person's operator's license shall be revoked for not less than three (3) years and not more than ten (10) years. Also, that person shall be fined in an amount of \$500.00 for the first violation, and not less than \$500.00 and not more than \$2,000.00 for any subsequent violation. In addition, any tour bus or taxi operator who is convicted of violating 42 PNC 514, for an offense while on duty, shall also be imprisoned for not less than forty eight (48) hours and not more than one (1) year for a first violation, and imprisoned for not less than seven (7) days and not more than one (1) year for any subsequent violation. Imprisoned tour bus and taxi operators shall not be eligible for the work release program if it entails being a tour bus or taxi operator."

Section 19. Amendment. The following will be inserted into the code as Section 124 of Title 28:

"§ 124. Exemptions.

(a) The restrictions set forth in Section 2(a) and (b) of this Act shall not apply to an operator of a live aboard vessels registered outside of the Republic of Palau, who has

a valid permit to operate a live aboard vessel in Palau prior to the effective date of this Act.

(b) Any non-citizen who currently holds a valid work permit issued by the Division of Labor for employment as a tour boat, tour bus, or taxi operator, shall be exempt from the restrictions set forth in Section 122 of Title 28 until the expiration of his or her current work permit or operator's license, within one year after the enactment of this Act, or whichever comes first.

(c) Any person or entity seeking to employ a non-citizen as a tour boat, tour bus, or taxi operator shall not be bound by the restrictions set forth in Section 122 (b) of Title 28 if that person or entity can prove that, after making every reasonable effort to find and to employ a Palauan citizen, there is no Palauan citizen who is able and willing to be employed as a tour boat, tour bus, or taxi driver. Any individual employed pursuant to this subsection shall be known as an "exempt operator" and shall be employed on the same or substantially similar terms and conditions as a Palauan citizen in the same or comparable position, except as otherwise provided by law. The Division of Labor shall, within 180 days after the effective date of this Act, promulgate rules and regulations, in accordance with 6 PNC Chapter 1, which provide for a suitable application process for any employer wishing to employ an exempt operator. The application procedure shall include provisions through which the employer can demonstrate that a person or entity has satisfied the requirements of this subsection."

Section 20. Amendment. The following will be inserted into the code as Section 125 of Title 28:

"§ 125. Fees applicable to exempt operators and training of tour boat operators.

Every person or entity that employs an exempt operator under Section 124 (c) of this Act shall be required to pay an annual fee of \$2,000.00 per year for the first year; \$3,000 per year for the second year; \$4,000 per year for the third year; and \$5,000 per year for the fourth year with 50% (fifty percent) to the Palau Community College Tourism and Hospitality School of Excellence and 50% (fifty percent) to the Ministry of Public Infrastructure, Industries, and Commerce for every exempt operator that a person or entity hires, or whose contract of employment that a person or entity renews



after having satisfied the requirements of Section 123(c). Such annual fees shall be paid upon the date of the approval of the employer's application, pursuant to Section 124(c), for the employment of an exempt operator, and on an annual basis."

Section 21. Amendment. The following will be inserted into the code as Section 126 of Title 28:

"§ 126. Penalties.

(a) Any person or entity that violates the provisions of Section 122 or Section 124, or the rules and regulations promulgated to implement this Act, shall be fined not less than \$2,000.00 for the first violation, and not less than \$4,000.00 and not more than \$6,000.00 for any subsequent violations.

(b) Any person or entity that violates Section 125 of this Title 28 shall be fined in an amount of double the fees it has failed to pay."

Section 22. Amendment. Section 1304 of Title 35 of the Palau National Code is hereby amended to read as follows:

"§ 1304. Land Court responsibilities; Supreme Court.

(a) The Land Court, within a reasonable period of time not to extend beyond August 11, 2016, shall proceed on a systematic basis to hold hearings and make determinations with respect to the ownership of all land within the Republic.

(b) The Land Court shall award ownership of public land, or land claimed as public land, to any citizen or citizens of the Republic who prove:

(1) that the land became part of the public land, or became claimed as part of the public land, as a result of the acquisition by previous occupying powers or their nationals prior to January 1, 1981, through force, coercion, fraud or without just compensation or adequate consideration, and

(2) that prior to that acquisition the land was owned by the citizen or citizens or that the citizen or citizens are the proper heirs to the land. Except in cases where claims of Palauan citizens, clans or lineages prevailed over the claim of the Trust Territory Government, its Land Title Officer and all of its political subdivisions, the statute of limitations, laches or stale demand, waiver, res judicata or collateral estoppel as to matters decided before January 1, 1981, and



adverse possession, may not be asserted against and shall not apply to claims for public land by citizens of the Republic. The record of proceedings of the District Land Title Officer or the Palau Land Commission may be introduced as evidence in land ownership proceedings before the Land Court. The record shall be given such weight as the Land Court or Trial Division, in the exercise of its discretion, deems appropriate. All claims for public land by citizens of the Republic must have been filed on or before January 1, 1989. All determinations of ownership pursuant to this section shall be made by August 11, 2016.

...”

**Section 23. Effective date.**

This Act shall take effect upon its approval by the President of the Republic of Palau, or upon its becoming law without such approval.

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**PASSED: February 10, 2016**

Approved this 10<sup>th</sup> day of February, 2016

  
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**H. E. Tommy E. Remengesau, Jr.**  
**President of the Republic of Palau**