

PALAU

First Regular Session, February 2013

RPPL No. 9-6

(Passed as S.B. No. 9-15)

AN ACT

To amend and repeal sections of Chapter 10 of Title 11 of the *Palau National Code*, as amended by RPPL No. 8-27; to amend the new chapter in Title 11 of the *Palau National Code* that was created by RPPL No. 8-27 to be entitled the "§Tobacco Control Act"; and, for other related purposes.

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

Section 1. Legislative Findings. It was the intent of RPPL No. 8-27 to divide the "Alcoholic Beverage and Tobacco Products Control Act" as set forth in Chapter 10 of Title 11 of the *Palau National Code*, into two separate Chapters; one addressing control of alcoholic beverages and one addressing control of tobacco products. Since RPPL No. 8-27 became law, the World Health Organization, the Palau Code Commission, and the Office of the Attorney General, among others, have identified clerical errors, admissions, and inconsistencies in RPPL No. 8-27. As such, the Olbil Era Kelulau finds it necessary to amend several sections of Chapter 10 of Title 11 of the *Palau National Code* and several sections of RPPL No. 8-27 in order to fully accomplish the original intent of RPPL No. 8-27.

Section 2. Amendment. Section 1001 of Chapter 10 of Title 11 of the *Palau National Code* is amended to read as follows:

"§ 1001. Short title.

This chapter may be cited as the "Alcoholic Beverage Control Act."

Section 3. Amendment. Section 1002 of Chapter 10 of Title 11 of the *Palau National Code* is amended to read as follows:

"§1002. Definitions,

Unless the context otherwise requires, in this chapter:

(a) . . .

(k) "Public place" means any place, indoors or outdoors, within the Republic except a private dwelling.

Section 4. Amendment. Section 1016 of Chapter 10 of Title 11 of the *Palau National Code* is amended to read as follows:

"§ 1016. Appointment of inspectors.

The Bureau shall have the power to appoint Alcoholic Beverage Control Inspectors and delegate to them the authority and powers of the Bureau under sections 1081 and 1082 of this chapter."

Section 5. Amendment. Section 1033 of Chapter 10 of Title 11 of the *Palau National Code* is amended to read as follows:

"§ 1033. Classes of licenses.

Separate licenses shall be issued for each of the following types of activities:

(a) . . .

Section 6. Amendment. Section 1034 of Chapter 10 of Title 11 of the *Palau National Code* is amended to read as follows:

"§ 1034. License fees.

The fees for licenses of the several classes shall be as follows, the same being per annum except as Otherwise indicated:

(a) . . .

(e) club license: \$125.00; and

(f) special events license: \$25.00 per issue;

Section 7. Repealer. Subsections 1033(e) and (d) of chapter 10 of Title 11 of the Palau National Code, subsections 1034(g) and (h) of Chapter 10 of Title 11 of the *Palau National Code*, and subsection 1002(l) of Chapter 10 of Title 11 of the *Palau National Code* are hereby repealed.

Section 8. Amendment. RPPL No. 8-27 is amended to add a new "Short Title" section after the "Legislative findings and purpose" section, to read as follows:

"Section 2. Short title.

This chapter may be cited as the "Tobacco Control Act."

Section 9. Amendment. Section 2 of RPPL No. 8-27 is amended to read as follows: Section 3. "Definitions. Unless otherwise stated:

(a) . . .

(l)"Minister of Finance" means Minister of Finance or his or her designee.

(m) "Minor" . . .

Re-letter the rest of the definitions after (m).

Section 10. Amendment. Section 3 of RPPL No. 8-27 is amended to read as follows:

"Section 4. License required; period of effectiveness.

(a) . . .

. . .

(d) All tobacco licenses authorized under this act shall expire at the end of the calendar year."

Section 11. Amendment. Section 5 of RPPL No. 8-27 is amended to read as follows:

" License Fees.

(a) The initial license fees shall be:

(1) Tobacco Distributor License - Retail: \$50.00

(2) Tobacco Distributor License - Wholesale: \$150.00

(3) Tobacco Distributor License - Import: \$200.00

(4) Tobacco Manufacturer License: \$200.00

(b) Fees for licenses that become effective after the beginning of the calendar year shall be prorated on a quarterly basis."

Section 12. Amendment. Section 8 of RPPL No. 8-27 is amended to read as follows:

"License application, review, denial and appeal.

(a) . . .

. . .

(c) If a license cannot be granted because the application lacks sufficient information or further information is needed, the Minister of Finance shall immediately inform the applicant in writing of the information required within fifteen (15) calendar days of receiving the application. Such notice shall be documented and kept in the licensee's application file.

(d) . . .

. . ."

Section 13. Amendment. Section 9 of RPPL No. 8-27 is amended to read as follows:

"Regulations.

(a) The Minister of Finance shall promulgate regulations prescribing

(1) . . .

. . .

(4) dimensions, characteristics and wording for signs licensed establishments must post related to the prohibition of sales to minors and for signs warning of tobacco-related diseases pursuant to Section 10 of this Act;

(5) areas where smoking shall be restricted in enclosed places of employment

pursuant to Section 13(a) of this Act;

(6) measures to identify, investigate and prevent illicit trade in tobacco products pursuant to Section 15(b) of this Act.

(b)"

Section 14. Amendment. Section 10 of RPPL No. 8-27 is amended to read as follows:

"Posting licenses and signs. Every person licensed under subsections 4(a), 4(b), 4(c) and 4(d) of this Act shall post the original license(s) in a conspicuous place on the licensed premises and shall post signs regarding the prohibition of sales to minors and regarding tobacco-related health issues. The Minister of Finance shall promulgate regulations regarding the signs pursuant to Section 9 of this Act."

Section 15. Amendment. Section 12 of RPPL No. 8-27 is amended to read as follows:

"Prohibition on vending machine sales. It shall be unlawful to use a vending machine to distribute, attempt to distribute or purchase any tobacco products."

Section 16. Amendment. Section 16 of RPPL No. 8-27 is amended to read as follows:

"Enforcement. Enforcement of this Act shall be through the issuance of citations for violations.

(a)

(b) The Bureau of Public Health in the Ministry of Health, the Bureau of Public Safety of the Ministry of Justice and the Bureau of Revenue, and Customs and Taxation of the Ministry of Finance will have the ability to enforce either independently, collaboratively, and/or conjunctively Sections 10, 11, 12 and 13.

(c) Responsibility for enforcement of Sections 3, 6, 7, 15, and violations involving import and export contained in Section 21 will primarily be with the Bureau of Revenue, Customs and Taxation of the Ministry of Finance and assisted by the Bureau of Public Safety of the Ministry of Justice."

Section 17. Amendment. Section 18 of RPPL No. 8-27 is amended to read as follows:

"Penalties.

(a) License, records, sign, and vending machine violations;

(1) . . .

. . .

(b) Advertising:

(1) Every person who violates, assists in violating, or fails or refuses to comply

with:

(I) Section 11 shall be fined up to twenty thousand dollars (\$20,000.00) but not less than one thousand dollars (\$1,000.00), or imprisoned not more than thirty (30) days, or both; except in the case of an individual, he or she shall be fined up to one hundred dollars (\$100.00) but not less than twenty five dollars (\$25.00).

(2) The criminal penalties imposed under this section shall be in addition to any civil penalty imposed under law, or any remedial action mandated by statutes, regulation, or court of competent jurisdiction.

(3) It shall not be a defense to Section 11 and 21 that the management official did not have knowledge of the violation or was not present on the premises at the time the violation occurred.

(c) . . .

(d) Smoking on airline flights. Every person who violates, assists in violating, or fails or refuses to comply with Section 14 shall be fined up to one thousand dollars (\$1,000.00) but not less than one hundred dollars (\$100.00) or imprisoned not more than seven (7) days or both,

(e) Prohibitions on distribution, purchasing or manufacturing. Any person including a tobacco products license holder or his or her employee, manager or agent or any other person who violates a prohibition of Section 21 shall be fined up twenty thousand dollars (\$20,000.00) but not less than one thousand dollars (\$1,000.00) or imprisoned not more than thirty (30) days, or both."

Section 18. Amendment. Section 21 of RPPL No. 8-27 is amended to read as follows:

"Prohibitions on distribution, purchasing, importing, exporting, and manufacturing:

(a) No person shall distribute, export, import, purchase, use or display tobacco:

(1) using mail order or internet sales;

(2) inside, or within the premises of any childcare, healthcare, educational, or sports facility;

(3) for sale in such a way that a consumer may handle any tobacco directly prior to purchase without the assistance of a sales clerk or other employee of the seller;

(4) unless it is contained in an original package;

(5) as free samples, in return for the purchase of sales of goods, or as part of any giveaways;

(6) to any individual who is under twenty-one (21) years of age; including offering to purchase tobacco for a minor;

(7) to any individual who does not present a driver's license or other generally accepted means of identification that describes the individual as twenty-one (21) years of age or older, contains a likeness of the individual, and appears on its face to be valid, unless the licensee or employee knows the person to be at least thirty (30) years of age;

(8) using or employing any minor to handle any tobacco product;

(9) in single units or pieces, or small packets (less than 20 cigarettes) that increase the affordability of such products to minors.

(b) No person shall distribute rolling papers to any minor;

(c) No person shall sell *elaus* to any minor;

(d) Compliance with the provisions of this Act shall not be construed so as to relieve tobacco manufacturers or sellers of any common law or statutory duty to fully warn consumers of all dangers associated with tobacco use, nor shall it be admissible as evidence in any action under RPPL 5-31, as amended.

Section 19. Severability clause. If any provision of this Act or amendments or additions hereto, or the application thereof to any person, thing or circumstance, is held invalid, the invalidity does not affect the provisions or application of this Act or the amendments or additions that can be given effect without the invalid provisions or application, and to this end the provisions of this Act and the amendments or additions thereto are severable.

Section 20. 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, except as otherwise provided by law.

PASSED: MAY 27, 2013

APPROVED THIS 6th DAY OF June, 2013

/s/

**HE TOMMY E. REMENGESAU, JR.
PRESIDENT
REPUBLIC OF PALAU**