



Republic of Palau
Office of the President

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The Senate, OEF

Tommy E. Remengesau, Jr.
President

Date

10/23/06 Time 9:30am

No

17-247

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October 20, 2006

Serial No. 06-350

The Honorable Johnny Reklai
President of the Senate
7th Olbiil Era Kelulau
P.O. Box 8
Koror, Palau 96940

The Senate
Olbiil Era Kelulau
Koror, Republic of Palau 96940
PRES. COM. 7-181

RE: S.B. No. 7-94, SD1, PD1, "Establishing a Recycling Program."

Dear Senate President Reklai:

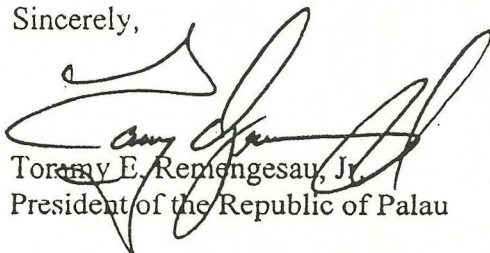
I have received and reviewed the above-referenced legislation establishing a nationwide Recycling Program for the Republic. This previously referred bill comes before me with suggested changes incorporated. In accordance with the authority vested in me under Article IX, Section 15 of the Constitution and the laws of the Republic of Palau, I have signed the measure into law.

I commend the Olbiil Era Kelulau for its work on this legislation and especially its quick response to my referral. Discarded beverage containers are a large and growing component of our waste disposal problem. They tarnish the beauty of our island and take up much-needed space in our landfills.

This law sets up a fee-based incentive system to encourage the redemption and recycling of these containers. If successful, it will help us realize our stated commitment to preserving Palau's natural beauty. As with all laws, however, we must continuously evaluate its effectiveness and practicality, and be prepared to make any changes necessary to help us achieve our goals.

Thank you for your efforts on behalf of our environment.

Sincerely,



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

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my



The Senate
SEVENTH OLBIIL ERA KELULAU

P.O Box 8, Koror
Republic of Palau 96940

EIGHTH REGULAR Session

October 2006

INTRODUCED AS SENATE BILL NO. 7-94, SD1, PD1

AN ACT

Establishing a recycling program for the Republic of Palau,
establishing a beverage container deposit fee, creating a
Recycling Fund; and for other related purposes.

INTRODUCED BY SENATOR (S) CALEB T. OTTO

ET, AL.,

DATE INTRODUCED August 25, 2005

SENATE ACTION

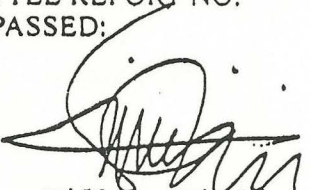
FIRST READING:	August 25, 2005
REFERRED TO:	Youth Affairs & Social Welfare
STANDING COMMITTEE REPORT NO:	7-80 / Special Com. Report 7-9
DATE ADOPTED:	October 29, 2005
SECOND READING:	October 29, 2005
LEGAL FORMAT:	Proper
REVIEW:	November 1, 2005
THIRD READING:	November 1, 2005
FINAL READING	October 10, 2006

HOUSE ACTION

FIRST READING:	January 10, 2006
REFERRED TO:	Resources and Development
STANDING COMMITTEE REPORT NO:	7-119
DATE ADOPTED:	August 24, 2006
SECOND READING:	August 24, 2006
LEGAL FORMAT:	Proper
REVIEW:	August 24, 2006
THIRD READING:	August 25, 2006
FINAL READING	October 17, 2006

CONFERENCE COMMITTEE ACTION

DATE:	None
COMMITTEE REPORT NO:	None
DATED PASSED:	None


Wilbur Williams

CLERK OF THE SENATE


Betty M. Ingereklai

HOUSE CLERK

AN ACT

Establishing a recycling program for the Republic of Palau, establishing a beverage container deposit fee, creating a Recycling Fund; and for other related purposes.

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

Section 1. Findings and purpose. The Olbiil Era Kelulau finds that:

(a) One of Palau's most visible forms of pollution in the Republic of Palau is the dumping of beverage containers throughout the island;

(b) The recycling program will help address the increasing concern over limited sites for landfills throughout the nation;

(c) The existence of improperly disposed waste beverage containers increases the hazards to health and safety for people and the environment;

(d) The lack of a nationwide recycling program is a clear burden to protection of our environmental resources as well as the growth of the tourism industry in Palau; and

(e) The planning, development, and operation of a national recycling program based upon a deposit fee for beverage containers is a self-funding means of addressing these concerns without significant cost to the citizens of Palau.

Section 2. Definitions. Unless the context clearly indicates otherwise, the following meanings shall apply to this Act:

(a) "Deposit Beverage" means beer, ale, or other drink produced by fermenting malt, mixed spirits, mixed wine, tea and coffee drinks, regardless of dairy-derived product content, soda, or non-carbonated water, and all nonalcoholic drinks in liquid form and water intended for internal human consumption that is contained in a deposit beverage container.

The term "deposit beverage" does not include the following:

(1) A liquid, which is:

(i) a syrup

(ii) In a concentrated form; or

(iii) Typically added as a minor flavoring ingredient in food or drink, such as extracts, cooking additives, sauces, or condiments.

(2) A liquid which is ingested for medicinal purposes only;

(3) A liquid that is designed and consumed only as a nutritional supplement and not as a beverage;

(4) Products frozen at the time of sale to the consumer, or in the case of institutional uses such as hospital, at the time of sale to the users;

(5) Products designed to be consumed in a frozen state;

(6) Instant drink powders;

(7) Seafood, meat, or vegetable broths, or soups, but not juices; and

(8) Milk and all other dairy-derived products, except tea and coffee drinks with trace amounts of these products.

(b) "Deposit Beverage Container" means the individual, separate, sealed, glass, polyethylene terephthalate, high density polyethylene, or metal container less than or equal to thirty-two fluid ounces, used for containing, at the time of sale to the consumer, a deposit beverage intended for use or consumption in the Republic.

(c) "Deposit Beverage Distributor" means a person who is a manufacturer of beverages in deposit beverage containers in the Republic, or who imports and engages in the sale of filled deposit beverage containers to a dealer or consumer. The term does not include airlines and shipping companies that merely transport deposit beverage containers, unless said containers are deposited in Palau.

(d) "Import" means to buy, bring, or accept delivery of deposit beverage containers from an address, supplier, or any entity outside of the Republic.

(e) "Importer" means any person who buys, brings, or accepts delivery of deposit

containers from outside the Republic for sale or use within the Republic.

(f) "Minister" means the Minister of Resources and Development.

(g) "Ministry" means the Ministry of Resources and Development.

(h) "Redeemer" means a person, other than a dealer or distributor, who demands the refund value in exchange for the empty deposit beverage container.

Section 3. Recycling program. There is hereby established a Recycling Program in the Republic of Palau. The purpose and aim of the Recycling Program is to create a self-supported, safe and efficient system of disposal of beverage container throughout Palau.

Section 4. Declaration of authority.

(a) The Ministry shall have the duty and authority to administer the Recycling Program. Such authority includes, but is not limited to, the administration of the Recycling Fund, the hiring of employees and contractors and consultants, the purchasing and selling of property and services, the leasing or obtaining interests in land on behalf of the National Government, the receipt of donations and contributions, and the entering into agreements to further the proposes of the Recycling Program.

(b) As the responsible agency for the Republic of Palau, the Ministry may, from time to time, delegate or contract out the administration of the Recycling Program to other governmental agencies of the National Government, State Governments or private companies; PROVIDED that the ultimate responsibility and authority for the Recycling Program shall rest with the Minister of Resources and Development.

Section 5. Recycling fund.

(a) There is hereby established a revolving fund within the National Treasury that shall be known as the "Recycling Fund," to be maintained by the Ministry of Finance, separate and apart from other funds of the National Treasury. Independent records and accounts shall be maintained in connection therewith.

(b) All revenue received from deposit fees received pursuant to this Act, or the sale of beverage containers under the provisions of this Act, appropriations by the Palau Legislature, any grants, donations and contributions to the Recycling Program, and any interest or income earned on the money in the Recycling Fund shall be deposited into the Recycling Fund.

(c) Except when specific requirements are imposed by law or by the grantor or donor, the Recycling Fund shall be first applied to the expenses attributable to the administration of the Recycling Program, then to the payments required under Section 6 of this Act, then to a reserve to cover anticipated and unanticipated future expenses of the program. The Ministry may also use the money to:

(1) Fund administrative, audit, and compliance activities associated with collection and payment of the deposits and handling fees of the deposit beverage container fee and deposit program;

(2) Conduct recycling education and demonstration projects; and

(3) Promote recyclable market development activities.

(d) Money in the fund is hereby authorized and is hereby appropriated and may be obligated or expended without further legislative action for the purposes stated in this Act.

(e) The Minister shall, not later than 90 days after the close of each fiscal year, submit to the President and Olbiil Era Kelulau (OEK) a complete report showing its activities under the Recycling Program and the use and condition of the Recycling Fund, and such other matters that The Ministry deems appropriate. The activities concerning the Recycling Fund shall be examined by the Public Auditor at least annually, and the report of such examination shall be supplied to the President and the OEK.

Section 6. Deposit fee. A beverage distributor shall pay to the Ministry a deposit beverage container fee on each deposit beverage container manufactured in or imported

1 to the Republic. The fee shall be imposed only once on the same beverage container.
2 The fee shall be \$0.10 per beverage container. The Ministry shall evaluate the amount
3 of deposit beverage containers recovered during the first six months of the fully
4 implemented deposit beverage container deposit program and recommend to the OEK
5 any modification in the fee structure necessary to meet the deposit beverage container
6 deposit program funding requirements. This section shall become effective four months
7 after the effective date of this Act.

8 Section 7. Deposit beverage refund. Using the monies in the Recycling Fund, the
9 Minister shall purchase beverage containers for \$0.05 per container. Beverage
10 containers may only be purchased through redemption centers established pursuant to
11 Section 8 of this Act. The Minister shall sell beverage containers for recycling at market
12 prices. This section shall become effective four months after the effective date of this
13 Act.

14 Section 8. Redemption centers.

15 (a) To facilitate the return of empty beverage containers, the Ministry shall
16 establish one or more redemption centers at which empty beverage containers may be
17 returned and payment received. Any person may operate a redemption center subject
18 to the approval of the Minister.

19 (b) The application for approval of a redemption center shall be filed with the
20 Ministry and contain such information as the Ministry may require.

21 (c) The approval of a redemption center may contain such terms and conditions
22 as the Ministry deems appropriate. Such terms and conditions may differ among
23 redemption centers and may be altered or amended from time to time as the situation
24 warrants. Using the money in the Recycling Fund, the Minister may provide
25 compensation not to exceed \$0.025 per container to the redemption centers for their
26 services.

(d) The Minister may withdraw the right to serve as a redemption center at any time for noncompliance with the terms and conditions of this Act, or the rules and regulations adopted pursuant to Section 10 of this Act.

Section 9. Deposit beverage distributors, registration and record keeping requirements. Four months after the effective date of this Act, all deposit beverage distributors operating within the Republic shall register with the Ministry, using forms prescribed by the Ministry, and shall notify the Ministry of any changes in address or other information previously submitted.

(a) After this Act is enacted, any person who desires to conduct business in the Republic as a new deposit beverage distributor shall register with the Ministry no later than one month prior to the commencement of the business.

(b) All deposit beverage distributors shall maintain records reflecting the manufacture of their beverages in deposit beverage containers as well as the importation of deposit beverage containers. The records shall be made available, upon request, for inspection by the Ministry; provided that any proprietary information obtained by the Ministry shall be kept confidential and shall not be disclosed to any other person, except:

(1) As may be reasonably required in an administrative or judicial proceeding to enforce any provision herein, or

(2) Under an order issued by a court.

Section 10. Rules and regulations.

(a) The Minister may promulgate, amend and enforce appropriate rules and regulations to carry out the duties and powers set forth herein, which may include, but are not limited to, provisions governing:

- (1) The collection, purchase, sale or other disposal of beverage containers;
- (2) The type and condition of the beverage containers that may be redeemed;

(3) The methods and requirements for the redemption of the beverage containers;

(4) All matters concerning the operation of redemption centers;

(5) The prohibition of importing empty beverage containers for the purpose of redeeming them in Palau; and

(6) Other matters necessary for the administration of this Act.

The power of the Minister to establish such rules and regulations is subject to the powers of the Minister of Finance to establish rules and regulations regarding the collection of the deposit fee and the establishment and operation of the Recycling Fund as set forth in Section 15 of this Act.

(b) The Minister of Finance shall promulgate, amend and enforce appropriate rules and regulations regarding the collection of the deposit fee and the establishment and operation of the Recycling Fund.

All rules and regulations established under this act shall be adopted pursuant to the Administrative Procedures Act.

Section 11. Appropriation. The sum of \$100,000 is hereby authorized to be appropriated for expenditure and obligation for Fiscal Year 2007 for the purpose of providing start-up funds for the Palau Recycling Program, for the collection of deposit containers already on the island and for the exercise of the powers and duties set forth herein. Such sums shall be deposited into the Recycling Fund and shall be administered in accordance with this Act. Any unexpended or unobligated balance of this appropriation shall not lapse at the end of the fiscal year.

Section 12. Payment. The deposit fee levied under Section 6 of this Act shall attach as follows:

(a) If intended for resale, at the time of the first retail sale in Palau; and

(b) If intended for personal use, at the point of import.

1 All deposits that have attached during a calendar month shall be paid to National
2 Treasury on or before the fifteenth day of the succeeding month and shall be
3 administered by the Minister of Finance. Deposit fee revenues not paid within the time
4 specified shall be considered delinquent.

5 Section 13. Procedure. The first seller of beverages subject to the deposit fee
6 under this Act shall keep accurate records of all sales of the beverages subject to this Act,
7 and shall provide the Ministry of Finance with supporting documents to substantiate the
8 accuracy of all reports filed.

9 Section 14. Presumption. It shall presumed that all beverage containers are
10 subject to the deposit fee imposed by this Act until the contrary is proved, and the
11 burden of proving that a beverage container is not subject to the deposit fee shall be
12 upon the seller.

13 Section 15. Prepayment. The first seller of beverage containers shall have the
14 option of prepaying all deposit fees due under this Act in accordance with regulations
15 issued by the Minister of Finance.

16 Section 16. Lien on property. All deposit fees imposed under this Act shall be a
17 lien upon any property of the person obligated to pay the deposit fees and may be
18 collected by levy upon such property in the same manner as the levy of an execution.

19 Section 17. Civil penalty. All deposit fees due under this Act shall be subject to
20 a penalty of five percent (5%) of the unpaid fees due per month or portion thereof that
21 such fees remain unpaid.

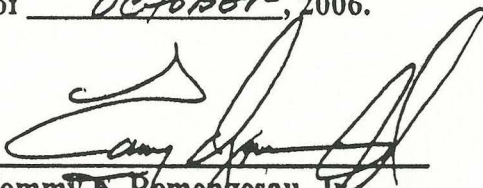
22 Section 18. Criminal penalty. Any person who knowingly, willfully and
23 unlawfully violates or refuses to comply with any provision of this Act, or with any
24 regulation duly issued by the Minister of Finance or the Minister of Resources and
25 Development for the enforcement of this Act shall, upon conviction thereof, be
26 imprisoned for not more than ninety (90) days and/or fined not more than five hundred

1 dollars (\$500.00). The criminal penalties are in addition to the civil penalties that may
2 be due under this Act.

3 Section 19. Effective date. This Act shall take effect upon its approval by the
4 President, or upon its becoming law without such approval.

PASSED: October 17, 2006

Approved this 22nd day of OCTOBER, 2006.



Tommy E. Remengesau, Jr.
President
Republic of Palau