

AN ACT

To add a new 17 PNC Chapter 37 to criminalize the false classification of imported goods, making false statements relating to imported goods, admission of imported goods for less than the legal tax rate, the smuggling of taxable consumer goods and illegal goods into the Republic, smuggling goods into foreign countries, removing goods from customs custody, filing false claims for refund of import tax, concealing or destroying invoices or other papers, and importation or exportation of stolen vehicles; and for related purposes.

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

Section 1. Legislative Findings and Purpose. The Olbiil Era Kelulau finds that the smuggling of goods into the Republic is a serious problem. The level at which consumer and other goods are brought into the Republic without being taxed according to law is no longer acceptable; the Republic is being deprived of ever more critical import tax revenues. In addition, when illegal goods such as drugs and guns are smuggled into the Republic, all of us suffer by being forced to live in an unsafe Palau.

The Olbiil Era Kelulau therefore finds it appropriate to seek both to make Palau safer and to increase import tax revenues, not by raising taxes, but by deterring smuggling through criminalization of smuggling and a variety of smuggling-related activities. The new legal framework, for which U.S. federal law was the model, will enable the Republic=s law enforcement arms effectively to prosecute and deter the abuses that deprive the government of revenues and endanger the public. Enforcement of the new law will also add revenues to the National Treasury collected in the form of fines and as the proceeds of forfeitures. The Olbiil Era Kelulau further finds that the new anti-smuggling law will facilitate international cooperation in law enforcement and will enhance the Republic=s standing among nations as a place where smuggling is seriously prosecuted and punished by law and where smugglers and smuggled goods are emphatically unwelcome.

Section 2. Amendments. 17 PNC is hereby amended to add the following new chapter:

AChapter 37

Smuggling

Section 3701. Entry of goods falsely classified. Whoever knowingly effects any entry into the Republic of goods, wares, or merchandise, at less than the true weight or measure thereof, or upon a false classification as to quality or value, or by the payment of less than the amount of tax legally due, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

Section 3702. Entry of goods by means of false statements.

(a) Whoever introduces or attempts to introduce into the commerce of the Republic any imported goods by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or translation of any of the foregoing, or by means of any false statement, written or oral, or by means of any false or fraudulent practice, or makes any false statement in any declaration without reasonable cause to believe the truth of such statement, or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the Republic shall or may be deprived of any lawful tax revenues, shall, upon conviction thereof, be fined for each offense not more than \$5,000 or imprisoned not more than five years, or both.

(b) Whoever is guilty of any willful act or omission whereby the Republic shall or may be deprived of any lawful taxes accruing upon goods embraced or referred to in an invoice, declaration, affidavit, letter, paper, or statement described in subsection (a), or affected by such act or omission, shall, upon conviction thereof, be fined for each offense not more than \$5,000 or imprisoned not more than five years, or both.

(c) Nothing in this section shall be construed to relieve imported goods from forfeiture under other provisions of law.

Section 3703. Entry of goods for less than legal tax. Whoever, being an officer of the Bureau of Revenue, Customs and Taxation, knowingly admits to entry any goods, wares, or merchandise upon payment of less than the amount of tax legally due, shall be fined not more than \$5,000 or imprisoned not more than five years, or both, and removed from office.

Section 3704. Smuggling goods into the Republic.

(a) Every person who knowingly, with intent to defraud the Republic, introduces taxable goods into the Republic and fails to declare the goods and their true value and pay import taxes thereon pursuant to 40 PNC Chapter 13, or who passes or attempts to pass a false or fraudulent declaration or other statement of the value of the goods, or a false or fraudulent translation of such a declaration or statement, shall, upon conviction thereof, be imprisoned not more than five years, or fined not less than twice the value of the goods, or both.

(b) Every person who fraudulently or knowingly introduces or attempts to introduce goods into the Republic contrary to the laws of the Republic, or who receives, conceals, buys, sells, or in any way facilitates the transportation, concealment, or sale of such goods after importation, knowing the goods to have been imported or introduced into the Republic contrary to law, shall, upon conviction thereof, be imprisoned not more than five years, or fined not more than \$5,000, or both, in addition to being subject to any other penalty under law for possession of the prohibited goods.

(c) Goods, or the value thereof, introduced into the Republic in violation of this section and to be recovered from any person described in subsections (a) or (b), shall be forfeited to the Republic.

Section 3705. Smuggling goods into foreign countries.

(a) Any person owning in whole or in part any vessel or aircraft registered in the Republic who employs, or participates in or allows the employment of, such vessel or aircraft for the purpose of smuggling, or attempting to smuggle, or assisting in smuggling, any goods into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the Republic respecting the customs revenue, and any citizen of, or person domiciled in, or any corporation incorporated in, the Republic, controlling or substantially participating in the control of any such vessel or aircraft, directly or indirectly, whether through ownership of corporate shares or otherwise, and allowing the employment of the vessel or aircraft for any such purpose, and any person found or discovered to have been on board any vessel or aircraft so employed and participating or assisting in such purpose, shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned not more than five years, or both.

(b) It shall constitute an offense under this section to hire out or charter a vessel or aircraft if the lessor or charterer has knowledge or reasonable grounds for belief that the lessee or person chartering the vessel or aircraft intends to employ the vessel or aircraft for any of the purposes described in this section and if the vessel or aircraft is, during the time such lease or charter is in effect, employed for any such purpose.

Section 3706. Removing goods from customs custody; breaking seals. It shall constitute an offense under this section, punishable by a fine of not more than \$5,000 or imprisonment not more than five years, or both:

(a) without authority, to affix or attach a customs seal, fastening, or mark, or any seal, fastening, or mark purporting to be a customs seal, fastening, or mark to any vessel, vehicle, aircraft, warehouse, or package; or

(b) without authority, willfully to remove, break, injure, or deface any customs seal or other fastening or mark placed upon any vessel, vehicle, aircraft, warehouse, or package containing goods or baggage in bond or in customs custody; or

(c) maliciously to enter any customs warehouse or bonded warehouse or any vessel, aircraft, or vehicle laden with or containing bonded goods with intent unlawfully to remove therefrom any goods or baggage therein, or unlawfully to remove any goods or baggage in such vessel, aircraft, vehicle, or warehouse or otherwise in customs custody and control; or

(d) to receive or transport any goods or baggage unlawfully removed from any such vessel, aircraft, vehicle, or warehouse, knowing the same to have been unlawfully removed.

Section 3707. False claim for refund of import tax. Whoever knowingly and willfully files any false or fraudulent entry or claim for the payment of a refund of import tax upon the export of goods or knowingly or willfully makes or files any false affidavit, abstract, record, certificate, or other document, or a false translation of any of the foregoing, with the intention of securing the payment to himself or herself or others any refund of import taxes on the exportation of goods greater than that legally due thereon, shall be fined not more than \$5,000 or imprisoned not more than five years, or both, and such goods or the value thereof shall be forfeited.

Section 3708. Concealing or destroying invoices or other papers. It shall constitute an offense under this section, punishable by a fine of not more than \$5,000 or imprisonment not more than five years, or both:

(a) willfully to conceal or destroy any invoice, book, or paper relating to any goods imported into the Republic, after an inspection thereof has been demanded by an officer of the Bureau of Revenue, Customs and Taxation; or

(b) to conceal or destroy at any time any such invoice, book, or paper for the purpose of suppressing evidence of fraud contained therein.

Section 3709. Importation or exportation of stolen motor vehicles, off-highway mobile equipment, vessels, or aircraft.

(a) It shall constitute an offense under this section, punishable by a fine of not more than \$5,000 or imprisonment not more than five years, or both, knowingly to import, export, or attempt to import or export:

(1) any motor vehicle, off-highway mobile equipment, vessel, aircraft, or part of any motor vehicle, off-highway mobile equipment, vessel, or aircraft, knowing the same to have been stolen; or

(2) any motor vehicle, off-highway mobile equipment, vessel, aircraft, or part of any motor vehicle, off-highway mobile equipment, vessel, or aircraft, knowing that the identification number of such motor vehicle, equipment, or part has been removed, obliterated, tampered with, or altered.

(b) Subsection (a)(2) shall not apply if the removal, obliteration, tampering or alteration is caused by collision or fire or, in the case of a motor vehicle, is not a violation of 42 PNC 519 (relating to tampering with a vehicle).

(c) As used in this section:

(1) A motor vehicle@ has the meaning given that term in 42 PNC 101;

(2) A off-highway mobile equipment@ means any self-propelled agricultural equipment, self-propelled construction equipment, and self-propelled special use equipment, used or designed for running on land but not on rail or highway;

(3) A vessel@ has the meaning of that term as used in 7 PNC;

(4) A aircraft@ has the meaning given that term in 8 PNC 101(e), as amended by RPPL No. 5-19; and

(5) A identification number@ means a number or symbol assigned to the vehicle, equipment, vessel, or aircraft, or part thereof, by the manufacturer

primarily for the purpose of identifying such vehicle, equipment, vessel, or aircraft,
or part.©

Section 3. 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: April 24, 2002

Approved this 16th day of May, 2002.

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