



FOURTH OLBIL ERA KELULAU

SIXTH REGULAR SESSION

April - 1994

HOUSE BILL NO. 4-60-4, HD3, SD1, CDI

A BILL FOR AN ACT

(See Title Inside)

OFFERED BY DELEGATE(S) Kerai Mariur

ET AL.

DATE INTRODUCED: October 18, 1993

HOUSE ACTION

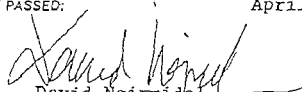
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 David Ngirmidol
 CHIEF CLERK
 House of Delegates


 Feliciano S. Watanabe
 ASST. CLERK
 The Senate

5155

FOURTH OLBIIL ERA KELULAU

Fourth Regular Session, Oct. 1993 RPPL No. 4-18
(Intro. as HB No. 4-60-4, HD3,
SD1, CD1)

AN ACT

To regulate the taking of certain species of marine and terrestrial organisms, to prohibit or limit certain fishing methods, to repeal RPPL No. 1-9, RPPL No. 3-61, and for other purposes.

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

1 Section 1. Short title. This Act shall be known and may be
2 cited as the "Marine Protection Act of 1994."

3 Section 2. Purpose. The purpose of this Act is to promote
4 sustainably and develop the marine resources of the Republic while
5 also preserving the livelihood of the commercial fishermen of the
6 Republic.

7 Section 3. Definition. The following definitions are to be
8 used in interpreting this Act. Any term not listed below is to be
9 accorded its ordinary dictionary definition or where applicable,
10 its definition under Subchapters I and III of Chapter 27 of the
11 PNC:

12 (1) "Cultured species" means any species produced
13 through aquaculture or mariculture systems, authorized by the
14 proper authorities;

15 (2) "Exclusive economic zone" means that area
16 contiguous to the territorial sea, the inner boundary of
17 which is the seaward boundary of the territorial sea, and the
18 outer boundary is a line every point of which is two hundred
19 nautical miles seaward of the nearest point on the baseline
20 as defined in this Act;

21 (3) "To fish" means to catch, take, or harvest fish, or
22 to attempt to take, catch, or harvest fish using any method
23 whatsoever;

24 (4) "Fish", as a noun, means any species of animal,
25 other than birds, which lives in the sea;

1 (5) "Fishery zones" means the internal waters,
2 territorial sea, and exclusive economic zone as defined in
3 this Act, and all other waters over which the Republic may
4 have jurisdiction in accordance with international laws;

5 (6) "Marine resources" means all species of marine
6 animals and plants other than marine birds;

7 (7) "Minister" means the Minister of Resources and
8 Development;

9 (8) "Person" means any individual, corporation,
10 partnership, association, or other private sector entity; the
11 government of the Republic or any of its subdivisions; and
12 any foreign government, or subdivision thereof;

13 (9) "Take" means to harass, destroy, sell, damage,
14 harm, pursue, hunt, shoot, wound, kill, trap, capture, or
15 collect, or attempt to engage in any such conduct;

16 (10) "Territorial sea" means that area seaward of the
17 baseline, the inner boundary of which is the baseline and the
18 outer boundary is a line every point of which is twelve
19 nautical miles seaward of the nearest point on the baseline.

20 Section 4. Prohibited acts. It shall be unlawful for any
21 person within the fishery zones of the Republic to:

22 (1) fish for commercial purposes for, sell, or buy any
23 of the following species of groupers (temekai, tiau) from
24 April 1 to July 31, inclusive:

25 (a) *Plectropomus areolatus* (tiau)

26 (b) *P. leavis* (tiau, katuu'tiau, mokas)

27 (c) *P. leopardus* (tiau)

28 (d) *Epinephelus microdon* (ksau'temekai)

29 (e) *E. fuscoguttatus* (meteungerel'temekai)

30 (2) fish for commercial purposes for, sell, or buy any
31 of the following species:

1 (a) Juvenile parrotfish - *Bolbometopon muricatum*
2 (Berdebed) which means for purposes of this Act, a
3 parrotfish less than 25 inches in length; and

4 (b) Juvenile wrasse - *Cheilinus undulatus* (Ngimer)
5 which means for purposes of this Act, a wrasse less than
6 25 inches in length.

7 (3) Commercially export, or fish for, sell, or buy for
8 commercial export the following species:

9 (a) Adult parrotfish - *Bolbometopon muricatum*
10 (Kemedukl); and

11 (b) Adult wrasse - *Cheilinus undulatus* (maml).

12 (4) fish for commercial purposes for, sell or buy
13 rabbitfish (*Meyas, Siganus canaliculatus*) from March 1 to May
14 31, inclusive;

15 (5) fish for commercial purposes for, sell or buy the
16 following species of rock lobsters (cheraprukl): raiklius,
17 bleyached, or melech smaller than six (6) inches in total
18 length of the carapace, as measured from the tip of the
19 rostrum midway between the eyes to the end of the carapace,
20 or a berried female of any size whatsoever;

21 (6) fish while using any form of underwater breathing
22 apparatus other than a snorkel;

23 (7) commercially export black teatfish (*Holothuria*
24 *nobilis* (bakelungal)), white teatfish (*Holothuria fufcogilua*
25 (bakelungal)), prickly redfish (*Thelenota ananas*
26 (temetamel)), surf redfish (*Actinopyga mauritiana*
27 (badelchelid)), sandfish (*Holothuria scabra* (molech, delal a
28 molech)), humphead parrotfish (*Bolbometopon muricatum*
29 (kemedukl, berdebed)), coconut crab (*Birgus latro* (ketat)),
30 mangrove crab (*Scylla serrata* (chemang)), rock lobster
31 (*Panulirus longipes fermoristriga, Panulirus versicolor,*

1 Panulirus penicillatus (cheraprukl)), and wrasse (Cheilunus
2 undulatus (ngimer, maml)), except cultured species thereof;

3 (8) commencing one year after the effective date of
4 this Act, commercially export sea cucumbers (Actinopyga
5 miliaris (cheremrum)) except cultured species thereof;

6 (9) buy or sell any coconut crab (Birgus latrol)
7 smaller than four (4) inches in the greatest distance across
8 the width of its carapace or a berried female coconut crab of
9 any size whatsoever;

10 (10) buy or sell any mangrove crab (Scylla serrata)
11 smaller than six (6) inches in the greatest distance across
12 the width of its carapace or a berried female of any size
13 whatsoever;

14 (11) commercially export clam (Tridacnae gigas
15 (Otkang)); T. squamosa (Ribkungal); T. derasa (Kism); T.
16 maxima (Melibes); T. crocea (Oruer); and Hippopus hippopus
17 (Duadeb) meat, or part thereof except cultured species;

18 (12) fish with a gill net or surround net having a mesh
19 size of less than three (3) inches measured diagonally;

20 (13) fish, after one year after the effective date of
21 this Act, with a kesokes net with no bag portion or with the
22 bag portion having a mesh size of less than three (3) inches
23 measured diagonally;

24 (14) retain possession of, or abandon, a kesokes net
25 having a mesh size of less than three (3) inches measured
26 diagonally or with a bag portion having a mesh size less than
27 three (3) inches measured diagonally. This subsection will
28 come into effect two years after the effective date of this
29 Act;

30 (15) until such time as the regulations promulgated
31 pursuant to Section 5 are in effect, take aquarium fish;

1 Section 5. Permits and aquarium fish.

2 (a) The taking of fish for the following purposes is allowed
3 only with a valid and current permit from the Minister or his
4 designee:

5 (1) for local aquarium use; and

6 (2) for scientific research, maricultural research, or
7 medical research.

8 (b) The Minister shall, within 90 days of the effective date
9 of this Act and in accordance with Title 6 of the Palau National
10 Code, promulgate regulations regarding the taking and export of
11 fish for aquarium purposes.

12 Section 6. Regulations. The Minister may promulgate such
13 regulations as he deems necessary to protect the species
14 identified in Section 4 above from overharvesting, or to otherwise
15 carry out the purposes of this Act.

16 Section 7. Labeling. Within six (6) months of the enactment
17 of this Act, the Minister shall promulgate regulations instituting
18 a labeling and reporting system by which all exporters of fish
19 report the number of fish by species exported.

20 Section 8. Enforcement.

21 (1) Any person violating this Act shall be prosecuted by the
22 Attorney General of the Republic of Palau to the full extent
23 possible under law. The Attorney General shall take appropriate
24 action to stop any violation of this Act, including court action
25 seeking to enjoin violations.

26 (2) The provisions of this Act and any regulations or
27 permits issued pursuant thereto shall be enforced by the Minister
28 or his designee. The Minister or his designee may utilize by
29 agreement, with or without reimbursement, the personnel, services,
30 and facilities of any other agency of the National government or
31 of any state government for purposes of enforcing this Act.

1 (a) The judges of the courts of the Republic may, upon
2 proper oath or affirmation showing probable cause, issue such
3 warrants or other process as may be required for enforcement
4 of this Act and any regulations issued thereunder.

5 (b) Any person authorized by the Minister or his
6 designee to enforce this Act may detain for inspection and
7 inspect any package, crate, or other container, including its
8 contents, and all accompanying documents, upon importation
9 and exportation. Such person may make arrests without a
10 warrant for any violation of this Act if he has reasonable
11 grounds to believe that the person to be arrested is
12 committing the violation in his presence or view, and may
13 execute and serve any arrest warrant, search warrant, or
14 other warrant or civil or criminal process issued by any
15 officer or court of competent jurisdiction for enforcement of
16 this Act. Such person may search or seize, with or without
17 a warrant, as authorized by law. Any marine resources
18 protected by this Act shall be held by any person authorized
19 by the Minister or his designee pending civil or criminal
20 proceedings, or the institution of any action for forfeiture
21 of such marine resources; except that the Minister or his
22 designee may, in lieu of holding such marine resources
23 related thereto, property, or item, permit the owner or
24 consignee to post a bond or other surety satisfactory to the
25 Minister or his designee, but upon forfeiture of any such
26 property to the Republic, or the abandonment or waiver of any
27 claim to any such property, it shall be disposed of (other
28 than by sale to the general public) by the Minister or his
29 designee in such a manner, consistent with the purposes of
30 this Act, as the Minister or his designee shall prescribe by
31 regulation.

1 (c) All marine resources protected by this Act taken,
2 possessed, sold, purchased, offered for sale or purchase,
3 transported, delivered, received, carried, shipped, exported,
4 or imported contrary to the provisions of this Act, any
5 regulation made pursuant thereto, or any permits issued
6 hereunder shall be subject to forfeiture to the Republic.
7 All traps, nets, and other equipment, vessels, vehicles,
8 aircraft, and other means of transportation used to aid the
9 taking, possessing, selling, purchasing, offering for sale or
10 purchase, transporting, delivering, receiving, carrying,
11 shipping, exporting, or importing of any such marine
12 resources related thereto in violation of this Act, any
13 regulation made pursuant thereto, or any permit issued
14 thereunder shall be subject to forfeiture to the Republic
15 upon conviction of a criminal violation pursuant to Section
16 9 (1) of this Act.

17 (d) All provisions of law relating to the seizure,
18 forfeiture, and condemnation of a vessel for violation of the
19 export laws and admiralty and maritime laws, the disposition
20 of such vessel or the proceeds from the sale thereof, and the
21 remission or mitigation of such forfeiture, shall apply to
22 the seizures and forfeitures incurred, or alleged to have
23 been incurred, under the provisions of this Act, insofar as
24 such provisions of law are applicable and not inconsistent
25 with the provisions of this Act; except that all powers,
26 rights, and duties conferred or imposed by the customs and
27 admiralty and maritime laws upon any officer or employee of
28 the Ministry shall, for the purposes of this Act, be
29 exercised or performed by the Minister or by such persons as
30 he may designate.

31 (e) The Attorney General of the Republic may seek to

1 enjoin any person who is alleged to be in violation of any
2 provision of this Act or regulation issued under authority
3 thereof.

4 (3) The Minister is authorized to promulgate such
5 regulations pursuant to the Administrative Procedure Act as may be
6 appropriate to enforce this Act, and charge reasonable fees for
7 expenses to the National Government connected with permits
8 authorized by this Act including processing applications and
9 reasonable inspections, and with the transfer, handling, or
10 storage of marine life protected by this Act and evidentiary items
11 seized and forfeited under this Act. All such fees collected
12 pursuant to this subsection shall be deposited in the National
13 Treasury to the credit of the appropriation which is current and
14 chargeable for the cost of furnishing these services.
15 Appropriated funds may be expended pending reimbursement from the
16 parties in interest.

17 Section 9. Penalties.

18 (1) Anyone who violates subsections 1-5, 7-10, or 12-15 of
19 Section 4 herein shall, upon conviction, be penalized as follows:
20 upon the first conviction, be fined not less than two hundred
21 fifty dollars (\$250.00); upon the second conviction, be fined not
22 less than five hundred dollars (\$500.00) and sentenced to serve up
23 to thirty (30 days in jail); upon the third conviction, be fined
24 not less than one thousand dollars (\$1,000.00) and sentenced to
25 serve up to six (6) months in jail; any conviction after a third
26 conviction, be fined five thousand dollars (\$5,000.00) and
27 sentenced to serve up to one year in jail.

28 (2) Civil penalties are separate from criminal punishment
29 and may be filed independent of or in addition to such criminal
30 charges and sentences.

31 Section 10. Repealer. RPPL No. 1-9 and RPPL No. 3-61 are

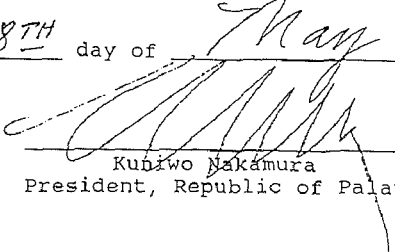
1 hereby repealed.

2 Section 11. Severability. If any provision of this Act
3 shall be held invalid, such invalidity shall not affect the other
4 provisions of the Act which can be given effect without
5 such invalid provision, and to this extent, the provisions of this
6 Act are severable.

7 Section 12. Effective date. This Act shall take effect upon
8 its approval by the President, or upon its becoming law without
9 such approval, except as otherwise provided by law.

PASSED: April 29, 1994

Approved this 18TH day of May, 1994.


Kuniwo Nakamura
President, Republic of Palau