



GOVERNMENT OF KOSRAE

Office of the Governor

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GOV. MMSG. NO. 10-119

RJD

October 16, 2012

The Honorable Lyndon P. Abraham
Speaker
Tenth Kosrae State Legislature
Tofol, Kosrae FM 96944

Dear Mr. Speaker,

Kaksakin God ke moul mwowo a pal mwowo lasr.

Nga engan in akkalemye la nga sign L.B. No. 10-88, L.D. 1, su inge a orala State Law No. 10-49.

“TO AMEND TITLE 19 “ENVIRONMENTAL PROTECTION AND MANAGEMENT” CHAPTER 3 “FISHING AND MARINE WILDLIFE” SUBCHAPTER D “PROHIBITED ACTS” OF THE KOSRAE STATE CODE BY ADDING A NEWS SECTION ENTITLED THE “SHARK PROTECTION ACT” AT SECTION 19.350 (A) PROHIBITING COMMERCIAL FISHING WITHIN KOSRAEAN WATERS OF SHARKS AND DOLPHINS, TO CREATE MANDATORY EXCLUSION ZONES FOR THE PROTECTION OF WHALES IN KOSRAEAN WATERS, TO PROTECT SHARKS, WHALES, DOLPHINS AND STINGRAYS FROM HARM; AND FOR OTHER PURPOSES.”

Certified copy ke masap se inge pa attached nu ke letter luk.

Kulo ma lulap.


Lyndon H. Jackson
Governor
State of Kosrae

/jpa





TENTH KOSRAE STATE LEGISLATURE

P. O. Box 187

Tofol, Kosrae State

Federated States of Micronesia 96944

Telephone: (691) 370-3019/3177 * Fax: 370-2177

Web Page: www.kosraelegislature.org

Lyndon P. Abraham
SPEAKER

September 17, 2012

Palikun M. Shrew
VICE SPEAKER

Robert I. Taulung
FLOOR LEADER

The Honorable Lyndon H. Jackson
Governor
State of Kosrae
Kosrae, FM 96944

LELU:

Bob H. Skilling
Chang B. William
Gibson T. Siba
Lyndon P. Abraham
Tulensa W. Palik

Dear Governor Jackson:

TAFUNSAK:

Alokoa Joab Sigrab
Espil Tulensru
Maker L. Palsis
Robert I. Taulung

I have the honor to transmit herewith for your consideration and action **L. B. No. 10-88, L.D. 1, TO AMEND TITLE 19 "ENVIRONMENTAL PROTECTION AND MANAGEMENT" CHAPTER 3 "FISHING AND MARINE WILDLIFE" SUBCHAPTER D "PROHIBITED ACTS" OF THE KOSRAE STATE CODE BY ADDING A NEW SECTION ENTITLED THE "SHARK PROTECTION ACT" AT SECTION 19.350 (A) PROHIBITING COMMERCIAL FISHING WITHIN KOSRAEN WATERS OF SHARKS AND DOLPHINS, TO CREATE MANDATORY EXCLUSION ZONES FOR THE PROTECTION OF WHALES IN KOSRAEN WATERS, TO PROTECT SHARKS, WHALES, DOLPHINS AND STINGRAYS FROM HARM; AND FOR OTHER PURPOSES.,** which passed the Legislature, Fourth Regular Session, by two-thirds of the members of the Legislature, a quorum being present.

MALEM:

Jarinson M. Charley
Jefferson M. Timothy
Palikun M. Shrew

UTWE:

Josaiah F. Waguk
Rinson H. Edmond

Respectfully yours,

Tosie K. Elley
Chief Clerk
Tenth Kosrae State Legislature

Enclosures

TENTH KOSRAE STATE LEGISLATURE
FOURTH SESSION
AUGUST 13, 2012 – SEPTEMBER 15, 2012

A BILL FOR AN ACT

TO AMEND TITLE 19 “ENVIRONMENTAL PROTECTION AND MANAGEMENT” CHAPTER 3 “FISHING AND MARINE WILDLIFE” SUBCHAPTER D “PROHIBITED ACTS” OF THE KOSRAE STATE CODE BY ADDING A NEW SECTION ENTITLED THE “SHARK PROTECTION ACT” AT SECTION 19.350 (A) PROHIBITING COMMERCIAL FISHING WITHIN KOSRAEN WATERS OF SHARKS AND DOLPHINS, TO CREATE MANDATORY EXCLUSION ZONES FOR THE PROTECTION OF WHALES IN KOSRAEN WATERS, TO PROTECT SHARKS, WHALES, DOLPHINS AND STINGRAYS FROM HARM; AND FOR OTHER PURPOSES.

INTRODUCED Senator

Tulensa W. Palik

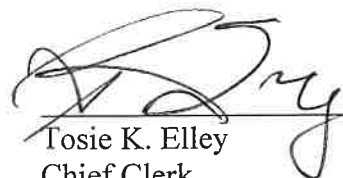
DATE: June 15, 2012

ACTION BY THE LEGISLATURE

PASSED FIRST READING: August 31, 2012

REFERRING TO: R&D Committee

PASSED SECOND READING: September 11, 2012



Tosie K. Elley
Chief Clerk

KOSRAE STATE LEGISLATURE



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Lyndon P. Abraham
SPEAKER

Palikun M. Shrew
VICE SPEAKER

Robert I. Taulung
FLOOR LEADER

LEGISLATIVE BILL NO. 10-88, L.D. 1

We hereby certify that the foregoing Bill has passed Second and Final Readings in the Legislature, Fourth Regular Session, 2012, by two-thirds of the members of the Tenth Kosrae State Legislature, a quorum being present.

LELU:

Bob H. Skilling
Chang B. William
Gibson T. Siba
Lyndon P. Abraham
Tulensa W. Palik

TAFUNSAK:

Alokoa Joab Sigrab
Espil Tulensru
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Josaiah F. Waguk
Rinson H. Edmond

Lyndon P. Abraham
Speaker
Tenth Kosrae State Legislature

Posie K. Elley
Chief Clerk
Tenth Kosrae State Legislature

A BILL FOR AN ACT

To amend Title 19 “Environmental Protection and Management” Chapter 3 “Fishing and Marine Wildlife” Subchapter D “Prohibited Acts” of the Kosrae State Code by adding a new section entitled the “Shark Protection Act” at section 19.350 (A) prohibiting commercial fishing within Kosraen waters of sharks and dolphins, to create mandatory exclusion zones for the protection of whales in Kosraen waters, to protect sharks, whales, dolphins and stingrays from harm; and for other purposes.

BE IT ENACTED BY THE KOSRAE STATE LEGISLATURE

1 Section 1. Findings and Purpose. The Kosrae State Legislature finds that the protection
2 of sharks, dolphins and whales within Kosraen waters has not been adequately addressed in
3 existing State legislation. Furthermore, the Legislature is mindful of the resolution of the 15th
4 Micronesian Chief Executive Summit authoring a regional ban of the sale and trade of shark fin
5 and seeking to establish the world’s first Regional Shark Sanctuary in Micronesia by December
6 2012. The Legislature is also mindful of the FSM National Congress resolution calling upon the
7 FSM President to create a marine sanctuary and for the State governments to declare their 12
8 mile zone as a sanctuary for sharks, rays, dolphins and whales. The Legislature is similarly
9 concerned about over-fishing of the shark population and views sharks as an essential element of
10 the ocean’s ecosystem. Finally, the Legislature notes the possibility that dolphins, sharks,
11 stingrays and whales may seek to enter the 12 mile limit for giving birth to their offspring and
12 that whales in particular should not be harassed or approached closer than 50 feet whilst within
13 Kosraen waters. Noting the harmful impact that over fishing has on shark populations the
14 Legislature enacts this Bill to provide for specific protection for sharks and the aforementioned
15 marine life.

1 Section 2. Definitions. As used in this chapter, the following words and phrases shall
2 have the following meanings:

3 (1) “Baseline” means a continuous line that encircles an island or atoll. The
4 baseline from which the 12-mile zones shall be measured is as follows:

5 (a) The baseline of an island or portion of an island lacking a barrier reef,
6 fringing reef or other reef system is the low-water line of the island as marked on large scale
7 charts officially recognized by the Government of the Federated States of Micronesia.

8 (b) The baseline of an atoll or island or portion of an island having a barrier
9 reef, fringing reef or other reef system is the line that contours the seaward edge of the reef
10 system, which line connects those outermost elevations of the reef that are above water at low
11 tide, and which line exists as marked on large-scale charts officially.

12 (2) “Dolphins” means any of various marine cetacean mammals, such as the
13 bottle-nosed dolphins, of the family Delphinidae, related to the whales but generally smaller and
14 having a breaklike snout.

15 (3) Kosraen waters means State Fishery Zone as defined in Section 19.103 of the
16 Kosrae State Code.

17 (4) “Shark” means an animal commonly known as a shark and includes all
18 animals on the Orders of Hexanchiformes, Pristophoriformes, Squatiniformes, Heterodontiformes,
19 Orectolobiformes, Lamniformes and Carcharhiniformes.

20 (5) “Shark fin” means the raw or dried fin or tail of a shark.

1 (6) “Stingray” means any of various rays of the family Dasyatidae, having a
2 whiplike tail armed with one or more venomous spines capable of inflicting severe injury.

3 (7) “Whale” means any of various marine mammals of the order Cetacea, having
4 the general shape of a fish with forelimbs modified to form flippers, a tail with horizontal flukes,
5 and one or two blowholes for breathing, especially one of the very large species as distinguished
6 from the smaller dolphins and porpoises.

7 Section 11.1604. Prohibitions.

8 (1) It shall be unlawful for any person to possess, sell, offer for sale, trade, or
9 distribute shark fins, stingray, whale, shark or dolphin meat.

10 (2) It shall be unlawful for any person to approach or remain within 50 feet of any
11 whale within Kosraen waters.

12 (3) It shall be unlawful to catch, collect, possess, dismember, maim or kill whales,
13 dolphins, sharks or stringrays in Kosraen waters.

14 (4) The exceptions to sections (1) (2) and (3) include:

15 (i) The act is done pursuant to customs and tradition of Kosrae State and is
16 for non-commercial subsistence purposes.

17 (ii) The Act is unintentional or unavoidable.

18 (iii) The Act is done by a person who holds a valid license or permit issued
19 by Kosrae State to conduct research for scientific or educational purposes.

20 (iv) The shark fin was caught outside the 12 mile limit as “by catch” which

1 is sold for human consumption within the state or processed within the State for animal feed,
2 fertilizer or methane production provided that ~~an~~ exemption does not apply to shark fins
3 prepared by restaurants to be sold as shark fin soup, irrespective of the name given by the
4 restaurant to the menu item.

5 (v) The Act was done in self defense.

6 (vi) The person took all reasonable steps to immediately release any whales,
7 dolphins, sharks or stingrays caught intentionally to its natural habitat.

8 Section 11.1605. Penalties.

9 Any person violating this section or any regulation promulgated pursuant to this
10 section shall be penalized as follows:

11 (i) For a first offense, a fine of not more than \$15,000.00.

12 (ii) For a second offense, a fine of not more \$35,000.00.

13 (iii) For a third or subsequent offense, by a fine of not more than \$50,000.00;

14 and

15 (iv) Any shark fins, commercial marine vessels, fishing equipment, and other
16 property involved in a violation for a second or third offense shall be subject to seizure and
17 forfeiture pursuant to Chapter 7, Title 19, Section 9.702, or by imprisonment of not more than
18 one year, or both.

19 Section 3. Effective Date. This act takes effect upon the approval of the Governor or
20 upon its becoming law without such approval.

1 PASSED BY THE TENTH KOSRAE STATE LEGISLATURE ON THE 11TH DAY OF
2 SEPTEMBER, 2012

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7 Lyndon P. Abraham
8 Speaker, Tenth Kosrae State Legislature

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12 Attested by: [Signature]
13 Chief Clerk

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17 Lyndon H. Jackson
18 Governor, State of Kosrae

19

20

Date: 10-16-12

