

AN ACT

To repeal KSPL No. K9-233-2011; to require all persons working as Tour Guides in Koror State to pass the Koror State Tour Guide Certification Program and to be certified in CPR; to require the presence of a certified Tour Guide on all commercial tours in Koror State, including to the Rock Islands and/or the water or land of Koror State; and to provide penalties for violations of the foregoing, and for related purposes.

THE PEOPLE OF KOROR REPRESENTED IN THE LEGISLATURE OF THE STATE OF KOROR DO ENACT AS FOLLOWS:**Section 1. Findings.**

The Ninth Koror State Legislature (the "Legislature") hereby finds that on January 25, 2011, Governor Adachi signed into law KSPL No. K9-233-2011, which required, among other things, that all persons working as Marine Tour Guides in Koror State must go through a Koror State Marine Tour Guide Certification Program and be licensed as a Marine Tour Guide by Koror State for a fee which was intended to cover the State's cost of administering the program. The Legislature further finds that after submission of KSPL No. K9-233-2011 for review by the Minister of Justice and the Attorney General pursuant to 40 PNC § 2103, then Minister of Justice John C. Gibbons found that the law was in conflict with 40 PNC §2101, which prohibits the imposition of a state-level fee on persons if the national government already imposes such a fee. In this case, however, the national law (11 PNC §901 et seq.) imposes a \$150 license fee on tour *operators* but not a fee on individual tour *guides*, and the Legislature therefore justifiably believed that KSPL No. K9-233-2011 did not impose a duplicate fee or tax. Nevertheless, as a result of the Minister of Justice's finding, KSPL No. K9-233-2011 was invalidated pursuant to 40 PNC §2103, which states that any enactment by a state found to violate 40 PNC §2101 "shall be void and of no effect."

The Legislature finds that the Tour Guide Certification Program remains a very important and necessary initiative to ensure that industry practices are followed that protect the environment and ensure that visitors to Koror have a safe and positive experience. The Legislature further finds that the tour guide certification requirement, as well as the requirement that guides be CPR certified, should be expanded to cover not only marine tour guides, but also guides who give tours on land in Koror State. Finally, the Legislature finds that it is necessary to clarify that fees associated with the Tour Guide Certification Program do not duplicate a national-level fee. The Koror State law imposes

1 a relatively small fee on individual tour guides (not tour operators) for the sole purpose of covering
2 the State's expenses associated with organizing and administering the Tour Guide Certification
3 Program classes and in producing the related written materials and certification certificates.

4 **Section 2. Definitions.**

5 As used in this Act:

6 A. "Acting as a Tour Guide" means accompanying, escorting, guiding,
7 supervising, or assisting people on a Commercial Tour to tour, see, or visit the Rock Islands, a
8 marine lake, or any other location in the waters or on the land of the State of Koror.

9 B. "Commercial Tour" means any trip, excursion, or tour to the Rock Islands
10 and/or the waters of Koror State or any other area within Koror State, including any land trip or
11 tour and any marine lake trip or tour, performed or offered in exchange for a fee, or offered as
12 part of a package tour, or provided in exchange for any good and valuable consideration.

13 C. "CPR" means cardiopulmonary resuscitation.

14 D. "Rock Islands" means all islands, including the land, beaches, and marine
15 lakes, within the territorial jurisdiction of Koror State, with the exception of the islands of Koror
16 (Oreor), Malakal, Ngerkebesang, Ngerur Island, and any other small islands or islets joined to
17 them by causeway or bridge.

18 E. "Tour Guide" means a person who serves or acts, whether as an employee,
19 contractor or self-employed individual, as a guide, instructor, supervisor, or leader of a
20 Commercial Tour, including persons who serve as scuba diving and snorkeling guides, and
21 including escorts on land tours and trips to marine lakes.

22 F. "Waters of Koror State" means all ocean waters from the land of Koror State
23 to twelve nautical miles seaward from the traditional baselines, and also includes any marine lake
24 or landlocked lake.

25 **Section 3. Tour Guide Training.**

26 Any person who wishes to work in Koror State as a Tour Guide shall first attend and
27 successfully complete the Koror State Tour Guide Certification Program, and shall pass the final

1 examination offered for such Program, before acting as a Tour Guide in Koror State. The Koror
2 State Tour Guide Certification Program shall be designed by the Koror State Department of Law
3 Enforcement, and shall include at a minimum (i) an overview of the national and state
4 regulations and laws relating to natural resources, parks and conservation; (ii) safety guidelines
5 for tourists engaged in water or other outdoor activities; and (iii) guidelines and "best practices"
6 to minimize the impact on the environment from snorkeling, scuba diving and other outdoor
7 activities. Thereafter, all Tour Guides shall take an annual "refresher" course in order to remain
8 certified as a Koror State Tour Guide . The Governor or his designee may promulgate regulations
9 for the scheduling of training sessions and related matters.

10 **Section 4. Tour Guide Certification Requirement; Posting by Tour Guide**

11 **Businesses.**

12 A. All persons who have satisfied the requirements of Section 3 of this Act will be issued
13 a Tour Guide Certification Card by the Department of Law Enforcement. The Certification Card
14 is valid for a period of one (1) year. There shall be a fee of \$30.00 for the first Certification Card
15 issued to a Tour Guide and a fee of \$10.00 for each annual renewal of the Certification Card
16 thereafter. The fee shall be payable at the Koror State Finance Office to offset the costs and
17 expenses incurred by the Koror State Government in organizing and administering the Tour
18 Guide Certification Program classes, including the annual refresher, and in producing the related
19 written materials and Certification Cards. The fees shall be deposited in the Koror State Treasury
20 to pay for the costs and expenses associated with the Tour Guide Certification Program.

21 B. All businesses or other entities which provide Commercial Tours in Koror State shall
22 conspicuously post a notice at their operating site which states that such business or entity
23 employs or uses the services of Tour Guides who have been certified by the Koror State Tour
24 Guide Certification Program and who are CPR certified. The exact wording and specifications of
25 such notice may be established through a regulation promulgated by the Koror State Department
26 of Law Enforcement.

1 **Section 5. CPR Certification Requirement.**

2 A. In addition to the Tour Guide Certification required by Sections 3 and 4 of this Act,
3 any person who wishes to work or act as a Tour Guide in Koror State must be currently CPR
4 certified by a verifiable CPR certifying authority such as the International Red Cross. When
5 applying for an annual Koror State business license, all Commercial Tour companies or
6 businesses employing or utilizing the services of Tour Guides within Koror State (including the
7 waters of Koror State) shall submit a list of all Tour Guides employed or otherwise utilized by
8 the company or business who are CPR certified. It shall be the responsibility of the tour company
9 or business to provide an up-to-date list throughout the year to Koror State to ensure it is in
10 compliance with this Act.

11 B. For purposes of this Act, a “verifiable CPR authority” is an entity that is recognized
12 and known by the Koror State Department of Law Enforcement to be capable of providing
13 quality education and training on conducting CPR and related first aid. The Koror State
14 Department of Law Enforcement shall promulgate by regulation and publish a list of the
15 verifiable CPR certifying authorities.

16 **Section 6. Koror State CPR Certification Program.**

17 At the direction of the Governor of Koror, the Koror State Department of Law
18 Enforcement shall create a CPR and first aid certification program that Tour Guides may utilize
19 in order to become CPR certified. The entity that conducts the CPR certification program may
20 charge a nominal fee to those who utilize the CPR certification program in order to fund the
21 program. Any CPR certification provided by the Koror State Department of Law Enforcement
22 shall be valid for one year and may be awarded or renewed pursuant to regulations promulgated
23 by the Governor of Koror, or his designee.

24 **Section 7. Certified Tour Guide on all Commercial Tours; Possession of Proof of**
25 **Certification.**

26 A. All Tour Guides shall undergo the training and obtain all certifications required by

1 this Act before escorting or otherwise taking people on any Commercial Tour.

2 B. A Tour Guide who has met all of the certification requirements under this Act must be
3 present on all Commercial Tours in Koror State, including the Rock Islands and/or the waters of
4 Koror State.

5 C. All Tour Guides shall carry with them a valid Tour Guide Certification Card, as
6 required by Sections 3 and 4 of this Act, and proof of up-to-date CPR certification, as required by
7 Section 5 of this Act, at all times while working or otherwise acting as a Tour Guide in Koror
8 State.

9 D. No owner of any Commercial Tour business shall allow any person to act as a Tour
10 Guide in violation of this Act.

11 **Section 8. Penalties; Aiders and Abettors.**

12 A. Any person found to be working as a Tour Guide in Koror State without a valid and
13 current Tour Guide Certification Card and without being CPR certified as required under this
14 Act, or who violates any provision of this Act, shall, upon a first conviction, be guilty of a
15 misdemeanor and be sentenced to pay a fine to the Koror State Treasury in the amount of
16 \$100.00. Upon conviction for a second offense, the sentence shall be a fine in the amount of
17 \$250.00, and upon a third and subsequent offenses, the fine shall be \$500.00. Each day that this
18 Act is so violated shall be deemed a separate offense which may be separately punished.

19 B. Any person or business entity that employs a person as a Tour Guide who does not
20 possess a valid and current Tour Guide Certification Card or CPR certification required by
21 Sections 3, 4 and 5, or that does not provide an up-to-date list to Koror State Department of Law
22 Enforcement of all of its CPR-certified Tour Guides as required by Section 5, shall, upon a first
23 conviction, be guilty of a misdemeanor and be sentenced to pay a fine to the Koror State Treasury
24 in the amount of \$100.00. Upon conviction for a second offense, the sentence shall be a fine in
25 the amount of \$250.00, and upon conviction for a third and subsequent offenses, the fine shall be
26 \$500.00. Each day that this Act is so violated shall be deemed a separate offense which may be

1 separately punished.

2 In addition, upon a third conviction, the business license of such violator shall be subject
3 to suspension, revocation and cancellation, and the Governor may deny any business license
4 application by any violator for a period of one (1) year.

5 C. Any person or business entity that conducts a Commercial Tour in the land or waters of
6 Koror State without the presence of a Tour Guide who is validly certified under the Koror State
7 Tour Guide Certification Program and who is CPR certified in accordance with Sections 3, 4 and 5
8 of this Act shall, upon first conviction, be guilty of misdemeanor and be sentenced to pay a fine to
9 the Koror State Treasury in the amount of \$100.00. Upon conviction for a second offense, the
10 sentence shall be a fine in the amount of \$250.00, and upon a third and subsequent offenses, the
11 fine shall be \$500.00. Each day that this Act is so violated shall be deemed a separate offense
12 which may be separately punished.

13 In addition, upon a third conviction, the business license of such violator shall be subject
14 to suspension, revocation and cancellation, and the Governor may deny any business license
15 application by any violator for a period of one (1) year.

16 D. It shall be unlawful to aid, abet, counsel, command, induce, or procure or cause the
17 commission of a violation of Section 3, Section 4, Section 5 or Section 7 of this Act, which if
18 directly performed by any person would be a violation of Section 3, Section 4, Section 5 or
19 Section 7 of this Act, and any such person may and shall be punished as a principal. No
20 distinction is made between principals in degrees, and no distinction is made between a principal
1 and what may be referred to as an accessory before the fact.

2 **Section 9. Repealer.**

3 KSPL No. K9-233-2011 is hereby repealed in its entirety.

4 **Section 10. Authority to Promulgate Regulations.**

5 The Governor of Koror State, or his designated representative, is hereby authorized to
6 promulgated regulations to implement and enforce this Act, and such regulations shall have the

1 force and effect of law, provided that the provisions of this Act shall be enforceable in the
2 absence of such regulations.

3 **Section 11. Sunset Date.**

4 To the extent required by and under compulsion of 40 PNCA Section 2102(c), the
5 certification fee provided for under Section 4 of this Act shall sunset and be of no further force
6 and effect after midnight of December 31, 2020 unless prior thereto the Koror State Legislature
7 finds that the object of the legislation has not yet been completely achieved and reenacts the
8 provisions contained herein.

9 **Section 12. Severability.**

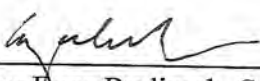
10 In the event that a court of competent jurisdiction determines that any part or portion of
11 this Act is invalid or otherwise unenforceable, then the offending part or portion may be stricken,
12 and the remaining portions shall continue in full force and effect.

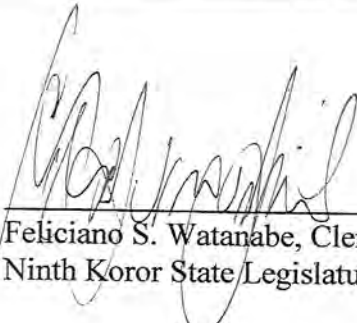
13 **Section 13. Effective Date.**

This Act shall take effect and shall be enforced on and after July 1, 2014.

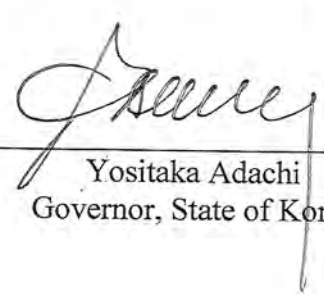
PASSED: SEPTEMBER 18, 2013

AS CERTIFIED AND ATTESTED TO BY :


Legislator Eyoos Rudimch, Speaker
Ninth Koror State Legislature


Feliciano S. Watanabe, Clerk
Ninth Koror State Legislature

APPROVED ON THIS 19th DAY OF September, 2013.


Yositaka Adachi
Governor, State of Koror