

Calendar No. 550

112TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 112-247

R.M.S. TITANIC MARITIME MEMORIAL
PRESERVATION ACT OF 2012

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2279



DECEMBER 5, 2012.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

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R.M.S. TITANIC MARITIME MEMORIAL PRESERVATION ACT OF 2012

DECEMBER 5, 2012.—Ordered to be printed

Mr. ROCKEFELLER, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 2279]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2279) to amend the R.M.S. Titanic Maritime Memorial Act of 1986 to provide additional protection for the R.M.S. *Titanic* and its wreck site, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 2279 is to amend the R.M.S. Titanic Maritime Memorial Act of 1986 (16 U.S.C. 450rr et seq.) to provide additional protection for the R.M.S. *Titanic* and its wreck site, and for other purposes.

BACKGROUND AND NEEDS

The Royal Mail Steamer (R.M.S.) *Titanic* is perhaps the most famous shipwreck of all time, marking the final resting site of the luxury ship that tragically sank on its maiden voyage. Built in Belfast, Northern Ireland in 1911, the *Titanic* was the largest passenger vessel of its time and carried 2,240 passengers and crew on board. With turn of the century design and technology, including 16 major watertight compartments in her lower section that could be sealed off in the case of a punctured hull, the vessel was considered by many to be unsinkable.

The *Titanic* set sail on its first voyage from Southampton England on April 10, 1912, bound for New York City. On April 15,

1912, after striking an iceberg, *Titanic* broke apart and sank to the bottom of the ocean, taking with it the lives of more than 1,500 passengers and crew. Most of the ship remains in its final resting place 12,000 feet below sea level and over 350 nautical miles off the coast of Newfoundland, Canada. The R.M.S. *Titanic* has been recognized for its national and international significance, and is a maritime memorial to those who lost their lives in the tragic sinking.

Shortly after the *Titanic* wreck was first discovered in 1985, Congress enacted the R.M.S. Titanic Maritime Memorial Act of 1986 (16 U.S.C. 450rr et seq.). The 1986 Act called on the U.S. Secretary of State to negotiate an international agreement to designate the *Titanic* as an international maritime memorial to those who lost their lives when she sank in 1912 and to encourage in those negotiations the development of guidelines for conducting research, exploration, and salvage of the *Titanic*. The United States, the United Kingdom, France, and Canada negotiated the Agreement Concerning the Shipwrecked Vessel R.M.S. *Titanic*, ratified by the United Kingdom in 2003 and signed by the United States in 2004 subject to the enactment of implementing legislation. Legislation providing the Executive branch authority to carry out the obligations of the International Agreement is necessary for the United States to ratify it. The International Agreement will take effect after at least two countries ratify it.

In 2009, the U.S. Department of State transmitted to Congress proposed legislation to protect the R.M.S. *Titanic* from looting and unscientific salvage and to ensure adherence to the scientific rules for research, recovery, or salvage that will help preserve the R.M.S. *Titanic* for present and future generations.

SUMMARY OF PROVISIONS

S. 2279 would amend the R.M.S. Titanic Maritime Memorial Act of 1986 (16 U.S.C. 450rr et seq.) to set forth: (1) the scope and applicability of the Act; (2) prohibited activities and related liabilities; (3) authorities of the Secretary of Commerce, including authority to establish the Titanic Advisory Council; (4) civil and criminal enforcement provisions; (5) seizure and forfeiture provisions; and (6) statute of limitations provisions.

LEGISLATIVE HISTORY

S. 2279 was introduced on March 29, 2012, by Senators Kerry and Isakson. On July 31, 2012, the Committee met in open Executive Session and by voice vote ordered that the bill be reported favorably without amendment.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 2279—*R.M.S. Titanic Maritime Memorial Preservation Act of 2012*

S. 2279 would implement an international agreement to provide additional protection for the R.M.S. *Titanic* wreck site. The bill would authorize the National Oceanic and Atmospheric Administration (NOAA) to enhance enforcement of laws prohibiting individuals from engaging in activities, including the recovery of artifacts, that could damage the wreck site. The bill also would establish civil and criminal penalties for individuals who violate those laws. Finally, the bill would authorize NOAA to issue permits to individuals to conduct research, exploration, and recovery activities that are consistent with the international agreement.

Based on information from NOAA, CBO estimates that implementing S. 2279 would have no significant net impact on the federal budget. The bill would authorize NOAA to enhance enforcement of certain laws to protect the R.M.S. *Titanic* wreck site. Based on information from the agency, CBO expects that such enforcement would probably be carried out using satellites to monitor the site. Thus, CBO estimates that any costs associated with additional monitoring activities would be minimal.

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Enacting S. 2279 could increase revenues (from civil and criminal penalties) and associated direct spending; therefore, pay-as-you-go procedures would apply. However, CBO estimates that any increase in revenues from penalties would be less than \$500,000 a year and would be offset by similar increases in direct spending from the Crime Victims Fund (for criminal penalties) or by NOAA (for civil penalties). In addition, the bill would authorize NOAA to collect fees for permits issued to individuals who conduct research, exploration, and recovery activities at the *Titanic* wreck site. Because the agency could spend those fees to offset administrative expenses, CBO estimates that implementing such fees would have no significant net effect on direct spending.

S. 2279 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act, by prohibiting public and private entities from engaging in some activities related to the R.M.S. *Titanic* property without a permit from NOAA.

Additionally, the bill would require vessels to notify NOAA before stopping within the designated zone surrounding the R.M.S. *Titanic*. Because both the number of entities affected and the fee for the permits would be small, CBO estimates that the cost for public and private entities to comply with the mandates would fall well below the annual thresholds for intergovernmental and private-sector mandates (\$73 million and \$146 million in 2012, respectively, adjusted annually for inflation).

The CBO staff contacts for this estimate are Jeff LaFave (for federal costs), Melissa Merrell (for the impact on state and local governments), and Amy Petz (for the impact on the private sector). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 2279 would guide the permitting and conservation of the *Titanic* Memorial wreck site, and affects the National Oceanic and Atmospheric Administration (NOAA) and other entities already subject to regulation. Therefore the number of persons covered generally should be consistent with the current levels of individuals impacted by the regulation of the wreck site. One provision in the bill would require vessels intending to visit the wreck site or be within a certain zone of the wreck site to provide advance notice to the Department of Commerce, which could increase the number of persons covered by a very small amount.

ECONOMIC IMPACT

The legislation is not expected to have an impact on the Nation's economy.

PRIVACY

The reported bill would not have any adverse impact on the personal privacy of individuals.

PAPERWORK

The reported bill would not increase paperwork requirements for the private sector.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section would provide that this Act may be cited as the R.M.S. Titanic Maritime Memorial Preservation Act of 2012.

Section 2. Findings and purposes

This section would amend language in the R.M.S. Titanic Maritime Memorial Act of 1986 (16 U.S.C. 450rr et seq.) for updating and clarification purposes. For example, section 2(a) of the Act would reflect that regulations governing research, exploration, and salvage of the wreck called for in the 1986 Act have now been finalized, and that the international agreement has been negotiated. Section 2(b) of the Act would outline the purposes of the Act as to protect the R.M.S. *Titanic* and its wreck site as an international maritime memorial and grave site, as well as a site of unique scientific, archeological, cultural, and historical significance to be protected for present and future generations.

Section 3. Definitions.

Section 3 of the bill would define seven terms, amending section 3 of the R.M.S. Titanic Maritime Memorial Act of 1986 (16 U.S.C. 450rr-1):

Collection.—The term “collection” means each grouping of R.M.S. *Titanic* property, other than human remains, that results from recovery activities after September 1, 1985, at the wreck site of R.M.S. *Titanic* authorized by: (A) an order of a U.S. court of competent jurisdiction; (B) a permit granted by the Secretary of Commerce under section 7; or (C) an order of a court or tribunal (including any administrative body, Office of Maritime Affairs, or Receiver of Wreck) of competent jurisdiction of the United Kingdom, France, or Canada, or of a state party to the International Agreement.

Import.—The term “import” means to bring into, or introduce into, or attempt to bring into or introduce into, the United States, including its territories and insular possessions, and the territorial sea of the United States (as defined in Presidential Proclamation 5928, issued December 27, 1988).

International Agreement.—The term “International Agreement” means the Agreement concerning the Shipwrecked Vessel R.M.S. *Titanic*.

Person.—The term “Person” means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

R.M.S. Titanic property.—The term “R.M.S. Titanic property” includes: (A) the shipwrecked vessel R.M.S. *Titanic*; (B) the cargo of R.M.S. *Titanic*, any other contents from the ship, or any associated items scattered on the ocean floor in the vicinity of the ship, or any portion of the ship; (C) all such property recovered from the wreck site since September 1, 1985; and (D) any human remains of those aboard R.M.S. *Titanic* who perished.

Rules.—The term “Rules” means the Rules Concerning Activities Aimed at the R.M.S. *Titanic* and/or its Artifacts contained in the Annex to the International Agreement.

United States waters.—The term “United States waters” means all waters of the United States on the landward side of the baseline from which the breadth of the United States territorial sea is measured, and the waters of the United States territorial sea as described in Presidential Proclamation 5928, dated December 27, 1988.

Section 4. Implementation of the International Agreement

Section 4 of this Act would implement the “International Agreement Concerning the Shipwrecked Vessel R.M.S. Titanic” by striking sections 5, 6, and 7 of the provisions of the R.M.S. Titanic Maritime Memorial Act of 1986 (16 U.S.C. 450rr-3, 450rr-4, 450rr-5); redesignating section 8 as section 21 of that Act (16 U.S.C. 450rr-

6); and inserting after section 4 of that Act (16 U.S.C. 450rr-2) the new implementing sections as follows:

Sec. 5. Scope and Applicability.—This section would provide that the Act applies to any person subject to the jurisdiction of the United States at the time such person engages in an activity prohibited under section 6. This section also would provide that the Act applies to any vessel over which the United States exercises, or may exercise, jurisdiction under international law, after the effective date of the Act. The intent of this section is that the Act would apply expansively and reach as many persons and vessels as possible consistent with U.S. law and international law. Vessels of the United States would be expressly excluded from the Act unless they engage in any activity the purpose of which is to disturb, remove, or injure R.M.S. *Titanic* property. Likewise, all persons aboard such vessels acting in the course of their duties would be expressly excluded from the Act unless they engage in any activity the purpose of which is to disturb, remove, or injure R.M.S. *Titanic* property. Vessels of the United States and persons aboard such vessels conducting research or recovery activities directed at R.M.S. *Titanic* or its wreck site would be subject to this Act.

Sec. 6. Prohibitions.—This section would set forth activities prohibited by the Act unless authorized pursuant to a permit issued under the Act. These prohibitions recognize the historical and cultural significance of R.M.S. *Titanic* and its wreck site, and reflect the United States' preferred resource management policy of in situ preservation.¹

Sec. 7. Permits.—This section would establish the permitting authority of the Secretary of Commerce. Subsection 7(b) of the Act takes into consideration the salvor-in-possession status awarded to R.M.S. *Titanic*, Inc. by the U.S. District Court for the Eastern District of Virginia on June 7, 1994. Any person holding the status of salvor-in-possession as of the effective date of the Act would be subject to the Act's permitting regime. Consistent with the Federal admiralty court orders, the Act would not prohibit such salvor-in-possession from selling all of the artifacts that it recovered from R.M.S. *Titanic* or its wreck site, provided that any such sale is of the entire collection of recovered artifacts. The Act would not extinguish R.M.S. *Titanic*, Inc.'s salvor-in-possession status; nor would it deprive the district court of jurisdiction over R.M.S. *Titanic*, Inc.'s pending salvage action. Subsection 7(c) would require vessels subject to the Act to provide advance notice to the Secretary of Commerce if they intend to stop within

¹ These prohibitions also would implement Article 4 of the International Agreement and would be consistent with courts' orders in the matter of *R.M.S. Titanic, Inc. v. The Wrecked and Abandoned Vessel*, Civil Action No. 2:93 cv902 (E.D. Va., filed 1993). See, e.g., June 7, 1994 Order (granting R.M.S. *Titanic*, Inc.'s quest to become the exclusive salvor-in-possession based in part on the company's promise not to sell the artifacts piecemeal to any individual or private collector, but keep them together as an intact collection to be exhibited to the public); July 28, 2000 Order (prohibiting the sale of individual artifacts and the cutting into or cutting off of any part of the wreck); and the October 19, 2001 Order (summarizing the court's Orders of June 7, 1994, July 28, 2000, and September 21, 2001, regarding the sale of artifacts and requirement to keep the collection together for public exhibition).

a specified zone above the wreck site. One purpose of this notice provision is to ensure that the Secretary of Commerce has prior knowledge of the timing and purpose of the presence of a vessel in this zone so that the Secretary of Commerce could determine whether a permit is required. Another purpose for this notice provision is to facilitate fulfillment of the coordination requirements in Article 5 of the International Agreement. The notice provision would help the United States, through the Secretary of Commerce, to protect the wreck site and manage activities directed at it. Sharing information about vessels that plan to be in this zone at the same time may also help to address safety concerns. Subsection 7(d) would state that any permit issued by the Secretary of Commerce will comply with the Rules. Subsection 7(e) would authorize the imposition of reasonable fees and their retention to offset expenses of the permitting process. Subsection 7(f) would establish a time frame for permit decisions by the Secretary of Commerce and for the confidential treatment of proprietary information.

Sec. 8. Liability for Damages.—This section would provide liability for damages, response costs, and enforcement costs arising from a violation of the Act. Damages would be defined to include all costs related to the storage, restoration, care, maintenance, conservation, and curation of R.M.S. *Titanic* property and all costs associated with the retrieval of any contextual and other information of a scientific, archeological, cultural, or historical nature that remains at the site where the prohibited activity occurred.

Sec. 9. Civil Enforcement.—This section would authorize the Secretary of Commerce to assess administrative penalties of not more than \$250,000 per day of violation. The Secretary of Commerce could also request the Attorney General to file suit in Federal district court to seek civil penalties of not more than \$500,000 per day of violation, recover costs and damages, and obtain injunctive relief.

Sec. 10. Criminal Enforcement.—Section 10 would authorize the Attorney General to criminally prosecute knowing violations of the Act. Persons convicted of an offense could be fined no more than \$250,000 per day of violation or imprisoned for not more than five years, or both.

Sec. 11. Seizure and Forfeiture.—This section would provide for seizure and administrative, civil, and criminal forfeiture of unlawfully obtained artifacts and proceeds. Any R.M.S. *Titanic* property forfeited to the United States could be loaned to a public or private institution that provides for the conservation, curation, and public access of such property, consistent with the International Agreement, the Rules, and any regulations promulgated by the Secretary of Commerce pursuant to this Act. Departments of Commerce and Homeland Security could only use section 11 to authorize arrests by trained law enforcement personnel who already possess firearms and arrest powers pursuant to other statutes.

Sec. 12. Disposition of Monies Recovered.—This section would provide that any funds recovered for violations of the Act would be authorized to be paid into one or more special accounts of the U.S. Department of the Treasury and would be used by the Secretary of Commerce for conservation of *Titanic* artifacts recovered pursuant to an enforcement action, conservation of any *Titanic* collection of lawfully salvaged artifacts, or the collection of the USS *Monitor* National Marine Sanctuary artifacts at The Mariners' Museum. If the amount of proceeds from an enforcement action exceeds the amount of funds needed for the conservation of artifacts from that case, the *Titanic* collection, and the *Monitor* collection, then that amount would be deposited in the General Fund of the Treasury.

Sec. 13. International Cooperation.—This section would authorize the Secretary of Commerce, in cooperation with the Secretary of State, to share information and consult with interested nations regarding R.M.S. *Titanic*.

Sec. 14. Agreements and Authority to Utilize Grant Funds.—This section would authorize the Secretary of Commerce to enter into cooperative agreements and to apply for, accept, and obligate grants to carry out the purposes of the Act.

Sec. 15. Monitoring Authorization.—This section would authorize the Secretary of Commerce to monitor the wreck site of R.M.S. *Titanic* with the assistance of other Federal instrumentalities as available. Such monitoring is not required under the Agreement but is generally done as part of the management of such resources by the National Marine Sanctuary program.

Sec. 16. Rulemaking.—This section would authorize the Secretary of Commerce to promulgate regulations as necessary to implement the Act. Promulgation of any such regulations, however, would not be a prerequisite to application (including the issuance of permits) or enforcement of the Act.

Sec. 17. Relationship to Other Laws.—This section would contain a number of provisions clarifying the relationship of the Act with other laws. Subsection 17(a) would preclude application of the Limitation of Shipowner Liability Act. Subsection 17(b) would make clear that the customs laws of the United States are in no way affected, modified, or amended by the Act. Subsection 17(c) would provide that the Act shall be applied in accordance with applicable law and international agreements to which the United States is a party. Subsection 17(d) would provide that nothing in the Act affects the exercise of traditional high seas freedoms of navigation, including the laying of under-sea cables and pipelines, the operation of vessels, fishing, or other internationally lawful uses of the sea related to such freedoms. Subsection 17(e) would permit a provision of the Act to be held invalid without rendering the entire Act void. Subsection 17(f) would make clear that an order granting salvage rights to R.M.S. *Titanic* prior to the effective date of this Act would not exempt any person from

compliance with the Act. The subsection also would preclude any person from obtaining salvage rights to R.M.S. *Titanic* or R.M.S. *Titanic* property after the effective date of the Act. At the request of R.M.S. *Titanic*, Inc., language was included to clarify the intent that this limit on new salvage rights is not intended to prevent a U.S. court of competent jurisdiction from authorizing the transfer of existing salvage rights.

Subsection 17(g) would provide that the law of finds does not apply to R.M.S. *Titanic* or R.M.S. *Titanic* property. Subsection 17(h) would require that each collection (as defined in the Act) be managed and maintained in accordance with the Rules annexed to the International Agreement.

Sec. 18. Valid exclusive right to salvage R.M.S. Titanic.—This section would state that nothing in this Act shall be construed as terminating, or granting to the Secretary of Commerce the right to terminate, any valid exclusive right to salvage the R.M.S. *Titanic* that is in existence on the date of enactment. The exercise of the exclusive right to salvage R.M.S. *Titanic* would be subject to regulation by the Secretary of Commerce.

Sec. 19. Titanic advisory council; site management plan.—This section would outline the membership of the Titanic Advisory Council (Council), the duties of the Council, and the requirements involved in the formulation of a site management plan. Subsections 19(a) and 19(b) would give the Secretary of Commerce the authority to establish the Council which would be exempt from the Federal Advisory Committee Act (5 U.S.C. App). Subsection 19(c) would describe the membership of the Council as including members designated by the Administrator of NOAA, the Director of the National Park Service, the Secretary of State, the Woods Hole Oceanographic Institution, and the current salvor-in-possession of the R.M.S. *Titanic* or the successor. Membership would also include a member that holds a collection and two members of the public who have expertise in nautical archaeology/cultural heritage and are appointed by the Secretary of Commerce. Subsection 19(d) would define quorum of the Council as at least five members. Subsection 19(e) would state that a member of the Council who is not employed by the Federal Government may not receive pay for the member's service on the Council nor can the member be considered an employee of the Federal Government. Subsection 19(f) would state that the Council shall advise and make recommendations to the Secretary of Commerce on the protection, preservation, conservation, curation, and promotion of knowledge of R.M.S. *Titanic* property as well as evaluate the site management plan. Subsection 19(g) would lay out the requirements for a long-term site management plan that includes best-practices for preservation consistent with the International Agreement and the Rules, that is based on information and data gathered from previous expeditions to the site and to other wreckages, is made available to the pub-

lic for notice and comment, and is periodically evaluated and amended as necessary.

Sec. 20. Statute of Limitations.—This section would establish an eight-year statute of limitations on the initiation of any action, whether criminal, civil, or administrative, to enforce the Act, any regulation implementing the Act, or any permit issued under the Act.

Section 5. Effective date

Section 5 of the Act would provide that the amendments shall take effect on the date of enactment.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

R.M.S. TITANIC MARITIME MEMORIAL ACT OF 1986

SEC. 2. R.M.S. TITANIC; INTERNATIONAL MARITIME MEMORIAL; FINDINGS AND PURPOSES.

[16 U.S.C. 450rr]

(a) FINDINGS.—The Congress finds that—

(1) the R.M.S. Titanic, the ocean liner which sank on her maiden voyage after striking an iceberg on April 14, 1912, **[should be designated]** *is recognized* as an international maritime memorial to the men, women, and children who perished aboard her;

(2) the **[recent]** discovery of the R.M.S. Titanic, lying more than twelve thousand feet beneath the ocean surface, demonstrates the practical applications of ocean science and engineering;

(3) the R.M.S. Titanic, well preserved in the cold, oxygen-poor waters of the deep North Atlantic Ocean, is of major national and international cultural and historical significance, and merits appropriate international protection; **[and]**

(4) the R.M.S. Titanic represents a special opportunity for deep ocean scientific research and exploration**[.];**

(5) *the Secretary of Commerce, through the National Oceanic and Atmospheric Administration's National Marine Sanctuary Program, and in consultation with the Secretary of State, other interested Federal agencies, academic and research institutions, the public, the United Kingdom, France, and Canada, issued Final Guidelines for Research, Exploration, and Salvage of R.M.S. Titanic on April 12, 2001 (66 Fed. Reg. 18905), as directed under section 5; and*

(6) *the Secretary of State, in consultation with the Secretary of Commerce, negotiated the International Agreement with the United Kingdom, France, and Canada pursuant to section 6, which was signed on June 18, 2004, subject to acceptance by the United States.*

[(b) PURPOSE.—The Congress declares that the purposes of this Act are—

[(1) to encourage international efforts to designate the R.M.S. Titanic as an international maritime memorial to those who lost their lives aboard her in 1912;

[(2) to direct the United States to enter into negotiations with other interested nations to establish an international agreement which will provide for the designation of the R.M.S. Titanic as an international maritime memorial, and protect the scientific, cultural, and historical significance of the R.M.S. Titanic;

[(3) to encourage, in those negotiations or in other fora, the development and implementation of international guidelines for conducting research on, exploration of, and if appropriate, salvage of the R.M.S. Titanic; and

[(4) to express the sense of the United States Congress that, pending such international agreement or guidelines, no person should physically alter, disturb, or salvage the R.M.S. Titanic in any research or exploratory activities which are conducted.]

(b) PURPOSE.—*The purposes of this Act are—*

(1) *to ensure the protection of R.M.S. Titanic and its wreck site as—*

(A) *an international maritime memorial and grave site to those aboard the ship who perished in 1912; and*

(B) *a site of unique scientific, archeological, cultural, and historical significance for present and future generations;*

(2) *to ensure that the planning and conduct of any activities directed at R.M.S. Titanic and its wreck site are consistent with applicable law, including the International Agreement; and*

(3) *to call upon the Secretary of State to encourage other interested nations, especially nations with the technological capability to access R.M.S. Titanic and its wreck site, to consent to be bound by the International Agreement.*

[SEC. 3. DEFINITIONS.

[16 U.S.C. 450rr-1]

[For the purposes of this Act the term—

[(a) “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration (NOAA);

[(b) “person” means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government;

[(c) “R.M.S. Titanic” means the shipwrecked vessel R.M.S. Titanic, her cargo or other contents, including those items which are scattered on the ocean floor in her vicinity; and

[(d) “Secretary” means the Secretary of State.]

SEC. 3. DEFINITIONS.

In this Act—

(1) *the term “collection” means each grouping of R.M.S. Titanic property, other than human remains, that results from recovery activities after September 1, 1985, at the wreck site of R.M.S. Titanic authorized by—*

- (A) an order of a United States court of competent jurisdiction;
- (B) a permit granted by the Secretary of Commerce under section 7; or
- (C) an order of a court or tribunal (including any administrative body, Office of Maritime Affairs, or Receiver of Wreck) of competent jurisdiction of the United Kingdom, France, or Canada, or of a state party to the International Agreement;
- (2) the term “import” means to bring into, or introduce into, or attempt to bring into or introduce into, the United States, including its territories and insular possessions, and the territorial sea of the United States (as defined in Presidential Proclamation 5928, issued December 27, 1988);
- (3) the term “International Agreement” means the Agreement concerning the Shipwrecked Vessel R.M.S. Titanic;
- (4) the term “Person” means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government;
- (5) the term “R.M.S. Titanic property” includes—
- (A) the shipwrecked vessel R.M.S. Titanic;
- (B) the cargo of R.M.S. Titanic, any other contents from the ship, or any associated items scattered on the ocean floor in the vicinity of the ship, or any portion of the ship;
- (C) all such property recovered from the wreck site since September 1, 1985; and
- (D) any human remains of those aboard R.M.S. Titanic who perished;
- (6) the term “Rules” means the “Rules Concerning Activities Aimed at the R.M.S. Titanic and/or its Artifacts” contained in the Annex to the International Agreement; and
- (7) the term “United States waters” means all waters of the United States on the landward side of the baseline from which the breadth of the United States territorial sea is measured, and the waters of the United States territorial sea as described in Presidential Proclamation 5928, dated December 27, 1988.

[SEC. 5. INTERNATIONAL GUIDELINES.

[16 U.S.C. 450rr-3]

- [(a) The Administrator is directed to enter into consultations with the United Kingdom, France, Canada, and other interested nations to develop international guidelines for research on, exploration of, and if appropriate, salvage of the R.M.S. Titanic, which—
- [(1) are consistent with its national and international scientific, cultural, and historical significance and the purposes of this Act; and
- [(2) promote the safety of individuals involved in such operations.
- [(b) In carrying out subsection (a), the Administrator shall consult with the Secretary and shall promote full participation by other interested Federal agencies, academic and research institutions, and members of the public.]

SEC. 5. SCOPE AND APPLICABILITY.

(a) *IN GENERAL.*—*This Act shall apply to—*

(1) *any person subject to the jurisdiction of the United States at the time that such person engages in an activity prohibited under section 6;*

(2) *any vessel of the United States, including—*

(A) *a vessel documented under chapter 121 of title 46, United States Code, or vessels numbered as provided under chapter 123 of such title;*

(B) *a vessel (other than a vessel that has been granted the nationality of a foreign nation in accordance with article 5 of the Convention on the High Seas, done at Geneva on April 29, 1958, or article 91 of the 1982 Convention on the Law of the Sea, signed at Montego Bay, Jamaica on December 10, 1982, and for which a claim of nationality or registry is made by the master or individual in charge at the time of an enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of United States law) owned in whole or part by—*

(i) *the United States or a territory, commonwealth, or possession of the United States and used on commercial service;*

(ii) *a State or a political subdivision of a State and used on commercial service;*

(iii) *a citizen or national of the United States; or*

(iv) *a corporation created under the laws of the United States, any State, the District of Columbia, or any territory, commonwealth, or possession of the United States; and*

(C) *a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was—*

(i) *sold to a person that is not a citizen of the United States; or*

(ii) *placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation;*

(3) *any vessel subject to the jurisdiction of the United States including—*

(A) *a vessel without nationality;*

(B) *a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the Convention on the High Seas, done at Geneva on April 29, 1958, or article 91 of the Convention on the Law of the Sea, signed at Montego Bay, Jamaica on December 10, 1982;*

(C) *a vessel registered in a foreign nation if—*

(i) *the flag nation has consented to, or waived objection to, the enforcement of United States law by the United States; and*

(ii) *such consent or waiver—*

(I) *was obtained by radio, telephone, or similar oral or electronic means; and*

(II) *is conclusively proved by certification of the Secretary of State or the Secretary's designee;*

- (D) a vessel located within the customs waters of the United States; and
- (E) a vessel located in the contiguous zone of the United States (as defined in Presidential Proclamation 7219, issued on September 2, 1999) that—
- (i) is entering United States waters;
 - (ii) has departed United States waters; or
 - (iii) is a hovering vessel (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)); and
- (4) any property made forfeitable under section 11.
- (b) VESSEL WITHOUT NATIONALITY.—
- (1) IN GENERAL.—In this Act, a vessel without nationality includes—
 - (A) a vessel aboard which the master or person in charge makes a claim of registry, which claim is denied by the flag nation whose registry is claimed;
 - (B) a vessel aboard which the master or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel; and
 - (C) a vessel aboard which the master or person in charge makes a claim of registry and the claimed nation of registry does not affirmatively and unequivocally assert that the vessel is of its nationality.
 - (2) VERIFICATION OR DENIAL.—A claim of registry under subparagraph (A) or (C) of paragraph (1) may be verified or denied by radio, telephone, or similar oral or electronic means. The response by the claimed flag nation is conclusively proved by certification of the Secretary of State or the Secretary's designee.
 - (c) CLAIM OF NATIONALITY OR REGISTRY.—In this Act, a claim of nationality or registry is limited to—
 - (1) possession on board the vessel and production of documents evidencing the vessel's nationality in accordance with article 5 of the Convention on the High Seas, done at Geneva on April 29, 1958, or article 91 of the Convention on the Law of the Sea, signed at Montego Bay, Jamaica on December 10, 1982;
 - (2) flying the flag nation's ensign or flag; or
 - (3) a verbal claim of nationality or registry by the master or person in charge of the vessel.
 - (d) APPLICABILITY.—This Act shall not apply to—
 - (1) warships;
 - (2) naval auxiliaries;
 - (3) other vessels—
 - (A) owned or operated by the United States; and
 - (B) used only for government noncommercial service, unless the vessel engages in an activity designed to disturb, remove, or injure R.M.S. Titanic property; or
 - (4) any person on board a vessel described in paragraphs (1) through (3) who is acting in the course of such person's duties, unless such person engages in an activity designed to disturb, remove, or injure R.M.S. Titanic property.

ISEC. 6. INTERNATIONAL AGREEMENT.

[16 U.S.C. 450rr-4]

[(a) NEGOTIATIONS.—The Secretary is directed to enter into negotiations with the United Kingdom, France, Canada, and other interested nations to develop an international agreement which provides for—

[(1) the designation of the R.M.S. Titanic as an international maritime memorial; and

[(2) research on, exploration of, and if appropriate, salvage of the R.M.S. Titanic consistent with the international guidelines developed pursuant to section 5 and the purposes of this Act.

[(b) CONSULTATION WITH ADMINISTRATOR.—In carrying out the requirements of subsection (a), the Secretary shall consult with the Administrator, who shall provide research and technical assistance to the Secretary.

[(c) REPORTS TO CONGRESSIONAL COMMITTEES ON PROGRESS OF NEGOTIATIONS AND CONSULTATIONS.—The Secretary and the Administrator shall report semiannually to the Committee on Merchant Marine and Fisheries and the Committee on Foreign Affairs in the House of Representatives and to the Committee on Foreign Relations and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation in the Senate on the progress of the negotiations and consultations.

[(d) NOTIFICATION OF AGREEMENT AND RECOMMENDATIONS TO CONGRESSIONAL COMMITTEES.—Upon adoption of an international agreement as described in subsection (a), the Secretary shall provide notification of the agreement and recommendations for legislation to implement the agreement to the Committee on Merchant Marine and Fisheries and the Committee on Foreign Affairs in the House of Representatives and to the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation in the Senate.]

SEC. 6. PROHIBITIONS.

Except as authorized under section 7, it is unlawful for any person or vessel described in section 5 to—

(1) engage in any activity that disturbs, removes, or injures, or attempts to disturb, remove, or injure, R.M.S. Titanic property;

(2) engage in any activity directed at R.M.S. Titanic property located at the wreck site that poses a significant threat to public safety;

(3) engage in any activity that violates any provision of this Act, or any regulation or permit issued under this Act, or any provision of the Rules;

(4) sell, purchase, barter, import, export, or offer to sell, purchase, barter, import, export, in interstate or foreign commerce, R.M.S. Titanic property not constituting a collection; or

(5) enter, or cause entry by means of any equipment, instrumentality, or other property, into the hull sections of R.M.S. Titanic.

[SEC. 7. SENSE OF CONGRESS REGARDING CONDUCT OF FUTURE ACTIVITIES.

[16 U.S.C. 450rr-5]

【It is the sense of Congress that research and limited exploration activities concerning the R.M.S. Titanic should continue for the purpose of enhancing public knowledge of its scientific, cultural, and historical significance: Provided, That, pending adoption of the international agreement described in section 6(a) or implementation of the international guidelines described in section 5, no person should conduct any such research or exploration activity which would physically alter, disturb, or salvage the R.M.S. Titanic.】

SEC. 7. PERMITS.

(a) *IN GENERAL.*—*The Secretary of Commerce may issue a permit for an activity otherwise prohibited under section 6 if the Secretary determines that such activity—*

(1) *is consistent with the International Agreement and Rules; and*

(2)(A) *furtheres educational, scientific, or cultural purposes in the public interest; or*

(B) *is necessary to protect R.M.S. Titanic property from a significant threat.*

(b) *APPLICABILITY.*—*This section shall apply to any activities directed at R.M.S. Titanic property, including those authorized before the effective date of this Act by a court of competent jurisdiction.*

(c) *NOTICE.*—*Any vessel described in paragraph (2) or (3) of section 5(a) that intends to stop within the zone located within the coordinates of 41°46′00.036588″ N, 049°53′09.391344″ W (Northeast corner); 41°46′00.036588″ N, 049°59′51.08136″ W (Northwest corner); 41°41′00.24864″ N, 049°53′09.391344″ W (Southeast corner); 41°41′00.24864″ N, 049°59′51.08136″ W (Southwest corner) shall, through its owner or agent, provide prior written notice of the timing and purpose of such intended entry to the Secretary of Commerce in a manner sufficient to allow the Secretary to determine whether a permit is required and whether a permit should be granted.*

(d) *TERMS AND CONDITIONS.*—*Any permit issued by the Secretary of Commerce under this section shall contain terms and conditions that fully comply with the Rules.*

(e) *FEES.*—*The Secretary of Commerce may charge and retain reasonable fees to offset expenses associated with the processing of permit applications and the administration of permits issued under this section. Fees collected under this subsection shall be available to cover such costs without further appropriation and shall remain available until expended.*

(f) *DEADLINES.*—

(1) *IN GENERAL.*—*Except as provided under paragraph (2), the Secretary of Commerce shall act on an application for a permit under this section not later than 180 days after the date on which the Secretary has determined that the application contains sufficient information for the Secretary to make a decision on the application.*

(2) *ADDITIONAL TIME.*—*If the Secretary is unable to comply with the deadline under paragraph (1), the Secretary shall provide the applicant with written notification that up to an additional 30 days will be needed to complete the review. Under no*

circumstances may a complete application remain pending for more than 210 days.

(3) **RULEMAKING.**—The Secretary shall promulgate regulations to—

(A) identify the scientific, technical, logistical, or other documentation or justification required for the Secretary to make a decision on the application for permit; and

(B) ensure the confidentiality of proprietary information and data submitted under this section.

SEC. 8. LIABILITY.

(a) **LIABILITY TO THE UNITED STATES.**—Any person who engages in an activity prohibited under section 6 is liable for response costs, direct and indirect enforcement costs, and any damages resulting from such activity, including—

(1) the reasonable costs incurred in storage, restoration, care, maintenance, conservation, and curation of R.M.S. Titanic property; and

(2) the cost of retrieving any remaining information of a scientific, archeological, cultural, or historical interest from the site at which R.M.S. Titanic property was disturbed, removed, or injured.

(b) **LIABILITY IN REM.**—Any vessel (including the vessel's gear, appurtenances, stores, and cargo), vehicle, aircraft, or other means of transportation, and any money or property used, or intended to be used, to facilitate any violation of this Act or any regulation or permit issued under this Act, shall be liable in rem to the United States for any fine, penalty, or damages assessed or imposed under this Act. The amount of such in rem liability shall constitute a lien and may be recovered in an action in rem in an appropriate district court of the United States.

SEC. 9. CIVIL ENFORCEMENT.

(a) **PERMIT SANCTION AND CIVIL ADMINISTRATIVE PENALTY.**—

(1) **IN GENERAL.**—Any person who violates any provision of this Act, or any regulation or permit issued under this Act—

(A) may be subject to a permit sanction; and

(B) may be assessed a civil administrative penalty by the Secretary of Commerce after notice and an opportunity for a hearing.

(2) **AMOUNT OF PENALTY.**—A penalty assessed under paragraph (1)(B) may not exceed \$250,000 per day for each such violation. Each day of a continuing violation shall constitute a separate violation.

(3) **ENFORCEMENT OF PENALTY.**—Upon failure of the offending party to pay a penalty under this subsection, the Attorney General, upon the request of the Secretary of Commerce, may commence an action in the appropriate district court of the United States to recover such penalty. In such action, the validity and appropriateness of the final order imposing the civil administrative penalty shall not be subject to review.

(b) **CIVIL JUDICIAL PENALTY.**—

(1) **IN GENERAL.**—Any person who violates any provision of this Act, or any regulation or permit issued under this Act, shall be subject to a civil penalty not to exceed \$500,000 per day

for each such violation. Each day of a continuing violation shall constitute a separate violation.

(2) **ENFORCEMENT OF PENALTY.**—Upon the request of the Secretary of Commerce, the Attorney General may commence a civil action in an appropriate district court of the United States. Such court shall have jurisdiction to award civil penalties. In determining the amount of a civil penalty, the court may consider such matters as justice may require.

(c) **CIVIL ACTION.**—Upon the request of the Secretary of Commerce, acting as trustee for R.M.S. Titanic property, the Attorney General may institute a civil action in an appropriate district court of the United States to—

(1) recover response costs, direct and indirect enforcement costs, and damages as set forth in section 8; or

(2) obtain a court order directing any person in possession of R.M.S. Titanic property unlawfully obtained to deliver such R.M.S. Titanic property to the Secretary of Commerce.

(d) **IN REM ACTION.**—Upon the request of the Secretary of Commerce, acting as trustee for R.M.S. Titanic property, the Attorney General may institute an in rem action in an appropriate district court of the United States to—

(1) satisfy a lien referred to in section 8 in an appropriate district court of the United States; or

(2) assume custody of R.M.S. Titanic property unlawfully possessed as a result of a violation of this Act, or any regulation or permit issued under this Act.

(e) **INJUNCTIVE RELIEF.**—Upon the request of the Secretary of Commerce, the Attorney General may seek to obtain such relief in an appropriate district court of the United States as may be necessary to abate an imminent risk of—

(1) the disturbance to, removal of, or injury to R.M.S. Titanic property; or

(2) the sale, purchase, barter, import, or export in interstate or foreign commerce of R.M.S. Titanic property.

SEC. 10. CRIMINAL ENFORCEMENT.

(a) **IN GENERAL.**—Any person who knowingly commits any act prohibited under section 6 is guilty of an offense under this Act.

(b) **PENALTY.**—Any person who is convicted of an offense under this section shall be fined not more than \$250,000 per day of violation, imprisoned for not more than 5 years, or both.

SEC. 11. SEIZURE AND FORFEITURE.

(a) **AUTHORIZATION.**—The provisions of this Act may be enforced by the Secretary of Commerce and the Secretary of Homeland Security, or their respective designees.

(b) **DETENTION AND ARREST.**—Any person authorized by the Secretary of Commerce or the Secretary of Homeland Security to enforce this Act may—

(1) detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation and otherwise as permitted by law;

(2) make arrests without a warrant for any violation of this Act if the authorized person has reasonable grounds to believe

that the person to be arrested is committing the violation in their presence or view;

(3) execute and serve any arrest warrant, seizure warrant, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this Act, or any regulation or permit issued under this Act; and

(4) search and seize property described in paragraph (1), with or without a warrant, as authorized by law.

(c) **TEMPORARY DISPOSITION OF PROPERTY.**—

(1) **IN GENERAL.**—Any R.M.S. Titanic property, or other property seized pursuant to subsection (b)(4), shall be held by any person authorized by the Secretary of Commerce or the Secretary of Homeland Security pending disposition of civil or criminal proceedings, administrative forfeiture proceedings, actions in rem for forfeiture of such R.M.S. Titanic property or other property pursuant to this section, or criminal forfeiture proceedings pursuant to this section, as authorized under section 2461(c) of title 28, United States Code.

(2) **EXCEPTION.**—Instead of holding the property described in paragraph (1), the Secretary of Commerce or the Secretary of Homeland Security may permit the owner or consignee of such property to post a bond or other surety satisfactory to the Secretary of Commerce or the Secretary of Homeland Security.

(d) **PROPERTY SUBJECT TO FORFEITURE.**—The following property shall be subject to forfeiture to the United States:

(1) Any R.M.S. Titanic property possessed, taken, retained, purchased, sold, bartered, imported, or exported contrary to the provisions of this Act, or any regulation or permit issued under this Act.

(2) Any property, real or personal, that constitutes, or is derived from, the proceeds of any violation of this Act, or any regulation or permit issued under this Act.

(3) Any vessel (including the vessel's gear, appurtenances, stores, and cargo), vehicle, aircraft, or other means of transportation and any money or other property used or intended to be used to facilitate any violation of this Act, or any regulation or permit issued under this Act.

(4) Any property traceable to the property described in paragraph (1), (2), or (3).

(e) **REBUTTABLE PRESUMPTION.**—In this section, there is a rebuttable presumption that all R.M.S. Titanic property found on board a vessel that is used or seized in connection with a violation of this Act, or any regulation or permit issued under this Act, was taken or retained in violation of this Act, or a regulation or permit issued under this Act.

(f) **FINAL DISPOSITION OF PROPERTY.**—Upon forfeiture of any R.M.S. Titanic property or other property to the United States pursuant to this section, or the abandonment or waiver of any claim to any such property, the property shall be disposed of by the Secretary of Commerce in such a manner, consistent with the purposes of this Act, as the Secretary shall prescribe by regulation, including the possibility of assimilating R.M.S. Titanic property with an existing collection. Any R.M.S. Titanic property ordered forfeited to the United States shall be held in trust by the Secretary of Commerce on behalf of the public and disposed of in a manner consistent with

the purposes of this Act. Forfeited R.M.S. Titanic property that does not constitute a collection may not be sold, but may be assimilated with an existing collection.

(g) CIVIL FORFEITURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures shall extend to any seizure or administrative or civil judicial forfeiture under this section to the extent that such provisions are not inconsistent with this Act.

(2) PERFORMANCE OF DUTIES.—Any duties imposed upon the Attorney General, the Secretary of the Treasury, or the Postmaster General shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Secretary of Commerce or the Secretary of Homeland Security, as appropriate.

(h) CRIMINAL FORFEITURES.—

(1) IN GENERAL.—Any person who is convicted of an offense under section 10 shall forfeit property to the United States pursuant to this section, as authorized by section 2461(c) of title 28, United States Code.

(2) PROCEDURES.—The procedures under section 413 of the Controlled Substances Act (21 U.S.C. 853) (except subsection (d) of such section), insofar as such provisions are not inconsistent with this Act, shall apply to—

(A) all stages of a criminal forfeiture of property under this section, including any seizure and disposition of such property; and

(B) any administrative or judicial proceeding in relation to such forfeiture.

SEC. 12. DISPOSITION OF MONIES RECOVERED.

(a) IN GENERAL.—Notwithstanding any other provision of law, any monies collected under sections 8, 9, 10, and 11, either directly or through the sale of forfeited property, after payment of related expenses—

(1) are authorized to be paid into 1 or more special accounts of the Department of the Treasury; and

(2) shall be used by the Secretary of Commerce for—

(A) conservation of Titanic artifacts recovered pursuant to an enforcement action;

(B) conservation of any Titanic collection of lawfully salvaged artifacts; or

(C) the collection of the USS Monitor National Marine Sanctuary artifacts at The Mariners' Museum.

(b) DISPOSITION OF EXCESS FUNDS.—If the proceeds from an enforcement action exceed the amount of funds needed for the conservation of artifacts from that case, the Titanic collection, and the Monitor collection, such excess amount shall be deposited in the General Fund of the Treasury.

SEC. 13. INTERNATIONAL COOPERATION.

(a) SECRETARY OF COMMERCE.—In cooperation with the Secretary of State, the Secretary of Commerce is authorized to inform and consult with representatives of foreign nations and others regarding

the protection and preservation of R.M.S. Titanic property, including the issuance of permits pursuant to section 7.

(b) SECRETARY OF STATE.—In the event that a party to the International Agreement issues a permit, pursuant to its laws, allowing for the recovery of R.M.S. Titanic property, the Secretary of State may consult with that party to request that existing salvor-in-possession rights to R.M.S. Titanic are respected and that there is consideration of assimilating any R.M.S. Titanic property recovered to an existing collection.

SEC. 14. AGREEMENTS AND AUTHORITY TO UTILIZE GRANT FUNDS.

(a) AGREEMENTS.—The Secretary of Commerce may, as appropriate, enter into agreements with any person to use the personnel, services, equipment, or facilities of such person, on a reimbursable or nonreimbursable basis, to assist in carrying out the purposes of this Act.

(b) AUTHORITY TO UTILIZE GRANT FUNDS.—The Secretary of Commerce—

(1) except as provided in paragraph (2), and notwithstanding any other provision of law that prohibits a Federal agency from receiving assistance, may apply for, accept, and obligate research grant funding from any Federal source operating competitive grant programs if such funding furthers the purposes of this Act;

(2) may not apply for, accept, or obligate any grant funding under paragraph (1) if—

(A) the granting agency is not authorized to award grants to Federal agencies; or

(B) the grant will be used for any purposes, or will be subject to any conditions, that are prohibited by law or regulation;

(3) may use amounts appropriated for the purpose of this Act to satisfy a requirement to match grant funds with recipient agency funds, except that no grant may be accepted that requires a commitment before such amounts are appropriated; and

(4) shall deposit grant funds in the National Oceanic and Atmospheric Administration account that serves to accomplish the purpose for which the grant was awarded.

SEC. 15. MONITORING AUTHORIZATION.

In order to carry out the purposes of this Act, the Secretary of Commerce may—

(1) monitor the wreck site of R.M.S. Titanic; and

(2) conduct such monitoring in coordination with the personnel, services, and facilities of other Federal departments, agencies, or instrumentalities on a reimbursable or nonreimbursable basis.

SEC. 16. RULEMAKING.

The Secretary of Commerce is authorized to promulgate regulations to implement this Act, including, as necessary, regulations providing for the issuance of permits under section 7. Such regulations shall be consistent with the International Agreement and Rules.

SEC. 17. RELATIONSHIP TO OTHER LAWS.

(a) *LIABILITY.*—Nothing in sections 4281 through 4289 of the Revised Statutes of the United States or section 3 of the Act of February 13, 1893, shall limit the liability of any person under this Act.

(b) *SEIZURE AND FORFEITURE OF PROPERTY.*—Nothing in this Act may be construed to affect the seizure and forfeiture of property, including R.M.S. Titanic property, under the customs laws of the United States, or the issuance of penalties under such laws.

(c) *INTERNATIONAL AGREEMENTS.*—This Act and any implementing regulations shall be applied in accordance with applicable law, including treaties, conventions, and other international agreements to which the United States is a party.

(d) *FREEDOMS OF THE HIGH SEAS.*—Except to the extent that an activity is undertaken as a subterfuge for activities prohibited under this Act, nothing in this Act is intended to affect the exercise of traditional freedoms of the high seas, including—

- (1) navigation;
- (2) the laying of submarine cables and pipelines;
- (3) operation of vessels;
- (4) fishing; or
- (5) other internationally lawful uses of the sea related to such freedoms.

(e) *SEVERABILITY.*—Each provision of this Act is severable. If a court of competent jurisdiction should find any provision of this Act to be unenforceable, all other provisions shall remain in full force and effect.

(f) *SALVAGE RIGHTS.*—

(1) *COMPLIANCE WITH THIS ACT.*—An order granting salvage rights to R.M.S. Titanic by a court of competent jurisdiction prior to the effective date of this Act shall not exempt any person from complying with this Act or any regulation or permit issued under this Act.

(2) *PERMIT ISSUANCE.*—If a person with exclusive salvage rights to the R.M.S. Titanic seeks a permit issued under section 7 of this Act, such a permit shall not be unreasonably withheld.

(3) *LIMITATION ON OBTAINING SALVAGE RIGHTS.*—Without prejudice to the orders of a United States Court of competent jurisdiction, issued in reference to the entity known as ‘RMS Titanic, Inc.’, prior to the effective date of this legislation (the status of such orders to be unaffected by this legislation), no person may obtain salvage rights to R.M.S. Titanic or R.M.S. Titanic property, after the effective date of this Act, except by an assignment or transfer of existing rights or through the orders of a United States Court of competent jurisdiction issued in reference to the entity known as ‘RMS Titanic, Inc.’.

(g) *LAW OF FINDS.*—The law of finds shall not apply to R.M.S. Titanic or R.M.S. Titanic property.

(h) *COLLECTION MANAGEMENT.*—Each collection shall be managed and maintained in accordance with the Rules.

SEC. 18. VALID EXCLUSIVE RIGHT TO SALVAGE R.M.S. TITANIC.

(a) *CONSTRUCTION.*—Nothing in this Act shall be construed as terminating, or granting to the Secretary of Commerce the right to terminate, any valid exclusive right to salvage the R.M.S. Titanic that is in existence on the date of enactment.

(b) *REGULATION BY SECRETARY OF COMMERCE.*—The exercise of the exclusive right to salvage R.M.S. Titanic is subject to regulation by the Secretary of Commerce consistent with the provisions of this Act.

SEC. 19. TITANIC ADVISORY COUNCIL; SITE MANAGEMENT PLAN.

(a) *AUTHORITY TO ESTABLISH.*—The Secretary of Commerce is authorized to establish the Titanic Advisory Council.

(b) *EXEMPTION FROM FACCA.*—The Titanic Advisory Council shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

(c) *MEMBERSHIP.*—The membership of the Titanic Advisory Council shall consist of—

(1) a member designated by the Administrator of the National Oceanic and Atmospheric Administration;

(2) a member designated by the Director of the National Park Service;

(3) a member designated by the Secretary of State;

(4)(A) a member from the Woods Hole Oceanographic Institution designated by the head of the Institution; or

(B) in the event that the head of such Institution is unable or declines to make a designation under subparagraph (A), a member of another leading marine research institution that is selected by the Secretary of Commerce from a list recommended by the Titanic Advisory Council;

(5) a member designated by the current salvor-in-possession of the R.M.S. Titanic, or any successor, as determined pursuant to section 17(h);

(6) a member designated by any United States person that holds a collection; and

(7) 2 members of the public who—

(A) have expertise in nautical archaeology or underwater cultural heritage;

(B) are appointed by the Secretary of Commerce from a list of recommended candidates prepared by the other members of the Titanic Advisory Council, with at least 5 members concurring in the recommendation; and

(C) may be a person from a foreign government, institution, or corporation.

(d) *CONDUCT OF BUSINESS.*—

(1) *QUORUM.*—The Titanic Advisory Council may meet and conduct business if there is a quorum of at least 5 members.

(2) *PRIOR TO APPOINTMENT.*—The Titanic Advisory Council may meet and conduct business prior to the appointment of the members described in subsection (c)(7).

(e) *PROHIBITION ON COMPENSATION.*—A member of the Titanic Advisory Council who is not employed by the Federal Government may not—

(1) receive pay by reason of the member's service on the Titanic Advisory Council; and

(2) be considered an employee of the Federal Government by reason of any service to the Titanic Advisory Council.

(f) *DUTIES.*—The Titanic Advisory Council shall advise and make recommendations to the Secretary of Commerce regarding—

(1) the protection and preservation of R.M.S. Titanic property and conservation and curation of artifacts recovered from the R.M.S. Titanic in a manner consistent with this Act, the Inter-

national Agreement, and the promotion of knowledge of and education about the R.M.S. Titanic; and

(2) the site management plan required by paragraph (1) of subsection (g), including periodic evaluations of such plan as described in paragraph (3) of such subsection.

(g) SITE MANAGEMENT PLAN.—

(1) REQUIREMENT FOR PLAN.—Not later than 2 years after the date the Titanic Advisory Council provides the Secretary of Commerce recommendations under subsection (f)(2), the Secretary shall prepare a long-term site management plan for R.M.S. Titanic that—

(A) includes an archaeological plan, that ensures best practices are observed in the protection and preservation of the wreck site and artifacts recovered from the R.M.S. Titanic, in a manner consistent with the International Agreement and the Rules; and

(B) is based on information and data gathered from previous expeditions to the site, previous experience with handling R.M.S. Titanic artifacts as well as other relevant information, and data and experience from other wreck sites.

(2) PUBLIC AVAILABILITY.—The site management plan prepared under paragraph (1) shall be made available to the public for notice and comment prior to its adoption by the Secretary of Commerce.

(3) PERIODIC EVALUATIONS AND AMENDMENT.—The Titanic Advisory Council shall periodically evaluate and provide advice and recommendations to the Secretary of Commerce for the amendment of the site management plan prepared under paragraph (1) and the Secretary of Commerce may amend such plan as necessary and appropriate.

SEC. 20. STATUTE OF LIMITATIONS.

No civil action may be brought, and no criminal prosecution may be commenced, by the United States to enforce this Act, or any regulation or permit issued under this Act, after the date that is 8 years after the date on which—

(1) all facts material to the right of action or offense are known by the Secretary of Commerce; and

(2) jurisdiction can be exercised over the defendant.

SEC. [8]21. DISCLAIMER OF EXTRATERRITORIAL SOVEREIGNTY.

[16 U.S.C. 450rr-6]

By enactment of this Act, the United States does not assert sovereignty, or sovereign or exclusive rights or jurisdiction over, or the ownership of, any marine areas or the R.M.S. Titanic.