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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.

IN THE SENATE OF THE UNITED STATES

MARCH 29, 2012

Mr. KERRY (for himself and Mr. ISAKSON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''R.M.S. Titanic Maritime Memorial Preservation Act of 2012''.

SEC. 2. FINDINGS AND PURPOSES.

Section 2 of the R.M.S. Titanic Maritime Memorial Act of 1986 (16 U.S.C. 450rr) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''should be designated'' and inserting ''is recognized'';

(B) in paragraph (2), by striking ''recent'';

(C) in paragraph (3), by striking ''and'' at the end;

(D) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(E) by adding after paragraph (4) the following:

''(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.''; and

(2) by amending subsection (b) to read as follows:

''(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.

Section 3 of the R.M.S. Titanic Maritime Memorial Act of 1986 (16 U.S.C. 450rr–1) is amended to read as follows:

"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. 4. IMPLEMENTATION OF THE INTERNATIONAL AGREEMENT.

The R.M.S. Titanic Maritime Memorial Act of 1986 (16 U.S.C. 450rr et seq.) is amended—

(1) by striking sections 5, 6, and 7;

(2) by redesignating section 8 as section 21; and

(3) by inserting after section 4 the following:

''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.

"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. 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) furthers 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 prop-

erty, 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 FACA.—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 International 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. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

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