

Calendar No. 550

112TH CONGRESS
2D SESSION**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, Mr. ISAKSON, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

NOVEMBER 14, 2012

Reported by Mr. ROCKEFELLER, without amendment

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “R.M.S. Titanic Mari-
5 time Memorial Preservation Act of 2012”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

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

4 (1) in subsection (a)—

5 (A) in paragraph (1), by striking “should
6 be designated” and inserting “is recognized”;

7 (B) in paragraph (2), by striking “recent”;

8 (C) in paragraph (3), by striking “and” at
9 the end;

10 (D) in paragraph (4), by striking the pe-
11 riod at the end and inserting a semicolon; and

12 (E) by adding after paragraph (4) the fol-
13 lowing:

14 “(5) the Secretary of Commerce, through the
15 National Oceanic and Atmospheric Administration’s
16 National Marine Sanctuary Program, and in con-
17 sultation with the Secretary of State, other inter-
18 ested Federal agencies, academic and research insti-
19 tutions, the public, the United Kingdom, France,
20 and Canada, issued Final Guidelines for Research,
21 Exploration, and Salvage of R.M.S. Titanic on April
22 12, 2001 (66 Fed. Reg. 18905), as directed under
23 section 5; and

24 “(6) the Secretary of State, in consultation with
25 the Secretary of Commerce, negotiated the Inter-
26 national Agreement with the United Kingdom,

1 France, and Canada pursuant to section 6, which
2 was signed on June 18, 2004, subject to acceptance
3 by the United States.”; and

4 (2) by amending subsection (b) to read as fol-
5 lows:

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

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

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

12 “(B) a site of unique scientific, archeo-
13 logical, cultural, and historical significance for
14 present and future generations;

15 “(2) to ensure that the planning and conduct of
16 any activities directed at R.M.S. Titanic and its
17 wreck site are consistent with applicable law, includ-
18 ing the International Agreement; and

19 “(3) to call upon the Secretary of State to en-
20 courage other interested nations, especially nations
21 with the technological capability to access R.M.S. Ti-
22 tanic and its wreck site, to consent to be bound by
23 the International Agreement.”.

1 **SEC. 3. DEFINITIONS.**

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

5 **“SEC. 3. DEFINITIONS.**

6 “In this Act—

7 “(1) the term ‘collection’ means each grouping
8 of R.M.S. Titanic property, other than human re-
9 mains, that results from recovery activities after
10 September 1, 1985, at the wreck site of R.M.S. Ti-
11 tanic authorized by—

12 “(A) an order of a United States court of
13 competent jurisdiction;

14 “(B) a permit granted by the Secretary of
15 Commerce under section 7; or

16 “(C) an order of a court or tribunal (in-
17 cluding any administrative body, Office of Mari-
18 time Affairs, or Receiver of Wreck) of com-
19 petent jurisdiction of the United Kingdom,
20 France, or Canada, or of a state party to the
21 International Agreement;

22 “(2) the term ‘import’ means to bring into, or
23 introduce into, or attempt to bring into or introduce
24 into, the United States, including its territories and
25 insular possessions, and the territorial sea of the

1 United States (as defined in Presidential Proclama-
2 tion 5928, issued December 27, 1988);

3 “(3) the term ‘International Agreement’ means
4 the Agreement concerning the Shipwrecked Vessel
5 R.M.S. Titanic;

6 “(4) the term ‘Person’ means any individual
7 (whether or not a citizen or national of the United
8 States), any corporation, partnership, association, or
9 other entity (whether or not organized or existing
10 under the laws of any State), and any Federal,
11 State, local, or foreign government or any entity of
12 any such government;

13 “(5) the term ‘R.M.S. Titanic property’ in-
14 cludes—

15 “(A) the shipwrecked vessel R.M.S. Ti-
16 tanic;

17 “(B) the cargo of R.M.S. Titanic, any
18 other contents from the ship, or any associated
19 items scattered on the ocean floor in the vicin-
20 ity of the ship, or any portion of the ship;

21 “(C) all such property recovered from the
22 wreck site since September 1, 1985; and

23 “(D) any human remains of those aboard
24 R.M.S. Titanic who perished;

1 “(6) the term ‘Rules’ means the ‘Rules Con-
 2 cerning Activities Aimed at the R.M.S. Titanic and/
 3 or its Artifacts’ contained in the Annex to the Inter-
 4 national Agreement; and

5 “(7) the term ‘United States waters’ means all
 6 waters of the United States on the landward side of
 7 the baseline from which the breadth of the United
 8 States territorial sea is measured, and the waters of
 9 the United States territorial sea as described in
 10 Presidential Proclamation 5928, dated December 27,
 11 1988.”.

12 **SEC. 4. IMPLEMENTATION OF THE INTERNATIONAL AGREE-**
 13 **MENT.**

14 The R.M.S. Titanic Maritime Memorial Act of 1986
 15 (16 U.S.C. 450rr et seq.) is amended—

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

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

18 and

19 (3) by inserting after section 4 the following:

20 **“SEC. 5. SCOPE AND APPLICABILITY.**

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

22 “(1) any person subject to the jurisdiction of
 23 the United States at the time that such person en-
 24 gages in an activity prohibited under section 6;

1 “(2) any vessel of the United States, includ-
2 ing—

3 “(A) a vessel documented under chapter
4 121 of title 46, United States Code, or vessels
5 numbered as provided under chapter 123 of
6 such title;

7 “(B) a vessel (other than a vessel that has
8 been granted the nationality of a foreign nation
9 in accordance with article 5 of the Convention
10 on the High Seas, done at Geneva on April 29,
11 1958, or article 91 of the 1982 Convention on
12 the Law of the Sea, signed at Montego Bay,
13 Jamaica on December 10, 1982, and for which
14 a claim of nationality or registry is made by the
15 master or individual in charge at the time of an
16 enforcement action by an officer or employee of
17 the United States authorized to enforce applica-
18 ble provisions of United States law) owned in
19 whole or part by—

20 “(i) the United States or a territory,
21 commonwealth, or possession of the United
22 States and used on commercial service;

23 “(ii) a State or a political subdivision
24 of a State and used on commercial service;

1 “(iii) a citizen or national of the
2 United States; or

3 “(iv) a corporation created under the
4 laws of the United States, any State, the
5 District of Columbia, or any territory,
6 commonwealth, or possession of the United
7 States; and

8 “(C) a vessel that was once documented
9 under the laws of the United States and, in vio-
10 lation of the laws of the United States, was—

11 “(i) sold to a person that is not a cit-
12 izen of the United States; or

13 “(ii) placed under foreign registry or
14 a foreign flag, whether or not the vessel
15 has been granted the nationality of a for-
16 eign nation;

17 “(3) any vessel subject to the jurisdiction of the
18 United States including—

19 “(A) a vessel without nationality;

20 “(B) a vessel assimilated to a vessel with-
21 out nationality, in accordance with paragraph
22 (2) of article 6 of the Convention on the High
23 Seas, done at Geneva on April 29, 1958, or ar-
24 ticle 91 of the Convention on the Law of the

1 Sea, signed at Montego Bay, Jamaica on De-
2 cember 10, 1982;

3 “(C) a vessel registered in a foreign nation
4 if—

5 “(i) the flag nation has consented to,
6 or waived objection to, the enforcement of
7 United States law by the United States;
8 and

9 “(ii) such consent or waiver—

10 “(I) was obtained by radio, tele-
11 phone, or similar oral or electronic
12 means; and

13 “(II) is conclusively proved by
14 certification of the Secretary of State
15 or the Secretary’s designee;

16 “(D) a vessel located within the customs
17 waters of the United States; and

18 “(E) a vessel located in the contiguous
19 zone of the United States (as defined in Presi-
20 dential Proclamation 7219, issued on Sep-
21 tember 2, 1999) that—

22 “(i) is entering United States waters;

23 “(ii) has departed United States
24 waters; or

1 “(iii) is a hovering vessel (as defined
2 in section 401 of the Tariff Act of 1930
3 (19 U.S.C. 1401)); and

4 “(4) any property made forfeitable under sec-
5 tion 11.

6 “(b) VESSEL WITHOUT NATIONALITY.—

7 “(1) IN GENERAL.—In this Act, a vessel with-
8 out nationality includes—

9 “(A) a vessel aboard which the master or
10 person in charge makes a claim of registry,
11 which claim is denied by the flag nation whose
12 registry is claimed;

13 “(B) a vessel aboard which the master or
14 person in charge fails, upon request of an offi-
15 cer of the United States empowered to enforce
16 applicable provisions of United States law, to
17 make a claim of nationality or registry for that
18 vessel; and

19 “(C) a vessel aboard which the master or
20 person in charge makes a claim of registry and
21 the claimed nation of registry does not affirma-
22 tively and unequivocally assert that the vessel is
23 of its nationality.

24 “(2) VERIFICATION OR DENIAL.—A claim of
25 registry under subparagraph (A) or (C) of para-

1 graph (1) may be verified or denied by radio, tele-
2 phone, or similar oral or electronic means. The re-
3 sponse by the claimed flag nation is conclusively
4 proved by certification of the Secretary of State or
5 the Secretary's designee.

6 “(c) CLAIM OF NATIONALITY OR REGISTRY.—In this
7 Act, a claim of nationality or registry is limited to—

8 “(1) possession on board the vessel and produc-
9 tion of documents evidencing the vessel's nationality
10 in accordance with article 5 of the Convention on the
11 High Seas, done at Geneva on April 29, 1958, or ar-
12 ticle 91 of the Convention on the Law of the Sea,
13 signed at Montego Bay, Jamaica on December 10,
14 1982;

15 “(2) flying the flag nation's ensign or flag; or

16 “(3) a verbal claim of nationality or registry by
17 the master or person in charge of the vessel.

18 “(d) APPLICABILITY.—This Act shall not apply to—

19 “(1) warships;

20 “(2) naval auxiliaries;

21 “(3) other vessels—

22 “(A) owned or operated by the United
23 States; and

24 “(B) used only for government non-
25 commercial service, unless the vessel engages in

1 an activity designed to disturb, remove, or in-
2 jure R.M.S. Titanic property; or

3 “(4) any person on board a vessel described in
4 paragraphs (1) through (3) who is acting in the
5 course of such person’s duties, unless such person
6 engages in an activity designed to disturb, remove,
7 or injure R.M.S. Titanic property.

8 **“SEC. 6. PROHIBITIONS.**

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

11 “(1) engage in any activity that disturbs, re-
12 moves, or injures, or attempts to disturb, remove, or
13 injure, R.M.S. Titanic property;

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

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

20 “(4) sell, purchase, barter, import, export, or
21 offer to sell, purchase, barter, import, export, in
22 interstate or foreign commerce, R.M.S. Titanic prop-
23 erty not constituting a collection; or

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

4 **“SEC. 7. PERMITS.**

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

8 “(1) is consistent with the International Agree-
 9 ment and Rules; and

10 “(2)(A) furthers educational, scientific, or cul-
 11 tural purposes in the public interest; or

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

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

18 “(c) NOTICE.—Any vessel described in paragraph (2)
 19 or (3) of section 5(a) that intends to stop within the zone
 20 located within the coordinates of 41°46′00.036588″ N,
 21 049°53′09.391344″ W (Northeast corner);
 22 41°46′00.036588″ N, 049°59′51.08136″ W (Northwest
 23 corner); 41°41′00.24864″ N, 049°53′09.391344″ W
 24 (Southeast corner); 41°41′00.24864″ N,
 25 049°59′51.08136″ W (Southwest corner) shall, through

1 its owner or agent, provide prior written notice of the tim-
2 ing and purpose of such intended entry to the Secretary
3 of Commerce in a manner sufficient to allow the Secretary
4 to determine whether a permit is required and whether
5 a permit should be granted.

6 “(d) TERMS AND CONDITIONS.—Any permit issued
7 by the Secretary of Commerce under this section shall con-
8 tain terms and conditions that fully comply with the Rules.

9 “(e) FEES.—The Secretary of Commerce may charge
10 and retain reasonable fees to offset expenses associated
11 with the processing of permit applications and the admin-
12 istration of permits issued under this section. Fees col-
13 lected under this subsection shall be available to cover
14 such costs without further appropriation and shall remain
15 available until expended.

16 “(f) DEADLINES.—

17 “(1) IN GENERAL.—Except as provided under
18 paragraph (2), the Secretary of Commerce shall act
19 on an application for a permit under this section not
20 later than 180 days after the date on which the Sec-
21 retary has determined that the application contains
22 sufficient information for the Secretary to make a
23 decision on the application.

24 “(2) ADDITIONAL TIME.—If the Secretary is
25 unable to comply with the deadline under paragraph

1 (1), the Secretary shall provide the applicant with
2 written notification that up to an additional 30 days
3 will be needed to complete the review. Under no cir-
4 cumstances may a complete application remain
5 pending for more than 210 days.

6 “(3) RULEMAKING.—The Secretary shall pro-
7 mulgate regulations to—

8 “(A) identify the scientific, technical,
9 logistical, or other documentation or justifica-
10 tion required for the Secretary to make a deci-
11 sion on the application for permit; and

12 “(B) ensure the confidentiality of propri-
13 etary information and data submitted under
14 this section.

15 **“SEC. 8. LIABILITY.**

16 “(a) LIABILITY TO THE UNITED STATES.—Any per-
17 son who engages in an activity prohibited under section
18 6 is liable for response costs, direct and indirect enforce-
19 ment costs, and any damages resulting from such activity,
20 including—

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

24 “(2) the cost of retrieving any remaining infor-
25 mation of a scientific, archeological, cultural, or his-

1 torical interest from the site at which R.M.S. Titanic
 2 property was disturbed, removed, or injured.

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

13 **“SEC. 9. CIVIL ENFORCEMENT.**

14 “(a) PERMIT SANCTION AND CIVIL ADMINISTRATIVE
 15 PENALTY.—

16 “(1) IN GENERAL.—Any person who violates
 17 any provision of this Act, or any regulation or per-
 18 mit issued under this Act—

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

21 “(B) may be assessed a civil administrative
 22 penalty by the Secretary of Commerce after no-
 23 tice and an opportunity for a hearing.

24 “(2) AMOUNT OF PENALTY.—A penalty as-
 25 sessed under paragraph (1)(B) may not exceed

1 \$250,000 per day for each such violation. Each day
2 of a continuing violation shall constitute a separate
3 violation.

4 “(3) ENFORCEMENT OF PENALTY.—Upon fail-
5 ure of the offending party to pay a penalty under
6 this subsection, the Attorney General, upon the re-
7 quest of the Secretary of Commerce, may commence
8 an action in the appropriate district court of the
9 United States to recover such penalty. In such ac-
10 tion, the validity and appropriateness of the final
11 order imposing the civil administrative penalty shall
12 not be subject to review.

13 “(b) CIVIL JUDICIAL PENALTY.—

14 “(1) IN GENERAL.—Any person who violates
15 any provision of this Act, or any regulation or per-
16 mit issued under this Act, shall be subject to a civil
17 penalty not to exceed \$500,000 per day for each
18 such violation. Each day of a continuing violation
19 shall constitute a separate violation.

20 “(2) ENFORCEMENT OF PENALTY.—Upon the
21 request of the Secretary of Commerce, the Attorney
22 General may commence a civil action in an appro-
23 priate district court of the United States. Such court
24 shall have jurisdiction to award civil penalties. In de-

1 termining the amount of a civil penalty, the court
2 may consider such matters as justice may require.

3 “(c) CIVIL ACTION.—Upon the request of the Sec-
4 retary of Commerce, acting as trustee for R.M.S. Titanic
5 property, the Attorney General may institute a civil action
6 in an appropriate district court of the United States to—

7 “(1) recover response costs, direct and indirect
8 enforcement costs, and damages as set forth in sec-
9 tion 8; or

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

14 “(d) IN REM ACTION.—Upon the request of the Sec-
15 retary of Commerce, acting as trustee for R.M.S. Titanic
16 property, the Attorney General may institute an in rem
17 action in an appropriate district court of the United States
18 to—

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

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

1 “(e) INJUNCTIVE RELIEF.—Upon the request of the
2 Secretary of Commerce, the Attorney General may seek
3 to obtain such relief in an appropriate district court of
4 the United States as may be necessary to abate an immi-
5 nent risk of—

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

8 “(2) the sale, purchase, barter, import, or ex-
9 port in interstate or foreign commerce of R.M.S. Ti-
10 tanic property.

11 **“SEC. 10. CRIMINAL ENFORCEMENT.**

12 “(a) IN GENERAL.—Any person who knowingly com-
13 mits any act prohibited under section 6 is guilty of an
14 offense under this Act.

15 “(b) PENALTY.—Any person who is convicted of an
16 offense under this section shall be fined not more than
17 \$250,000 per day of violation, imprisoned for not more
18 than 5 years, or both.

19 **“SEC. 11. SEIZURE AND FORFEITURE.**

20 “(a) AUTHORIZATION.—The provisions of this Act
21 may be enforced by the Secretary of Commerce and the
22 Secretary of Homeland Security, or their respective des-
23 ignees.

1 “(b) DETENTION AND ARREST.—Any person author-
2 ized by the Secretary of Commerce or the Secretary of
3 Homeland Security to enforce this Act may—

4 “(1) detain for inspection and inspect any pack-
5 age, crate, or other container, including its contents,
6 and all accompanying documents, upon importation
7 or exportation and otherwise as permitted by law;

8 “(2) make arrests without a warrant for any
9 violation of this Act if the authorized person has
10 reasonable grounds to believe that the person to be
11 arrested is committing the violation in their presence
12 or view;

13 “(3) execute and serve any arrest warrant, sei-
14 zure warrant, or other warrant or civil or criminal
15 process issued by any officer or court of competent
16 jurisdiction for enforcement of this Act, or any regu-
17 lation or permit issued under this Act; and

18 “(4) search and seize property described in
19 paragraph (1), with or without a warrant, as author-
20 ized by law.

21 “(c) TEMPORARY DISPOSITION OF PROPERTY.—

22 “(1) IN GENERAL.—Any R.M.S. Titanic prop-
23 erty, or other property seized pursuant to subsection
24 (b)(4), shall be held by any person authorized by the
25 Secretary of Commerce or the Secretary of Home-

1 land Security pending disposition of civil or criminal
2 proceedings, administrative forfeiture proceedings,
3 actions in rem for forfeiture of such R.M.S. Titanic
4 property or other property pursuant to this section,
5 or criminal forfeiture proceedings pursuant to this
6 section, as authorized under section 2461(c) of title
7 28, United States Code.

8 “(2) EXCEPTION.—Instead of holding the prop-
9 erty described in paragraph (1), the Secretary of
10 Commerce or the Secretary of Homeland Security
11 may permit the owner or consignee of such property
12 to post a bond or other surety satisfactory to the
13 Secretary of Commerce or the Secretary of Home-
14 land Security.

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

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

22 “(2) Any property, real or personal, that con-
23 stitutes, or is derived from, the proceeds of any vio-
24 lation of this Act, or any regulation or permit issued
25 under this Act.

1 “(3) Any vessel (including the vessel’s gear, ap-
2 purtenances, stores, and cargo), vehicle, aircraft, or
3 other means of transportation and any money or
4 other property used or intended to be used to facili-
5 tate any violation of this Act, or any regulation or
6 permit issued under this Act.

7 “(4) Any property traceable to the property de-
8 scribed in paragraph (1), (2), or (3).

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

16 “(f) FINAL DISPOSITION OF PROPERTY.—Upon for-
17 feiture of any R.M.S. Titanic property or other property
18 to the United States pursuant to this section, or the aban-
19 donment or waiver of any claim to any such property, the
20 property shall be disposed of by the Secretary of Com-
21 merce in such a manner, consistent with the purposes of
22 this Act, as the Secretary shall prescribe by regulation,
23 including the possibility of assimilating R.M.S. Titanic
24 property with an existing collection. Any R.M.S. Titanic
25 property ordered forfeited to the United States shall be

1 held in trust by the Secretary of Commerce on behalf of
 2 the public and disposed of in a manner consistent with
 3 the purposes of this Act. Forfeited R.M.S. Titanic prop-
 4 erty that does not constitute a collection may not be sold,
 5 but may be assimilated with an existing collection.

6 “(g) CIVIL FORFEITURES.—

7 “(1) IN GENERAL.—Except as provided in para-
 8 graph (2), the provisions of chapter 46 of title 18,
 9 United States Code, relating to civil forfeitures shall
 10 extend to any seizure or administrative or civil judi-
 11 cial forfeiture under this section to the extent that
 12 such provisions are not inconsistent with this Act.

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

21 “(h) CRIMINAL FORFEITURES.—

22 “(1) IN GENERAL.—Any person who is con-
 23 victed of an offense under section 10 shall forfeit
 24 property to the United States pursuant to this sec-

1 tion, as authorized by section 2461(c) of title 28,
2 United States Code.

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

8 “(A) all stages of a criminal forfeiture of
9 property under this section, including any sei-
10 zure and disposition of such property; and

11 “(B) any administrative or judicial pro-
12 ceeding in relation to such forfeiture.

13 **“SEC. 12. DISPOSITION OF MONIES RECOVERED.**

14 “(a) IN GENERAL.—Notwithstanding any other pro-
15 vision of law, any monies collected under sections 8, 9,
16 10, and 11, either directly or through the sale of forfeited
17 property, after payment of related expenses—

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

21 “(2) shall be used by the Secretary of Com-
22 merce for—

23 “(A) conservation of Titanic artifacts re-
24 covered pursuant to an enforcement action;

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

3 “(C) the collection of the USS Monitor
4 National Marine Sanctuary artifacts at The
5 Mariners’ Museum.

6 “(b) DISPOSITION OF EXCESS FUNDS.—If the pro-
7 ceeds from an enforcement action exceed the amount of
8 funds needed for the conservation of artifacts from that
9 case, the Titanic collection, and the Monitor collection,
10 such excess amount shall be deposited in the General
11 Fund of the Treasury.

12 **“SEC. 13. INTERNATIONAL COOPERATION.**

13 “(a) SECRETARY OF COMMERCE.—In cooperation
14 with the Secretary of State, the Secretary of Commerce
15 is authorized to inform and consult with representatives
16 of foreign nations and others regarding the protection and
17 preservation of R.M.S. Titanic property, including the
18 issuance of permits pursuant to section 7.

19 “(b) SECRETARY OF STATE.—In the event that a
20 party to the International Agreement issues a permit, pur-
21 suant to its laws, allowing for the recovery of R.M.S. Ti-
22 tanic property, the Secretary of State may consult with
23 that party to request that existing salvor-in-possession
24 rights to R.M.S. Titanic are respected and that there is

1 consideration of assimilating any R.M.S. Titanic property
2 recovered to an existing collection.

3 **“SEC. 14. AGREEMENTS AND AUTHORITY TO UTILIZE**
4 **GRANT FUNDS.**

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

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

12 “(1) except as provided in paragraph (2), and
13 notwithstanding any other provision of law that pro-
14 hibits a Federal agency from receiving assistance,
15 may apply for, accept, and obligate research grant
16 funding from any Federal source operating competi-
17 tive grant programs if such funding furthers the
18 purposes of this Act;

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

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

23 “(B) the grant will be used for any pur-
24 poses, or will be subject to any conditions, that
25 are prohibited by law or regulation;

1 “(3) may use amounts appropriated for the
2 purpose of this Act to satisfy a requirement to
3 match grant funds with recipient agency funds, ex-
4 cept that no grant may be accepted that requires a
5 commitment before such amounts are appropriated;
6 and

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

11 **“SEC. 15. MONITORING AUTHORIZATION.**

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

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

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

20 **“SEC. 16. RULEMAKING.**

21 “The Secretary of Commerce is authorized to promul-
22 gate regulations to implement this Act, including, as nec-
23 essary, regulations providing for the issuance of permits
24 under section 7. Such regulations shall be consistent with
25 the International Agreement and Rules.

1 **“SEC. 17. RELATIONSHIP TO OTHER LAWS.**

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

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

11 “(c) **INTERNATIONAL AGREEMENTS.**—This Act and
12 any implementing regulations shall be applied in accord-
13 ance with applicable law, including treaties, conventions,
14 and other international agreements to which the United
15 States is a party.

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

21 “(1) navigation;

22 “(2) the laying of submarine cables and pipe-
23 lines;

24 “(3) operation of vessels;

25 “(4) fishing; or

1 “(5) other internationally lawful uses of the sea
2 related to such freedoms.

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

7 “(f) SALVAGE RIGHTS.—

8 “(1) COMPLIANCE WITH THIS ACT.—An order
9 granting salvage rights to R.M.S. Titanic by a court
10 of competent jurisdiction prior to the effective date
11 of this Act shall not exempt any person from com-
12 plying with this Act or any regulation or permit
13 issued under this Act.

14 “(2) PERMIT ISSUANCE.—If a person with ex-
15 clusive salvage rights to the R.M.S. Titanic seeks a
16 permit issued under section 7 of this Act, such a
17 permit shall not be unreasonably withheld.

18 “(3) LIMITATION ON OBTAINING SALVAGE
19 RIGHTS.—Without prejudice to the orders of a
20 United States Court of competent jurisdiction,
21 issued in reference to the entity known as ‘RMS Ti-
22 tanic, Inc.’, prior to the effective date of this legisla-
23 tion (the status of such orders to be unaffected by
24 this legislation), no person may obtain salvage rights
25 to R.M.S. Titanic or R.M.S. Titanic property, after

1 the effective date of this Act, except by an assign-
2 ment or transfer of existing rights or through the
3 orders of a United States Court of competent juris-
4 diction issued in reference to the entity known as
5 ‘RMS Titanic, Inc.’.

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

8 “(h) COLLECTION MANAGEMENT.—Each collection
9 shall be managed and maintained in accordance with the
10 Rules.

11 **“SEC. 18. VALID EXCLUSIVE RIGHT TO SALVAGE R.M.S. TI-**
12 **TANIC.**

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

18 “(b) REGULATION BY SECRETARY OF COMMERCE.—
19 The exercise of the exclusive right to salvage R.M.S. Ti-
20 tanic is subject to regulation by the Secretary of Com-
21 merce consistent with the provisions of this Act.

1 **“SEC. 19. TITANIC ADVISORY COUNCIL; SITE MANAGEMENT**
2 **PLAN.**

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

6 “(b) **EXEMPTION FROM FACA.**—The Titanic Advi-
7 sory Council shall be exempt from the Federal Advisory
8 Committee Act (5 U.S.C. App.).

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

11 “(1) a member designated by the Administrator
12 of the National Oceanic and Atmospheric Adminis-
13 tration;

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

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

18 “(4)(A) a member from the Woods Hole Ocean-
19 ographic Institution designated by the head of the
20 Institution; or

21 “(B) in the event that the head of such Institu-
22 tion is unable or declines to make a designation
23 under subparagraph (A), a member of another lead-
24 ing marine research institution that is selected by
25 the Secretary of Commerce from a list recommended
26 by the Titanic Advisory Council;

1 “(5) a member designated by the current sal-
 2 vor-in-possession of the R.M.S. Titanic, or any suc-
 3 cessor, as determined pursuant to section 17(h);

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

6 “(7) 2 members of the public who—

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

9 “(B) are appointed by the Secretary of
 10 Commerce from a list of recommended can-
 11 didates prepared by the other members of the
 12 Titanic Advisory Council, with at least 5 mem-
 13 bers concurring in the recommendation; and

14 “(C) may be a person from a foreign gov-
 15 ernment, institution, or corporation.

16 “(d) CONDUCT OF BUSINESS.—

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

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

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

4 “(1) receive pay by reason of the member’s
5 service on the Titanic Advisory Council; and

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

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

12 “(1) the protection and preservation of R.M.S.
13 Titanic property and conservation and curation of
14 artifacts recovered from the R.M.S. Titanic in a
15 manner consistent with this Act, the International
16 Agreement, and the promotion of knowledge of and
17 education about the R.M.S. Titanic; and

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

22 “(g) SITE MANAGEMENT PLAN.—

23 “(1) REQUIREMENT FOR PLAN.—Not later than
24 2 years after the date the Titanic Advisory Council
25 provides the Secretary of Commerce recommenda-

1 tions under subsection (f)(2), the Secretary shall
2 prepare a long-term site management plan for
3 R.M.S. Titanic that—

4 “(A) includes an archaeological plan, that
5 ensures best practices are observed in the pro-
6 tection and preservation of the wreck site and
7 artifacts recovered from the R.M.S. Titanic, in
8 a manner consistent with the International
9 Agreement and the Rules; and

10 “(B) is based on information and data
11 gathered from previous expeditions to the site,
12 previous experience with handling R.M.S. Ti-
13 tanic artifacts as well as other relevant informa-
14 tion, and data and experience from other wreck
15 sites.

16 “(2) PUBLIC AVAILABILITY.—The site manage-
17 ment plan prepared under paragraph (1) shall be
18 made available to the public for notice and comment
19 prior to its adoption by the Secretary of Commerce.

20 “(3) PERIODIC EVALUATIONS AND AMEND-
21 MENT.—The Titanic Advisory Council shall periodi-
22 cally evaluate and provide advice and recommenda-
23 tions to the Secretary of Commerce for the amend-
24 ment of the site management plan prepared under

1 paragraph (1) and the Secretary of Commerce may
2 amend such plan as necessary and appropriate.

3 **“SEC. 20. STATUTE OF LIMITATIONS.**

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

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

12 “(2) jurisdiction can be exercised over the de-
13 fendant.”.

14 **SEC. 5. EFFECTIVE DATE.**

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

Calendar No. 550

112TH CONGRESS
2^D Session

S. 2279

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.

NOVEMBER 14, 2012

Reported without amendment