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A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by further amending section 222 thereof, as enacted by Public Law No. 9-139 and amended by Public Laws Nos. 10-10, 10-136, and 10-149, for the purpose of exempting equipment and materials imported by publicly owned utilities, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 222 of title 54 of the Code of the
2 Federated States of Micronesia, as enacted by Public Law No. 9-139
3 and amended by Public Laws Nos. 10-10, 10-136 and 10-149, is hereby
4 further amended to read as follows:

5 "Section 222. Exemptions.

6 (1) Damaged, pillaged or faulty goods. Upon receipt of
7 a written request within 28 days of the goods' release
8 from Customs control, the Secretary may authorize a
9 refund of the whole or part of the duty paid, where any
10 of the following conditions exist:

11 (a) Goods have been damaged, pillaged, lost or
12 destroyed during the voyage;

13 (b) Goods have, while subject to the control of
14 Customs, been damaged, pillaged, lost or destroyed; or

15 (c) The Commissioner is satisfied that, owing to a
16 fault or defect in any goods, the importer has received a
17 reduction or a refund, in whole or part, of the price
18 paid for the goods.

19 (2) Imported goods subsequently exported.

20 (a) Upon application to and approval by the
21 Secretary, import duty paid on the following goods shall
22 be refunded:

23 (i) goods imported for processing in the FSM,
24 not otherwise used in the FSM, and subsequently exported
25 from the FSM. For purposes of this subsection, raw

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1 materials or ingredients which are worked into or
2 otherwise become part of a different or more finished
3 product are deemed exported when that product is
4 exported; and

5 (ii) goods imported for transshipment through
6 the FSM, not used in the FSM, and stored while in the FSM
7 in a bonded warehouse pursuant to policies or regulations
8 promulgated by the Secretary. This transshipment
9 exemption shall not apply to tobacco products, alcoholic
10 beverages, or other goods which the Secretary has
11 specified by policy or regulation are to be excluded from
12 the benefit of this exemption due to the risk of tax
13 avoidance or other customs violations.

14 (b) Goods are eligible for the duty refund when
15 they have been loaded on an aircraft or vessel for direct
16 removal from the FSM and that aircraft or vessel has
17 departed from the port. After they have been so loaded,
18 the goods shall again be subject to import duty if they
19 are unloaded or used in the FSM. With respect to
20 importers primarily engaged in importing for processing
21 and subsequent export and with respect to goods held in a
22 bonded warehouse, the Secretary may provide by policy or
23 regulation for waiving, rather than collecting and
24 subsequently refunding, duties on imports to be
25 subsequently exported.

1 (3) Per trip abroad. Each time an individual person
 2 enters or returns to the FSM from a foreign jurisdiction,
 3 he or she is entitled to bring into the FSM the following
 4 goods, duty-free, provided that such goods are for that
 5 person's own personal use or consumption and not for
 6 resale or exchange, and provided further that such person
 7 is permitted by applicable State law to possess, use, and
 8 consume such goods:

- 9 (a) up to 200 cigarettes;
- 10 (b) up to one pound of tobacco or twenty cigars;
- 11 (c) up to 52 fluid ounces or 1500 milliliters of
- 12 distilled alcoholic beverages; and
- 13 (d) up to two hundred dollars (\$200) worth of
- 14 goods other than tobacco products, beer and malt
- 15 beverages, distilled alcoholic beverages, and wine.

16 (4) Visitors' personal effects. A visitor to the FSM
 17 may import bona fide personal effects into the FSM duty-
 18 free, provided the goods are for the visitor's own
 19 personal use and will be taken with the visitor when he
 20 or she leaves the country.

21 (5) Returning goods. Goods produced or properly
 22 entered in the FSM which are subsequently removed from
 23 the FSM may be returned to the FSM duty-free. The burden
 24 shall be on the owner of the goods to establish that the
 25 goods were either produced in the FSM or previously and

1 (6) Foreign aid projects. An international
2 organization, foreign contractor, or other foreign entity
3 may import goods into the FSM duty-free in connection
4 with the performance of services or other conduct of
5 business in furtherance of a foreign aid agreement
6 entered into by the FSM, the terms of which require that
7 such import shall not be subject to taxation by the FSM;
8 provided that if and when such goods are subsequently
9 sold in the FSM, import duty shall be due based on the
10 sale amount. The duty, together with penalties and
11 interest, shall be the joint and several personal
12 liability of the importer and the purchaser and shall be
13 secured by first liens on the goods and on the importer's
14 property as hereinafter provided.

15 (7) Personal [G]ifts. Goods claimed as gifts, valued
16 at one hundred dollars (\$100) or less, and received by
17 persons within the FSM from sources outside the FSM shall
18 not be subject to import duty provided the goods are for
19 the recipient's own personal use or consumption and not
20 for resale or exchange. There shall be a rebuttable
21 presumption that goods received from outside the FSM are
22 not gifts.

23 (8) Fishing vessels basing in the Federated States of
24 Micronesia under a valid permit or license issued
25 pursuant to title 24 of the Code of the Federated States

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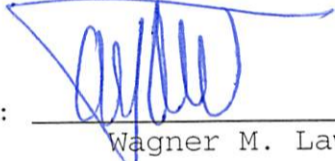
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1 pursuant to title 24 of the Code of the Federated States
2 of Micronesia shall not be subject to the import duty on
3 either the vessel or equipment installed in the vessel.

4 (9) Publicly owned utilities. Equipment and materials
5 imported by publicly owned utilities, other than for
6 resale, shall be exempt from the import duty; provided
7 that if and when such goods are subsequently sold in the
8 FSM, import duty shall be due based on the sale amount.
9 The duty, together with penalties and interest, shall be
10 the joint and several personal liability of the importer
11 and the purchaser and shall be secured by first liens on
12 the goods and on the importer's property as hereinafter
13 provided."

14 Section 2. This act shall become law upon approval by the
15 President of the Federated States of Micronesia or upon its becoming
16 law without such approval.

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18 Date: 5/13/99

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Introduced by: 
Wagner M. Lawrence