

A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by amending sections 233, 238 and 264 to change and clarify certain customs procedures and penalties, and for other purposes.

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

1 Section 1. Section 233 of title 54 of the Code of the
2 Federated States of Micronesia is hereby amended to read as
3 follows:

4 "Section 233. Cooperation with other National and State
5 authorities. The Secretary is authorized to enter into
6 Memorandums of Understanding with other National and
7 State authorities to allow the Division of Customs to
8 provide assistance in the enforcement of any National or
9 State law.

10 (1) *Taxation*. The Division of Customs is authorized
11 to exchange information with other National or State
12 authorities to ensure the proper and correct collection
13 of taxes.

14 (2) *Statistics*.

15 (a) The Division of Customs is responsible for
16 the collection of statistical data on the importation
17 and exportation of goods and providing this information
18 to the Division of Statistics.

1 (b) The Secretary is authorized to introduce
2 classification schedules and associated computer
3 software for use by Customs officers to assist with this
4 function.

5 (3) *Quarantine.* The Secretary may accept an
6 appointment made by the Secretary of the FSM Department
7 of Resources and Development, regarding the empowering
8 of Customs officers to perform agriculture quarantine
9 inspections, pursuant to section 407 of title 22 of this
10 Code or any successor provision.

11 (4) *Food safety.* The Secretary may accept an
12 appointment by the Secretary of the FSM Department of
13 Health Services regarding the empowering of Customs
14 officers to perform food safety inspections pursuant to
15 ~~[section 13 of Public Law No. 7-116, the National Food~~
16 ~~Safety Act]~~ section 1013 of title 41 of this Code or any
17 successor provision.

18 (5) *Immigration.* The Secretary may accept an
19 appointment made by the FSM Office of the Attorney
20 General regarding the empowering of Customs officers to
21 perform immigration inspections pursuant to section 108
22 of title 50 of this Code or any successor provision.

23 (6) *Community, social, environmental and antiquities*
24 *protection.* The Division of Customs will monitor
25 imports and exports on behalf of other National and

1 State agencies to ensure compliance with legislation and
2 international agreements, ratified by the FSM, dealing
3 with community, social, environmental and antiquities
4 protection."

5 Section 2. Section 238 of title 54 of the Code of the
6 Federated States of Micronesia is hereby amended to read as
7 follows:

8 "Section 238. Importation of goods.

9 (1) *Arrival procedures.* On arrival of a vessel or an
10 aircraft at any port in the FSM the master or pilot of
11 such vessel or aircraft shall deliver to the Customs
12 officer:

13 (a) Copies of the manifest; and

14 (b) All bills of lading and air waybills for
15 cargo to be discharged at that particular port.

16 (2) *Time limit for entry.* Each consignee of imported
17 goods shall make entry of those goods at the local
18 Customs office within 15 days after departure of the
19 importing vessel or aircraft, exclusive of Sundays and
20 FSM national holidays. To enter goods means to notify
21 Customs officials of the arrival of those goods and to
22 comply with all Customs requirements in connection
23 therewith.

24 (3) *Verification of entry:*

25 (a) Entry shall be verified by the presentation

1 to Customs by the consignee, or authorized agent of the
2 consignee, of a completed and signed entry form together
3 with a non-negotiable bill of lading or an air waybill
4 and vendor's invoices for the imported goods.

5 (b) The consignee shall answer any questions
6 relating to the goods and, upon request of a Customs
7 officer, furnish any other documentation deemed
8 necessary for:

9 (i) a proper assessment of the duties on the
10 merchandise;

11 (ii) the proper collection of accurate
12 statistics, including any required classification of
13 imported items, by Customs officers with respect to the
14 merchandise being imported; and

15 (iii) a determination of whether any other
16 applicable legal requirements have been met.

17 (c) The approved entry form shall set forth such
18 facts in regard to the importation as the Secretary may
19 reasonably require for ~~[the]~~ inspection, appraisement,
20 and payment of import taxes ~~[and for the collection of~~
21 ~~statistics]~~ but shall not require the consignee to
22 classify imported items.

23 (4) *Releasing of goods.* Customs personnel shall, on
24 satisfactory examination of the above documents, and
25 payment of the correct duty, stamp and release the

1 imported goods.

2 (5) *Personal Baggage*. Goods that are the personal
3 baggage of passengers in a vessel or aircraft and are
4 not taxable goods may be released without entry.

5 (6) *Importation defined*:

6 (a) Goods shall, except where otherwise expressly
7 provided, be deemed to be imported into the FSM as soon
8 as and in any manner, whether lawfully or unlawfully,
9 they are brought or come within the territorial limits
10 of the FSM from any country outside those limits. For
11 purposes of this chapter, the territorial limits of the
12 FSM include the territorial sea, as defined in chapter 1
13 of title 18 of this Code.

14 (b) Goods whose destination is outside the
15 territorial limits of the FSM, including ship's stores
16 and aircraft stores, shall not be deemed to be imported
17 unless, while they are within those limits, they are
18 removed from the vessel or aircraft in which they
19 arrived there.

20 (c) Imported goods intended for use, sale, or
21 other disposition within the territorial sea or internal
22 waters of the FSM must first be brought to a port of
23 call and cleared through Customs.

24 (d) Vessels or aircraft entering into the
25 territorial limits of the FSM solely in transit or for

1 loading, unloading, transshipping, provisioning,
2 refueling, other resupply, equipping, maintenance,
3 repair, overhaul, and other like purposes shall not be
4 deemed to be goods imported into the FSM unless such
5 vessels or aircraft thereafter become based in the FSM.

6 (7) *Import tax rate.* Dutiable goods shall be liable
7 to the duty rates in force at the time when the aircraft
8 or vessel first arrives at a designated port of entry
9 within the FSM.

10 (8) *Clearing goods prior to arrival.* Each consignee
11 of imported goods, may, provided he or she has the
12 required documentation, clear those goods prior to
13 arrival of the vessel or aircraft. This does not waive
14 or limit the authority of Customs to examine those goods
15 on arrival.

16 (9) *Exempt goods.* All tax exempt goods shall be
17 identified and cleared on the official clearance form.

18 (10) *Abandoned goods:*

19 (a) Goods remaining unentered three months after
20 the departure of the importing vessel or aircraft shall
21 be treated as goods abandoned to the National Government
22 and may be sold by public auction.

23 (b) Proceeds of such sale shall be deposited in
24 the General Fund and used first to pay expenses of sale,
25 duties, storage charges, and any lien for freight

1 changes, in said order. Surplus proceeds may be paid to
2 the owner upon proof of his or her interest therein."

3 Section 3. Section 264 of title 54 of the Code of the
4 Federated States of Micronesia is hereby amended to read as
5 follows:

6 "Section 264. Miscellaneous offenses.

7 (1) A person commits a National offense if that
8 person:

9 (a) Evades any duty that is payable;

10 (b) Willfully prepares, passes, alters or
11 presents a document purporting to be a genuine invoice
12 that is not in fact a genuine invoice;

13 (c) Willfully makes, in a declaration or document
14 produced to a Customs officer, a statement that is
15 untrue in any particular;

16 (d) Willfully produces or delivers to a Customs
17 officer a declaration or document known to contain a
18 material omission or to contain~~ing~~ a statement that is
19 known to be untrue in any particular;

20 (e) Willfully misleads any Customs officer in any
21 particular likely to affect the discharge of the
22 officer's duty; or

23 (f) Refuses or fails to answer questions to the
24 best of that person's knowledge and belief, or to
25 produce all documents relating to the concerned subject.

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