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A BILL FOR AN ACT

To further amend title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, by renumbering sections 1201 through 1209 of chapter 12 to sections 1301 through 1309 of chapter 13; by enacting new sections 1201 through 1222 of a new chapter 12 relating to pilotage of vessels; and for other purposes.

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

1 Section 1. Title 19 of the Code of the Federated States of
2 Micronesia, as amended by Public Law No. 8-49, is hereby amended
3 by renumbering sections 1201 through 1209 of chapter 12 to
4 sections 1301 through 1309 of chapter 13.

5 Section 2. Title 19 of the Code of the Federated States of
6 Micronesia, as amended by Public Law No. 8-49, is hereby amended
7 by enacting a new section 1201 of chapter 12 to read as follows:

8 "Section 1201. Definition. As used in this chapter:
9 "Authorized Pilot" means a person who has a current,
10 valid Pilotage Certificate issued by the Principal
11 Shipping Officer certifying that the person is competent
12 to provide pilotage services for a specified pilotage
13 area."

14 Section 3. Title 19 of the Code of the Federated States of
15 Micronesia, as amended by Public Law No. 8-49, is hereby amended
16 by enacting a new section 1202 of chapter 12 to read as follows:

17 "Section 1202. State Port Authority is pilotage
18 authority. The Port Authority of each of the States
19 shall be the pilotage authority for that State, which
20 shall be responsible for the provision of pilotage
21 services within that State, and except as otherwise
22 provided herein, shall regulate all pilotage services."

23 Section 4. Title 19 of the Code of the Federated States of
24 Micronesia, as amended by Public Law No. 8-49, is hereby amended
25 by enacting a new section 1203 of chapter 12 to read as follows:

1 "Section 1203. Pilotage areas. The Secretary may by
2 regulation declare an area within or adjacent to a port
3 to be a pilotage area."

4 Section 5. Title 19 of the Code of the Federated States of
5 Micronesia, as amended by Public Law No. 8-49, is hereby amended
6 by enacting a new section 1204 of chapter 12 to read as follows:

7 "Section 1204. Compulsory pilotage areas.

8 (1) The Port Authority may determine that pilotage
9 is compulsory in the whole or in a specified part of its
10 pilotage area(s).

11 (2) The Secretary shall by regulation declare and
12 define compulsory pilotage areas as determined in
13 subsection (1)."

14 Section 6. Title 19 of the Code of the Federated States of
15 Micronesia, as amended by Public Law No. 8-49, is hereby amended
16 by enacting a new section 1205 of chapter 12 to read as follows:

17 "Section 1205. Pilotage services. The Port Authority
18 shall, where pilotage is compulsory, and may, where
19 pilotage is not compulsory, provide pilotage services."

20 Section 7. Title 19 of the Code of the Federated States of
21 Micronesia, as amended by Public Law No. 8-49, is hereby amended
22 by enacting a new section 1206 of chapter 12 to read as follows:

23 "Section 1206. Vessels required to take Authorized
24 Pilots on board.

25 (1) Before a vessel enters, leaves, or moves

1 through a compulsory pilotage area, the master of the
2 vessel shall take on board an Authorized Pilot.

3 (2) The Secretary may by regulation, in
4 consultation with the Port Authority of each State,
5 exempt any vessel from the requirements of subsection
6 (1) of this section.

7 (3) A vessel piloted by a holder of a Pilotage
8 Exemption Certificate valid for that vessel and pilotage
9 area, shall be exempt from the requirements of
10 subsection (1) of this section.

11 (4) Where there is a special risk or danger within
12 a pilotage area the Port Authority may require the
13 master of the vessel, including vessels exempted under
14 subsection (2) and (3) of this section, to take an
15 Authorized Pilot on board."

16 Section 8. Title 19 of the Code of the Federated States of
17 Micronesia, as amended by Public Law No. 8-49, is hereby amended
18 by enacting a new section 1207 of chapter 12 to read as follows:

19 "Section 1207. Authorized Pilot not required in certain
20 circumstances. Where a vessel or a person on board is
21 in grave danger and it is necessary in the circumstances
22 that the vessel be immediately brought into, moved
23 within, or taken out of a compulsory pilotage area, an
24 Authorized Pilot is not required to be on board the
25 vessel."

1 Section 9. Title 19 of the Code of the Federated States of
2 Micronesia, as amended by Public Law No. 8-49, is hereby amended
3 by enacting a new section 1208 of chapter 12 to read as follows:

4 "Section 1208. Pilotage Certificates and Pilotage
5 Exemption Certificates.

6 (1) The Secretary may by regulation, after
7 consultation with the Port Authority, determine the
8 number of Authorized Pilots for each of the ports and
9 the qualifications and experience required for the
10 issuance of:

11 (a) A Pilotage Certificate declaring that a
12 person is competent to be an Authorized Pilot for
13 particular class of vessels within a specified pilotage
14 area; or

15 (b) A Pilotage Exemption Certificate declaring
16 that a person is competent to pilot a particular vessel
17 or class of vessels within a specified pilotage area.

18 (2) The Principal Shipping Officer is authorized to
19 issue and renew Pilotage Certificates and Pilotage
20 Exemption Certificates to qualified persons.

21 (3) The issuance or renewal of Pilotage
22 Certificates and Pilotage Exemption Certificates shall
23 be subject to such conditions as the Principal Shipping
24 Officer endorses on the certificate.

25 (4) A Pilotage Certificate or Pilotage Exemption

1 Certificate is valid only for the particular vessel or
2 class of vessels within the pilotage area for which it
3 is issued."

4 Section 10. Title 19 of the Code of the Federated States of
5 Micronesia, as amended by Public Law No. 8-49, is hereby amended
6 by enacting a new section 1209 of chapter 12 to read as follows:

7 "Section 1209. Investigations; Pilotage Certificates
8 and Pilotage Exemption Certificates.

9 (1) The Secretary shall cause an investigation to
10 be conducted where there is reasonable cause to believe
11 that the holder of a Pilotage Certificate or Pilotage
12 Exemption Certificate:

13 (a) is unfit to discharge his duties;

14 (b) has been negligent in the discharge of his
15 duties;

16 (c) has engaged in misconduct or committed any
17 violation of this title or regulations promulgated
18 pursuant thereto.

19 (2) The Principal Shipping Officer may designate an
20 investigating officer to conduct the investigation.

21 (3) The investigating officer may:

22 (a) go on board any vessel relevant to the
23 case;

24 (b) enter upon any wharf or installation
25 adjacent to a pilotage area;

1 (c) Make any and all inquiries;

2 (d) Require the production of any relevant
3 documents or certificates.

4 (4) The investigating officer shall report the
5 results of the investigation to the Principal Shipping
6 Officer within fourteen days after the investigation is
7 completed."

8 Section 11. Title 19 of the Code of the Federated States of
9 Micronesia, as amended by Public Law No. 8-49, is hereby amended
10 by enacting a new section 1210 of chapter 12 to read as follows:

11 "Section 1210. Suspension of Pilotage Certificates or
12 Pilotage Exemption Certificates pending investigation.
13 Where public safety so requires, the Principal Shipping
14 Officer may suspend a Pilotage Certificate or Pilotage
15 Exemption Certificate pending the outcome of an
16 investigation conducted under section 1209."

17 Section 12. Title 19 of the Code of the Federated States of
18 Micronesia, as amended by Public Law No. 8-49, is hereby amended
19 by enacting a new section 1211 of chapter 12 to read as follows:

20 "Section 1211. Suspension, Cancellation and Revocation
21 of Pilotage Certificates and Pilotage Exemption
22 Certificates.

23 (1) The Principal Shipping Officer may suspend,
24 cancel or revoke a Pilotage Certificate or Pilotage
25 Exemption Certificate where the holder:

1 (a) in unfit to discharge his duties;
2 (b) has been negligent in the discharge of his
3 duties;

4 (c) has engaged in misconduct or committed any
5 violation of this title or regulations promulgated
6 pursuant thereto.

7 (2) Proceedings for suspension, cancellation or
8 revocation of a certificate under subsection (1) shall
9 be conducted in accordance with the procedure set forth
10 in title 17 section 109 of the Code of the Federated
11 States of Micronesia.

12 (3) Where a Pilotage Certificate or Pilotage
13 Exemption Certificate is suspended, cancelled or
14 revoked, the holder of the Pilotage Certificate or
15 Pilotage Exemption Certificate shall immediately
16 surrender the certificate to the Principal Shipping
17 Officer.

18 (4) Where a Pilotage Certificate or Pilotage
19 Exemption Certificate is suspended, cancelled or
20 revoked, the holder may seek judicial review as set
21 forth in Title 17 Section 111 of the Code of the
22 Federated States of Micronesia, provided however, the
23 decision of the hearing officer shall remain in effect
24 until all avenues of appeal have been exhausted."

25 Section 13. Title 19 of the Code of the Federated States of

1 Micronesia, as amended by Public Law No. 8-49, is hereby amended
2 by enacting a new section 1212 of chapter 12 to read as follows:

3 "Section 1212. Production of Authorized Pilot
4 identification.

5 (1) An Authorized Pilot shall produce proper
6 identification issued by the Port Authority or his
7 Pilotage Certificate for inspection when requested by
8 the master of the vessel.

9 (2) It shall be a violation of this chapter for any
10 Authorized Pilot to fail to produce identification as
11 set forth in subsection (1)."

12 Section 14. Title 19 of the Code of the Federated States of
13 Micronesia, as amended by Public Law No. 8-49, is hereby amended
14 by enacting a new section 1213 of chapter 12 to read as follows:

15 "Section 1213. Unqualified persons not to act as
16 Authorized Pilot. It shall be a criminal offense for a
17 person who is not an Authorized Pilot to hold himself
18 out to be an Authorized Pilot, or pilot a vessel for
19 which an Authorized Pilot is required to be on board."

20 Section 15. Title 19 of the Code of the Federated States of
21 Micronesia, as amended by Public Law No. 8-49, is hereby amended
22 by enacting a new section 1214 of chapter 12 to read as follows:

23 "Section 1214. Pilot Misconduct. It shall be a
24 criminal offense for a holder of a Pilotage Certificate
25 or a Pilotage Exemption Certificate to intentionally or

1 willfully, or while under the influence of alcohol or
2 drugs, do any act which causes, or is likely to cause
3 the loss or destruction of or serious damage to a vessel
4 or death of or serious injury to a person on board a
5 vessel, or fail to do anything required to be done by
6 him to preserve a vessel from loss, destruction or
7 serious damage or any person on board a vessel from
8 death or serious injury."

9 Section 16. Title 19 of the Code of the Federated States of
10 Micronesia, as amended by Public Law No. 8-49, is hereby amended
11 by enacting a new section 1215 of chapter 12 to read as follows:

12 "Section 1215. Port Authority and Authorized Pilot not
13 civilly liable. The Port Authority and Authorized Pilot
14 shall not be personally liable in any civil proceeding
15 for any damage or loss suffered as a result of any act
16 done by the Port Authority or the Authorized Pilot or
17 for any failure to do anything required to be done by
18 either while acting within the scope of their duties
19 unless such act or omission arises from intentional or
20 willful misconduct, or from gross negligence."

21 Section 17. Title 19 of the Code of the Federated States of
22 Micronesia, as amended by Public Law No. 8-49, is hereby amended
23 by enacting a new section 1216 of chapter 12 to read as follows:

24 "Section 1216. Presence of Authorized Pilot does not
25 diminish responsibility of the master.

1 (1) Subject to the authority of the master of a
2 vessel, the duty of an Authorized Pilot is to pilot the
3 vessel in pilotage areas.

4 (2) The master of a vessel is not relieved of
5 responsibility for the proper conduct and safe
6 navigation of the vessel by reason of the vessel being
7 in pilotage charge of an Authorized Pilot."

8 Section 18. Title 19 of the Code of the Federated States of
9 Micronesia, as amended by Public Law No. 8-49, is hereby amended
10 by enacting a new section 1217 of chapter 12 to read as follows:

11 "Section 1217. Owner and master liable for damage in
12 compulsory pilotage areas. The owner and the master of
13 a vessel are jointly and severally liable for any loss
14 or damage caused by the vessel in a compulsory pilotage
15 area as a result of any fault in the navigation of the
16 vessel, whether or not an Authorized Pilot was on board
17 the vessel at the time that the loss or damage was
18 caused."

19 Section 19. Title 19 of the Code of the Federated States of
20 Micronesia, as amended by Public Law No. 8-49, is hereby amended
21 by enacting a new section 1218 of chapter 12 to read as follows:

22 "Section 1218. Government and government officials not
23 liable for loss or damage caused by pilot. The
24 Government and government officials are not liable for
25 any damage or loss suffered as a result of any act or

1 failure to act by an Authorized Pilot while providing
2 pilotage services to a vessel."

3 Section 20. Title 19 of the Code of the Federated States of
4 Micronesia, as amended by Public Law No. 8-49, is hereby amended
5 by enacting a new section 1219 of chapter 12 to read as follows:

6 "Section 1219. Pilotage charges.

7 (1) The Port Authority shall determine pilotage
8 charges which shall then be published in a schedule set
9 forth in regulations promulgated by the Secretary.

10 (2) Pilotage charges for a vessel shall be payable
11 by the owner, master or agent of the vessel to the Port
12 Authority."

13 Section 21. Title 19 of the Code of the Federated States of
14 Micronesia, as amended by Public Law No. 8-49, is hereby amended
15 by enacting a new section 1220 of chapter 12 to read as follows:

16 "Section 1220. Authorized Pilot not to be taken to sea.

17 (1) Except in circumstances of unavoidable
18 necessity, an Authorized Pilot shall not be taken to sea
19 or taken beyond the limits of the pilotage area without
20 the pilot's consent.

21 (2) If an Authorized Pilot is taken to sea in
22 circumstances of unavoidable necessity, the vessel owner
23 and master shall be liable for all expenses of the
24 Authorized Pilot including repatriation, which shall
25 take place at the earliest opportunity."

1 Section 22. Title 19 of the Code of the Federated States of
2 Micronesia, as amended by Public Law No. 8-49, is hereby amended
3 by enacting a new section 1221 of chapter 12 to read as follows:

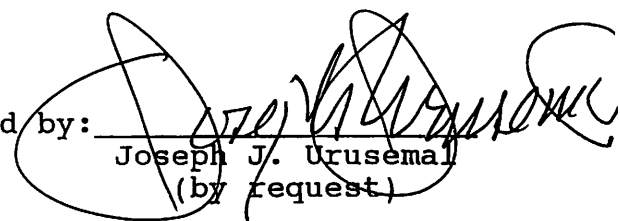
4 "Section 1221. Transition. All persons holding a
5 pilotage license or Pilotage Certificate issued by the
6 Department on the date this chapter becomes effective
7 shall be deemed to be an Authorized Pilot for a period
8 of 12 months from that date, or until expiration of such
9 pilotage license or Pilotage Certificate, whichever is
10 earlier."

11 Section 23. Title 19 of the Code of the Federated States of
12 Micronesia, as amended by Public Law No. 8-49, is hereby amended
13 by enacting a new section 1222 of chapter 12 to read as follows:

14 "Section 1222. Regulations. The Secretary may
15 promulgate regulations to implement this chapter, which
16 regulations shall have the force and effect of law."

17 Section 24. This act shall become law upon approval by the
18 President of the Federated States of Micronesia or upon its
19 becoming law without such approval.

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21 Date: 11/13/95

Introduced by: 
Joseph J. Urusemal
(by request)

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