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A BILL FOR AN ACT

To further amend title 24 of the Code of the Federated States of Micronesia, as amended, by further amending sections 501 and 503, as amended by Public Laws Nos. 5-37 and 6-11; and by further amending section 502, as amended by Public Law No. 6-37, all for the purpose of changing certain prohibited acts and penalties for violations of the fisheries laws, and for other purposes.

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

1 Section 1. Section 501 of title 24 of the Code of the Federated States
2 of Micronesia, as amended by Public Laws Nos. 5-37 and 6-11, is hereby further
3 amended to read as follows:

4 "Section 501. Prohibited acts.

5 (1) It is unlawful for any person:

6 (a) to violate any provision of ~~this title~~ a fishing
7 permit, license, agreement, arrangement, treaty, or of any
8 regulation or permit issued pursuant to this title;

9 ~~(b) to engage in fishing after revocation, or~~
10 ~~during the period of suspension, of an applicable permit~~
11 ~~issued pursuant to this title;~~

12 ~~(c) to violate any provision of, or regulation~~
13 ~~under, an applicable domestic-based or foreign fishing~~
14 ~~agreement entered into pursuant to sections 401 and~~
15 ~~404 through 406 of this title or any term or condition~~
16 ~~of any permit issued in accordance with this title and~~
17 ~~any regulations made under this title;~~

18 ~~(d) to violate any provision of any~~
19 ~~applicable foreign fishing treaty, agreement, or~~
20 ~~arrangement or the terms of any regional fishing license~~
21 ~~recognized in accordance with this title;~~

22 ~~(e) (b)~~ to refuse to permit any authorized officer
23 to board a fishing vessel for purposes of conducting any search
24 or inspection in connection with the enforcement of this title or
25 any regulation, permit, or foreign or domestic-based fishing

1 agreement or any applicable fishing treaty, agreement or
2 arrangement;

3 ~~(f)~~ (c) to assault, obstruct, resist, delay, refuse
4 boarding to, intimidate, or interfere with any authorized officer or
5 authorized observer in performance of his duties, including in the
6 conduct of any search or inspection described in paragraph (e) of
7 this subsection; and for the purposes of this subparagraph, any
8 person who refuses to allow any authorized officer or observer,
9 or any person acting under his order or in his aid, to exercise any
10 of the powers conferred on an authorized officer or observer by
11 this title or any regulations made under this title shall be deemed
12 to be obstructing that officer, observer, or person;

13 ~~(g)~~ (d) to fail to comply with the lawful
14 requirements of any authorized officer or observer;

15 ~~(h)~~ (e) to furnish to any authorized officer any
16 particulars which, to his knowledge, are false or misleading in any
17 respect;

18 ~~(i)~~ (f) being on board any vessel being pursued or
19 about to be boarded by any authorized officer, to throw
20 overboard or destroy any fish, fishing gear, explosive, poison, or
21 other noxious substance to avoid seizure of such fish, fishing gear,
22 explosive, poison, or other noxious substance or thing or to avoid
23 the detection of any offense under this title or the regulations
24 made under this title;

25 ~~(j)~~ (g) to resist a lawful arrest for any act

1 prohibited by this section;

2 ~~(k)~~ (h) to provide information required to be
3 recorded, notified or communicated pursuant to any requirement
4 of the provisions of this title or the regulations, knowing or having
5 reasonable cause to believe that it is false, incomplete or
6 misleading;

7 ~~(j)~~ (i) to knowingly ship, transport, offer for sale,
8 sell, purchase, import, export, or have custody, control, or
9 possession of any fish taken or retained in violation of this title or
10 any regional fishing treaty, regulation, permit, foreign or domestic-
11 based fishing agreement or any applicable law;

12 ~~(m)~~ (i) to interfere with, delay, or prevent, by any
13 means, the apprehension or arrest of another person, knowing
14 that such person has committed any act prohibited by this
15 section;

16 ~~(n)~~ (k) to violate any provision of, or regulation
17 under, any applicable agreement to implement a regional fisheries
18 treaty, or any other treaty, agreement or arrangement having
19 effect in the Federated States of Micronesia, entered into
20 pursuant to section 106 of this title; ~~or~~

21 ~~(p)~~ (l) to use any foreign fishing vessel for fishing
22 within a two-mile radius of any fish aggregating device of the
23 Government, a citizen, or any other body established under the
24 laws of the Federated States of Micronesia; or

25 (m) to violate any provision of this title.

1 (2) It is unlawful for any fishing vessel, and for the crew,
2 owner, or operator of any fishing vessel, to engage in fishing in the
3 ~~Exclusive Economic Zone~~ ~~authorized by and conducted in~~
4 ~~accordance with or~~ without a valid and applicable fishing
5 permit issued pursuant to this title ~~or after revocation, or during~~
6 ~~the period of suspension of a permit issued pursuant to this title,~~
7 where such permit is required by sections 103 and 104 of this
8 title, ~~and~~ unless such fishing is permitted pursuant to section
9 106."

10 Section 2. Section 502 of title 24 of the Code of the Federated States
11 of Micronesia, as amended by Public Law No. 6-37, is hereby further amended
12 to read as follows:

13 "Section 502. Civil penalties.

14 (1) Any person who is found by the Supreme Court of
15 the Federated States of Micronesia in a civil proceeding to have
16 committed an act prohibited by section 501 of this chapter shall
17 be liable to the Federated States of Micronesia for a civil penalty.

18 (2) The amount of the civil penalty shall not exceed
19 \$5,000,000 for each violation, except as otherwise provided
20 herein. Each day of a continuing violation shall constitute a
21 separate offense. The Supreme Court of the Federated States of
22 Micronesia may impose a penalty in excess of \$5,000,000
23 provided, in its review of the factors set forth in subsection (3),
24 the Supreme Court finds that the defendant has committed a
25 gross violation.

26 (3) In determining the amount of such penalty, the

1 Supreme Court of the Federated States of Micronesia shall take
2 into account the nature, circumstances, extent, and gravity of the
3 prohibited acts committed and, with respect to the violator, the
4 degree of culpability, any history of prior offenses, and whether
5 any other civil or criminal fine or any imprisonment has been
6 imposed as a result of the specific conduct which has given rise to
7 this action, and such other matters as justice may require.

8 (4) The Attorney General of the Federated States of
9 Micronesia is authorized to initiate all proceedings under this
10 section and to recover the amount assessed as a civil penalty.

11 (5) The proceeds of civil penalties shall be deposited into
12 the General Fund of the Federated States of Micronesia. Fifty
13 percent of these proceeds from civil penalties shall then be
14 distributed to the State affected."

15 Section 3. Section 503 of title 24 of the Code of the Federated States
16 of Micronesia, as amended by Public Laws Nos. 5-37 and 6-11, is hereby further
17 amended to read as follows:

18 "Section 503. Criminal penalties.

19 (1) A person is guilty of an offense if he commits any
20 act prohibited by section 501 of this chapter.

21 (2) Unless otherwise provided, ~~if~~ any offense described
22 as a prohibited act by subsections (1)(a), (1)(i), (1)(k), or (1)(l)
23 ~~(b), (c), (d), (h), (j), (n), (o), (p)~~ of section 501 is
24 punishable by a fine ~~of~~ not ~~less than~~ to exceed ~~\$500,000~~
25 \$50,000.

1 (3) Unless otherwise provided, A any offense described
2 as a prohibited act by subsections ~~(1)(a), (f), (g), (h), (i), or~~
3 ~~(m)~~ (1)(b), (1)(c), (1)(d), (1)(e), (1)(f), (1)(g), (1)(h), or (1)(i)
4 of section 501 is punishable by a fine ~~of~~ not ~~less than~~ to
5 exceed \$800,000, \$100,000, or imprisonment for not more than
6 two years, or both; PROVIDED that if in the commission of any
7 such offense the person uses a dangerous weapon, engages in
8 conduct that causes bodily injury to any officer authorized to
9 enforce the provisions of this title, or threatens any such officer
10 with bodily injury, the offense is punishable by a fine ~~of~~ not to
11 exceed less than \$1 million \$200,000, or imprisonment for not
12 more than ten years, or both; and PROVIDED FURTHER that where
13 a regional fisheries treaty so requires, persons arrested for
14 violating any provisions of, or regulations under, such treaty shall
15 not be subject to imprisonment.

16 (4) Any offense described as a prohibited act by
17 subsection (2) of section 501 is punishable by a fine of not less
18 than ~~\$800,000~~ 500,000. Each day of continuing violation shall be
19 considered a separate offense.

20 (5) A violation of any provision of this title for which no
21 other punishment is prescribed is punishable by a fine not to
22 exceed \$10,000.

23 (6) In determining the amount of any fine and the length
24 of any imprisonment, the Court shall take into account those
25 factors set forth in section 502(3) of this title."

1 Section 4. This act shall become law upon approval by the President of
2 the Federated States of Micronesia or upon its becoming law without such
3 approval.

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5 Date: Nov. 27, 1995 Introduced by: 
6 Nishima E. Yleizah

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