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A BILL FOR AN ACT

To repeal title 11 of the Code of the Federated States of Micronesia in its entirety, and to establish the National Criminal Code for the Federated States of Micronesia, and for other purposes.

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

CHAPTER 1

General Provision

Section 101. Repealer. Title 11 of the Code of the Federated States of Micronesia is hereby repealed in its entirety.

Section 102. Title. This title shall be known and cited as the "National Criminal Code."

Section 103. Applicability to National Crimes committed before and after the effective date.

(1) Except as provided in subsection (2) of this section, this Code does not apply to National Crimes committed before its effective date. For purposes of this section, a National Crime is committed before the effective date if any of the elements of the National Crime occurred before that date.

(2) Prosecutions commenced for National Crimes committed before the effective date are governed by the prior law, which is continued in effect for that purpose, as if the Code were not in force.

Section 104. Territorial applicability.

(1) Except as otherwise provided in this section, a person may be convicted under the law of the Federated States of Micronesia of a National Crime committed by his own conduct or the conduct of another for which he is legally accountable, if:

(a) either the conduct or the result which is

1 an element of the National Crime occurs within this
2 jurisdiction; or

3 (b) conduct occurring outside this
4 jurisdiction is sufficient under the law of this jurisdiction
5 to constitute an attempt to commit a National Crime within this
6 jurisdiction; or

7 (c) conduct occurring outside this
8 jurisdiction is sufficient under the law of this jurisdiction
9 to constitute a conspiracy to commit a National Crime within
10 this jurisdiction and an overt act in furtherance of such
11 conspiracy occurs within this jurisdiction; or

12 (d) conduct occurring within this jurisdiction
13 establishes complicity in the commission of, or an attempt,
14 solicitation, or conspiracy to commit, a National Crime in
15 another jurisdiction which also is a National Crime under the
16 law of this jurisdiction; or

17 (e) the National Crime consists of the
18 omission, while within or outside this jurisdiction, to perform
19 a legal duty imposed by the law of the Federated States of
20 Micronesia with respect to domicile, residence, or a
21 relationship to a person, thing, or transaction in this
22 jurisdiction; or

23 (f) the National Crime is based on a statute
24 of the Federated States of Micronesia which expressly prohibits
25 conduct outside this jurisdiction, when the conduct bears a

1 reasonable relation to a legitimate interest of the Federated
2 States of Micronesia and the defendant knows that his conduct
3 is likely to affect that interest; or

4 (g) conduct occurring outside this
5 jurisdiction is sufficient under the law of this jurisdiction,
6 if the conduct will have an effect on official governmental
7 activities, within or without the territorial limits of the
8 Federated States of Micronesia, provided that the action is not
9 prosecuted to the point of jeopardy attaching in the
10 jurisdiction where it occurs.

11 (2) The term "this jurisdiction" means the Federated
12 States of Micronesia, which includes the land and water and air
13 space above the land and water with respect to which the
14 Federated States of Micronesia has legislative jurisdiction.

15 Section 105. Definitions. The definitions in this
16 section shall apply throughout this Code, unless otherwise
17 specified or a different meaning is plainly required.

18 (1) Classification of National Crimes. A "felony"
19 is a National Crime which may be punished by imprisonment for
20 more than one year. Every other National Crime is a
21 "misdemeanor."

22 (2) Criminal negligence. A person acts with
23 criminal negligence, or is criminally negligent with respect to
24 attendant circumstances when his conduct creates a substantial
25 and unjustifiable risk and causes the criminal result; or if

1 his failure to be aware of the risk constitutes a gross
2 deviation from the standard of care that a reasonable person
3 would exercise in the situation.

4 (3) Defendant. A defendant is a person charged with
5 a criminal offense in any court in this jurisdiction.

6 (4) Intent. A person acts intentionally, or with
7 intent, when it is his conscious purpose to engage in the
8 conduct or cause the result.

9 (5) Knowledge. A person acts knowingly, or with
10 knowledge, when he is aware of the nature of his conduct or
11 existing circumstances.

12 (6) National Crime. A National Crime is any crime
13 which is:

14 (a) defined by any provision of any portion of
15 the Code of the Federated States of Micronesia; or

16 (b) a crime which is inherently national in
17 character; or

18 (c) otherwise a crime against the Federated
19 States of Micronesia.

20 (7) Inherently National in character. A crime is
21 "inherently national in character" when it is

22 (a) On National Government territory,
23 including, but not limited to:

24 (i) the grounds of the National
25 Capital at Palikir, Pohnpei State;

1 (ii) the premises, buildings or land
 2 immediately surrounding all other National Government offices,
 3 facilities, or premises, whether they be permanent or
 4 temporary, both within the Federated States of Micronesia or
 5 abroad; or

6 (iii) the exclusive economic zone,
 7 Territorial Sea and internal waters of the Federated States of
 8 Micronesia as defined in title 18 of this Code or elsewhere in
 9 the Code.

10 (b) In the airspace above all National
 11 Government territory as defined in subsection (a) herein; or

12 (c) On any watergoing vessel flagged and
 13 registered by the Federated States of Micronesia regardless of
 14 that watergoing vessel's location; or

15 (d) On any watergoing vessel of the National
 16 Government; or

17 (e) On any airborne vehicle of the National
 18 Government; or

19 (f) Against the property of the Federated
 20 States of Micronesia; or

21 (g) Against a national public servant while
 22 that national public servant is acting within the scope of his
 23 duties, regardless of whether or not that national public
 24 servant is on National Government territory; or

25 (h) Against any person in retaliation for an

1 act undertaken by that person while a national public servant,
2 which act was within the scope of his official duties; or

3 (i) Against any person participating or
4 attempting to participate in an official national proceeding as
5 sanctioned by the National Government pursuant to powers in the
6 Constitution, the Code of the Federated States of Micronesia,
7 as well as official National Government regulations; or

8 (j) Against any person participating or
9 attempting to participate in a national election; or

10 (k) In violation of any duty placed on a
11 person by the National Government pursuant to the Constitution,
12 Code or regulations of the Federated States of Micronesia.

13 (8) Official National proceeding. "Official
14 National proceeding" means a proceeding heard or which may be
15 heard before any legislative, judicial, administrative, or
16 other governmental agency of the Federated States of
17 Micronesia, or official authorized to take evidence under oath,
18 including any referee, hearing examiner, commissioner, notary,
19 or other person taking testimony or deposition in connection
20 with any such proceeding.

21 (9) Recklessness. "Recklessness" means to act with
22 willful disregard to the attendant circumstances, or if unaware
23 of the circumstances, to act in such a manner that constitutes
24 a gross deviation from the standard of care that a reasonable
25 person would exercise in the situation.

1 (10) Persons. The terms "person," "he," "him," "she,"
2 "her," "accused," and "defendant" include any natural person
3 and, where relevant, a corporation or an unincorporated
4 association. The use of any masculine term shall include all
5 persons, regardless of gender.

6 (11) National public servant. A "National public
7 servant" means any officer or employee of, or any person acting
8 on behalf of, the Federated States of Micronesia, including
9 legislators and judges, and any person acting as an advisor,
10 consultant, or otherwise, in performing a governmental
11 function; but the term does not include witnesses. The term
12 "national public servant" includes State government officials
13 acting on behalf of the National Government pursuant to chapter
14 12 of title 12 of this Code.

15 (12) State. The term "State" means a State of the
16 Federated States of Micronesia.

17 Section 106. Statute of Limitations.

18 (1) A prosecution for the National Crime of murder
19 may be commenced at any time.

20 (2) Except as otherwise provided in this section,
21 prosecution for other National Crimes are subject to the
22 following time limitations:

23 (a) A prosecution for a National felony must
24 be commenced within six years after it is committed.

25 (b) A prosecution for a national misdemeanor

1 must be commenced within three years after it is committed.

2 (3) Notwithstanding the time limitations set forth
3 in subsection 2 of this section, a prosecution may nevertheless
4 be commenced for:

5 (a) Any National Crime an element of which is
6 either fraud or a breach of fiduciary obligation, within six
7 years after it is committed; or

8 (b) Any National Crime based on misconduct in
9 office by a national public servant or employee at any time
10 when the defendant is in national public office or employment
11 or within six after it is committed.

12 (4) The time limitation does not run:

13 (a) During any time when the accused is
14 continuously absent from the complaining jurisdiction or has no
15 reasonably determinable place of abode or work within the
16 jurisdiction; or

17 (b) During any time when a prosecution against
18 the accused for the same conduct is pending in this
19 jurisdiction.

20 (5) A prosecution is commenced either when an
21 information or complaint is filed or when an arrest warrant or
22 other process is executed without unreasonable delay.

23 Section 107. Venue.

24 (1) Except as otherwise permitted by statute, all
25 trials for National Crimes shall be held in the State in which

1 the National Crime was committed.

2 (2) Any National Crime begun in one State and
3 completed in another, or committed in more than one State, may
4 be prosecuted in any State in which such offense was begun,
5 continued, or completed.

6 (3) The trial of all National Crimes begun or
7 committed upon the high seas, or elsewhere out of the
8 boundaries of any State, shall be in the State in which the
9 offender is arrested or is first brought; but if such offender
10 is not so arrested or brought into any State, a complaint may
11 be filed in the State of the last known residence of the
12 offender or if not such residence is known the complaint may be
13 filed in Palikir, Pohnpei.

14 (4) Any party may petition the Court for a change of
15 venue for good cause. The Court shall determine the place of
16 trial with due regard to the convenience of the defendant and
17 the witnesses and the prompt administration of justice.

18 Section 108. Defenses.

19 (1) A defense is a fact or set of facts which
20 negates penal liability.

21 (2) No defense may be considered by the trier of
22 fact unless evidence of the specified fact or facts has been
23 presented. If such evidence is presented, then:

24 (a) If the defense is not an affirmative
25 defense, the defendant is entitled to an acquittal if the trier

1 of fact finds that the evidence, when considered in the light
 2 of any contrary prosecution evidence, raises a reasonable doubt
 3 as to the defendant's guilty; or

4 (b) If the defense is an affirmative defense,
 5 the defendant is entitled to an acquittal if the trier of fact
 6 finds that the defendant has proven the existence of the facts
 7 asserted by a preponderance of the evidence, and that this
 8 evidence, when considered in the light of any contrary
 9 prosecution evidence, raises a reasonable doubt as to the
 10 defendant's guilt.

11 Section 109. Customary law. For purposes of
 12 administration and enforcement of any National Criminal law:

13 (1) Generally accepted customs prevailing within the
 14 Federated States of Micronesia relating to crimes and criminal
 15 liability shall be recognized and considered by the Court.

16 Where conflicting customs are both relevant, the Court shall
 17 determine the weight to be accorded to each;

18 (2) Unless otherwise made applicable or given legal
 19 effect by statute or precedent, the applicability and effect of
 20 customary law in a criminal case arising under this act shall
 21 be determined by the Court in such case;

22 (3) Where there is a dispute as to the existence or
 23 effect of customary law applicable to a criminal case arising
 24 under this title, the party asserting applicability of
 25 customary law has the burden of proving by a preponderance of

1 evidence the existence, applicability, and customary effect of
2 such customary law.

3 CHAPTER 2

4 Inchoate Crimes

5 Section 201. Attempts.

6 (1) A person commits the National Crime of an
7 attempt to commit a crime if, with intent to commit a National
8 Crime, he does an act which constitutes a substantial step in a
9 course of conduct planned to culminate in the commission of
10 that National Crime.

11 (2) It is an affirmative defense to a charge of
12 attempt that the National Crime was not committed because the
13 defendant desisted voluntarily and in good faith abandoned his
14 intention to commit the National Crime.

15 (3) Conduct shall not be considered a substantial
16 step under this section unless it is strongly corroborative of
17 the defendant's criminal intent.

18 Section 202. Solicitation.

19 (1) A person commits the National Crime of
20 solicitation if, with intent to promote or facilitate the
21 commission of a National Crime, he commends, encourages, or
22 requests another person to engage in conduct, cause the result
23 specified by the definition of the National Crime, or engage in
24 conduct which would be sufficient to establish complicity in
25 the specified conduct or result.

1 (2) It is immaterial under subsection (1) of this
2 section that the defendant fails to communicate with the person
3 he solicits if his conduct was designed to cause such
4 communication; however, if the defendant fails to complete his
5 communication of solicitation, he may be convicted only of
6 attempt.

7 Section 203. Conspiracy.

8 (1) A person commits the National Crime of
9 conspiracy if, with intent to promote or facilitate the
10 commission of a National Crime:

11 (a) He agrees with one or more persons that
12 they, or one or more of them, will engage in or solicit the
13 conduct or will cause or solicit the result specified by the
14 definition of the National Crime; and

15 (b) he or another person with whom he
16 conspired commits an overt act in pursuance of the conspiracy.

17 (2) If a person conspires to commit a number of
18 National Crimes, he is guilty of only one conspiracy if the
19 multiple National Crimes are the object of the same agreement
20 or continuous conspiratorial relationship.

21 (3) It is an affirmative defense to a prosecution
22 for conspiracy that the defendant, under circumstances showing
23 a complete and voluntary renunciation of his criminal intent,
24 made all reasonable efforts to prevent the conduct or result
25 which was the object of the conspiracy.

1 (4) Conviction of the National Crime of conspiracy
2 is not a bar to prosecution and conviction of the underlying
3 offense, if the object of the conspiracy is completed..

4 (5) A defendant is responsible for all actions of
5 his co-conspirators, regardless of whether he was privy to
6 them, so long as he remains a party to the conspiracy.

7 (6) It shall be an affirmative defense to a
8 prosecution for actions of co-conspirators which relate to an
9 offense to which the defendant was not privy, provided these
10 actions occurred subsequent to defendant's withdrawal from the
11 conspiracy.

12 Section 204. Penalties for attempt, solicitation, and
13 conspiracy. A person convicted of attempt, solicitation, or
14 conspiracy shall be punished:

15 (1) By imprisonment for not more than ten years if
16 the maximum sentence provided for any offense which was the
17 object of the attempt, solicitation, or conspiracy is life
18 imprisonment; or

19 (2) By imprisonment for not more than one-half the
20 maximum sentence which is provided for the most serious offense
21 which was the object of the attempt, solicitation, or
22 conspiracy if the maximum is less than life imprisonment.

CHAPTER 3

General Principles of Responsibility

25 Section 301. Liability for National Crimes of another.

1 (1) A person is criminally liable for the conduct of
2 another, if:

3 (a) He intentionally aids, abets, advises,
4 solicits, counsels, or conspires with or otherwise procures the
5 other to commit a National Crime; or

6 (b) While acting with the state of mind that
7 is sufficient for the commission of the National Crime, he
8 causes an innocent or irresponsible person to engage in such
9 conduct; or

10 (c) Having a legal duty to prevent the
11 commission of a National Crime, he fails to make proper effort
12 to do so.

13 (2) A person liable under subsection (1) of this
14 section is also liable for any other National Crime committed
15 in the pursuance of the intended National Crime if reasonably
16 foreseeable by him as a probable consequence of committing or
17 attempting to commit the National Crime intended.

18 (3) A person liable under this section may be
19 charged with and convicted of the National Crime although the
20 person who directly committed it has not been prosecuted or
21 convicted, or has been convicted of a different National Crime
22 or degree of National Crime, or has been acquitted.

23 (4) No person may be convicted under this section
24 unless the information specifically alleges that the defendant
25 aided and abetted and that said information provides specific

1 acts constituting the means of aiding and abetting so as to
2 afford the defendant adequate notice to prepare his defense.

3 Section 302. Physical or mental disease, disorder, or
4 defect excluding criminal responsibility.

5 (1) A person is not responsible for criminal conduct
6 if, at the time of such conduct as a result of physical or
7 mental disease, disorder, or defect, he lacks substantial
8 capacity either to appreciate the wrongfulness of his conduct
9 or to conform his conduct to the requirements of law.

10 (2) The terms physical or mental disease, disorder,
11 or defect do not include an abnormality manifested only by
12 repeated criminal or otherwise antisocial conduct.

13 (3) Physical or mental disease, disorder, or defect
14 excluding responsibility is an affirmative defense.

15 (4) When the defendant is acquitted on the ground of
16 physical or mental disease, disorder, or defect excluding
17 responsibility, the verdict and the judgment shall so state.

18 Section 303. Evidence of physical or mental disease,
19 disorder, or defect admissible when relevant to element of the
20 National Crime. Evidence that the defendant suffered from a
21 physical or mental disease, disorder, or defect is admissible
22 whenever it is relevant to prove that the defendant did or did
23 not have a state of mind which is an element of the National
24 Crime.

25 Section 304. Physical or mental disease, disorder, or

1 defect excluding fitness to proceed.

2 (1) No person who, as a result of physical or mental
3 disease, disorder, or defect, lacks capacity to understand the
4 proceedings against him or to assist in his own defense shall
5 be tried, convicted, or sentenced for the commission of a
6 National Crime so long as such incapacity endures.

7 (2) If the Court determines that the defendant lacks
8 fitness to proceed, the proceeding against him shall be
9 suspended, and the Court shall commit him, for a reasonable
10 period of time, to an appropriate institution for the purpose
11 of restoring fitness to proceed. If the Court is satisfied
12 that the defendant may be released on conditions without danger
13 to himself or to the person or property of another, the Court
14 shall order his release, which shall continue at the discretion
15 of the Court, on such conditions as the Court determines
16 necessary.

17 (3) When the Court, on its own motion or upon the
18 application of the institution, or the prosecuting attorney, or
19 the defendant, determines, after a hearing, if a hearing is
20 requested, that the defendant has regained fitness to proceed,
21 the proceeding shall be resumed. If the Court determines that
22 so much time has elapsed due to the unfitness of the defendant
23 to proceed that it would be unjust to resume the criminal
24 proceeding, the Court may dismiss the charge and may order the
25 defendant to be discharged or, subject to the law governing the

1 civil commitment or conditional released on such conditions as
2 the Court determines necessary.

3 Section 305. Statements for purposes of examination and
4 treatment. A statement of a person made pursuant to treatment
5 under this chapter, or made pursuant to an examination for the
6 purposes of assessing criminal responsibility or fitness to
7 proceed, shall not be admissible in evidence against him in any
8 criminal proceeding on any issue other than that of his
9 physical or mental condition excluding responsibility or
10 fitness to proceed, but it shall be admissible upon those
11 issues whether or not it would otherwise be deemed a privileged
12 communication, unless such statement constitutes an admission
13 of guilt of the National Crime charged, except that such
14 statements may be admissible to rebut an inconsistent statement
15 made by the defendant, or other inconsistent evidence offered
16 by the defendant.

17 Section 306. Intoxication.

18 (1) An act committed while in a state of
19 intoxication is not less criminal by reason thereof, but
20 evidence of intoxication and the degree of intoxication of the
21 defendant shall be admissible to prove or negate the conduct
22 alleged or the state of mind which is an element of the
23 National Crime.

24 (2) Intoxication does not, in itself, constitute a
25 physical or mental disease, disorder, or defect within the

1 meaning of this chapter.

2 (3) When recklessness establishes an element of the
3 National Crime, if the defendant, due to voluntary
4 intoxication, is unaware of a risk that he would have been
5 aware of had he been sober, such unawareness is immaterial.

6 (4) "Intoxication" means a disturbance of mental or
7 physical capabilities resulting from the introduction of
8 substances into the body.

9 (5) A state of intoxication shall be neither more so
10 nor less so, if the substance introduced be legal, illegal,
11 prescribed by a medical practitioner, or otherwise taken for
12 health reasons.

13 CHAPTER 4

14 Offenses Against National Security

15 Section 401. Treason.

16 (1) A person who is a citizen or national of, or who
17 is domiciled in, the Federated States of Micronesia commits the
18 National Crime of treason if he:

19 (a) Levies war against the Federated States of
20 Micronesia; or

21 (b) Adheres to the enemies of the Federated
22 States of Micronesia, giving them aid and comfort.

23 (2) "Levying war" includes an act of war or
24 insurrection of several persons with intent to prevent, by
25 force or intimidation, the execution of a statute of the

1 National Government, or an order of any National Court, or to
2 force its repeal or recession. It does not include either a
3 conspiracy to commit an act of war or a single instance of
4 resistance to the execution of the law for a private purpose.

5 (3) No person shall be convicted of treason except
6 on the testimony of two witnesses to the same overt act, or on
7 his confession in open Court.

8 (4) A person convicted of treason may be punished by
9 life imprisonment.

10 Section 402. Armed insurrection.

11 (1) Engaging in armed insurrection. A person
12 commits a National Crime if he engages in an armed insurrection
13 with intent to overthrow, supplant, or change the form of
14 government of the Federated States of Micronesia, or knowing
15 that such armed insurrection is in progress or is impending, he
16 facilitates it or solicits, incites, or conspires with another
17 to engage in or to facilitate it.

18 (2) Penalty. A person convicted under subsection
19 (1) of this section shall be punished by imprisonment for not
20 more than ten years.

21 Section 403. Advocating armed insurrection.

22 (1) A person commits a National Crime if, with
23 intent to induce or otherwise cause others to engage in armed
24 insurrection in violation of section 402, he:

25 (a) Advocates the desirability or necessity of

1 armed insurrection under circumstances in which there is
2 substantial likelihood his advocacy will immediately produce a
3 violation of section 402; or

4 (b) Organizes an association which engages in
5 the advocacy prohibited in paragraph (a) of this subsection, or
6 as an active member of such association, facilitates such
7 advocacy.

8 (2) Penalty. A person convicted under this section
9 shall be punished by imprisonment for not more than five years.

10 Section 404. Revealing classified information.

11 (1) A person commits a National Crime if he:

12 (a) Intentionally communicates classified
13 information to an unauthorized person; or

14 (b) Knowingly obtains classified information
15 without authorization; or

16 (c) Solicits another to communicate classified
17 information to an unauthorized person.

18 (2) "Classified information" means information the
19 dissemination of which has been restricted by the President for
20 reasons of National security.

21 (3) A person convicted under this section shall be
22 punished by imprisonment for not more than five years.

23 CHAPTER 5

24 Offenses Against Public Administration

25 Subchapter I

1 Obstructing Government Operations

2 Section 501. Obstructing administration of law or other
 3 functions of the National Government.

4 (1) A person commits a National Crime if he
 5 purposely and substantially obstructs, impairs, or perverts the
 6 administration of law or other lawful governmental functions of
 7 the Federated States of Micronesia by force, violence, physical
 8 interference or obstacle, breach of official duty, or any other
 9 unlawful act, except that this section does not apply to flight
 10 by a person charged with crime, refusal to submit to arrest,
 11 failure to perform a legal duty other than an official duty, or
 12 any other means of avoiding compliance with law without
 13 affirmative interference with governmental functions.

14 (2) A person convicted under this section shall be
 15 punished by imprisonment for not more than one year.

16 Section 502. Resisting arrest or other law enforcement.

17 (1) A person commits a National Crime if, for the
 18 purpose of preventing a national public servant from effecting
 19 a lawful arrest or discharging any other duty, the person
 20 creates a substantial risk of bodily injury to the national
 21 public servant or anyone else, or employs means justifying or
 22 requiring substantial force to overcome the resistance.

23 Section 503. Hindering apprehension or prosecution.

24 (1) A person commits a National Crime if, with
 25 purpose to hinder the apprehension, prosecution, conviction, or

1 punishment of another for a National Crime he:

2 (a) Harbors or conceals the other; or

3 (b) Provides or aids in providing a weapon,
4 transportation, disguise, or other means of avoiding apprehension
5 or effecting escape; or

6 (c) Conceals or destroys evidence of the National
7 Crime, or tampers with a witness, informant, document, or other
8 source of information, regardless of its admissibility in
9 evidence; or

10 (d) Warns the other of impending discovery or
11 apprehension, except that this paragraph does not apply to a
12 warning given in connection with an effort to bring another into
13 compliance with National law; or

14 (e) Provides false information to any national
15 law enforcement officer.

16 (2) A person convicted under this section shall be
17 punished:

18 (a) By imprisonment for not more than five years
19 if the conduct which the defendant knows has been charged or is
20 liable to be charged against the person aided is punishable by
21 imprisonment for ten or more years; or

22 (b) Otherwise, by imprisonment for not more than
23 one year.

24 Section 504. Compounding.

25 (1) A person commits a National Crime if he accepts or

1 agrees to accept any pecuniary benefit in consideration of
2 refraining from reporting to any law enforcement authority the
3 commission or suspected commission of any National Crime or
4 information relating to such a National Crime. It is a defense to
5 prosecution under this section that the pecuniary benefit did not
6 exceed an amount which the defendant believed to be due as
7 restitution or indemnification for harm caused by the offense.

8 (2) A person convicted under this section shall be
9 punished by imprisonment for not more than one year.

10 Section 505. Escape.

11 (1) A person commits the National Crime of escape if he
12 unlawfully removes himself from official detention or fails to
13 return to official detention following temporary leave granted for
14 a specific purpose or limited period. "Official detention" means
15 arrest and detention in any facility for custody of persons under
16 charge or conviction of a National Crime offense, under detention
17 for extradition or deportation, or any other detention for law
18 enforcement purposes. The term "official detention" shall apply
19 only to detention by a national public servant, or by any other
20 person legally authorized or empowered to arrest or detain on
21 behalf of the Federated States of Micronesia. "Official
22 detention" does not include supervision of probation or parole, or
23 constraint incidental to release on bail.

24 (2) Permitting or facilitating escape. A national
25 public servant involved in detention commits a National Crime

1 if he knowingly permits an escape. Any person who knowingly
2 causes or facilitates an escape commits a National Crime.

3 (3) Effect of legal irregularity in detention.

4 Irregularity in bringing about or maintaining detention, or lack
5 of jurisdiction of the committing or detaining authority, shall
6 not be a defense to prosecution under this section if the escape
7 is from a prison or other custodial facility or from detention
8 pursuant to commitment by official national proceedings. In the
9 case of other detentions, irregularity or lack of jurisdiction
10 shall be a defense only if:

11 (a) the escape involved no substantial risk of
12 harm to the person or property of anyone other than the defendant;
13 or

14 (b) The detaining authority did not act in good
15 faith under color of law.

16 (4) Penalty. A person convicted of escape shall be
17 punished by imprisonment for not more than ten years if the
18 defendant employees force, a deadly weapon, or other dangerous
19 instrumentality to make the escape. Otherwise, a person convicted
20 of escape shall be punished by imprisonment for not more than
21 three years.

22 Section 506. Implements for escape; Other contraband.

23 (1) Escape implements. A person commits a National
24 Crime if he unlawfully introduces within a national detention
25 facility, or unlawfully provides an inmate of a national

1 detention facility with any weapon, tool, or other thing which
2 may be useful for escape. An inmate of a national detention
3 facility commits a National Crime if he unlawfully procures,
4 makes, or otherwise provides himself with, or has in his
5 possession, any such implement of escape. "Unlawfully" means
6 surreptitiously or contrary to law, regulation, or order of the
7 detaining authority.

8 (2) Other contraband. A person commits a National
9 Crime if he provides an inmate of a national detention facility
10 with anything which the defendant knows it is unlawful for the
11 inmate to possess.

12 (3) Definition. "National detention facility"
13 refers only to a detention facility owned or operated by the
14 Federated States of Micronesia, or to any other detention
15 facility if the inmate is detained therein pursuant to an
16 arrest, charge, or conviction for a National Crime offense, or
17 to an accusation or adjudication of delinquency based upon a
18 National Crime offense, or detained for extradition or
19 deportation purposes.

20 (4) Penalty. A person convicted under this section
21 shall be punished by imprisonment for not more than one year.

22 Section 507. Bail jumping; Default in required
23 appearance.

24 (1) A person set at liberty by Court order, with or
25 without bail, upon condition that he will subsequently appear

1 at a specified time and place, commits a National Crime if,
2 without lawful excuse, he fails to appear at that time and
3 place.

4 (2) This section shall apply only to persons whose
5 detention was based upon a charge or conviction for a National
6 Crime offense, or upon an accusation or adjudication of
7 delinquency based upon a National Crime offense, or whose
8 detention was for extradition or deportation purposes.

9 (3) This section does not apply to obligations to
10 appear incident to release under suspended sentence or on
11 probation or parole.

12 (4) Penalty. A person convicted under this section
13 shall be punished:

14 (a) By imprisonment for not more than three
15 years if the required appearance was to answer to a charge of
16 felony, or for disposition of any such charge, and the
17 defendant took flight or went into hiding to avoid
18 apprehension, trial, or punishment;

19 (b) Otherwise, by imprisonment for not more
20 than one year.

21 Section 508. Disrupting National Government meetings.

22 (1) A person commits a National Crime if, with
23 intent to prevent or substantially disrupt, or recklessly
24 creating a risk thereof, or after a reasonable warning or
25 request to desist has been made, he continues in conduct which

1 prevents or substantially disrupts any official national
2 proceeding or any meeting, ceremony, procession, or other
3 official gathering of the Federated States of Micronesia; he:

4 (a) Does any act which physically obstructs;
5 or

6 (b) Engages in fighting or in violent
7 behavior; or

8 (c) Addresses abusive language to any person
9 present, which is likely to provoke a violent response; or

10 (d) Creates a hazardous or physically
11 offensive condition by any act which is not performed under any
12 authorized license or permit.

13 (2) A person convicted under this section shall be
14 punished by imprisonment for not more than one year.

15 Section 509. Flight to avoid prosecution or giving
16 testimony. Whoever moves or travels in interstate or foreign
17 commerce with intent either:

18 (1) To avoid prosecution, or custody or confinement
19 after conviction, under the laws of the place from which the
20 fugitive flees, for a crime or an attempt to commit a crime
21 which is a felony under the laws of the place from which the
22 fugitive flees; or

23 (2) To avoid giving testimony in any criminal
24 proceeding in such place in which the commission of an offense
25 which is a felony under the laws of such place is charged; or

(3) To avoid service of, or contempt proceedings for alleged disobedience of, lawful process requiring attendance and the giving of testimony or the production of documentary evidence before any agency of a State empowered by the law of such State to conduct investigations of alleged criminal activities; shall be fined not more than \$5,000 or imprisoned not more than five years, or both. Violations of this section may be prosecuted only in the Federated States of Micronesia Supreme Court sitting in the State in which the original crime was alleged to have been committed, or in which the person was held in custody or confinement, or in which an avoidance of service of process or a contempt referred to in subsection (3) of this section is alleged to have been committed, and only upon formal approval in writing by the Attorney General or an Assistant Attorney General of the Federated States of Micronesia, which function of approving prosecutions may not be delegated.

Subchapter II

Abuse of Office

Section 521. Official oppression.

(1) A person acting or purporting to act in an official capacity on behalf of the Federated States of Micronesia, or taking advantage of such actual or purported capacity, commits a National Crime if, knowing that his conduct is illegal, he:

1 (a) Subjects another to arrest, detention,
2 search, seizure, mistreatment, dispossession, assessment, lien,
3 or other infringement of personal or property rights; or

4 (b) Denies or impedes another in the exercise
5 or enjoyment of any rights, privilege, power, or immunity.

6 Section 522. Speculating or wagering on official action
7 or information.

8 (1) A national public servant commits a National
9 Crime if, in contemplation of official action by himself in his
10 capacity as a national public servant or by a National
11 Government unit with which he is associated, or in reliance on
12 information to which he has access in his official capacity as
13 a national public servant and which has not been made public,
14 he:

15 (a) Acquires a pecuniary interest in any
16 property, transaction, or enterprise which may be affected by
17 such information or official action; or

18 (b) Speculates or wagers on the basis of such
19 information or official action; or

20 (c) Aids another to do any of the foregoing.

21 Subchapter III

22 Bribery and Related Offenses of Corrupt Influence

23 Section 531. Bribery in official and political matters of
24 the National Government.

25 (1) Bribery. A person commits the National Crime of

1 bribery if he offers, confers, or agrees to confer upon
2 another, or solicits, accepts or agrees to accept from another:

3 (a) Any pecuniary benefit as consideration for
4 the recipient's decision, opinion, recommendation, vote, or
5 other exercise of discretion as a national public servant, or
6 as a voter in any election, referendum, or plebiscite of the
7 Federated States of Micronesia; or

8 (b) Any benefit as consideration for the
9 recipient's decision, vote, recommendation, or other exercise
10 of official discretion as a a national public servant in an
11 official national proceeding; or

12 (c) Any benefit as consideration for a
13 violation of a known legal duty as a national public servant.

14 (2) Defense. It is an affirmative defense to a
15 prosecution under this section that the defendant agreed to
16 confer or agreed to accept the benefit as a result of extortion
17 or coercion.

18 (3) Definition. For purposes of this section,
19 "national public servant" includes, in addition to those
20 persons who are defined as national public servants under
21 section 105 of this title, persons who have been elected,
22 appointed, or designated to become a national public servant
23 although not yet occupying that position.

24 Section 532. Threats and other improper influence in
25 official and political matters of the National Government.

1 than one year.

2 Section 533. Retaliation for past official action of the
3 National Government.

4 (1) A person commits a National Crime if he harms
5 another or a member of that person's immediate family, by an
6 unlawful act in retaliation for anything lawfully done by the
7 latter in the capacity of National public servant.

8 (2) A person convicted under this section shall be
9 punished by imprisonment for not more than one year.

10 Section 534. Gifts to National public servants by persons
11 subject to their jurisdiction.

12 (1) Regulatory and law enforcement officials. A
13 National public servant in any department or agency exercising
14 regulatory functions, or conducting inspections or
15 investigations, or carrying on civil or criminal litigation on
16 behalf of the National Government, or having custody of
17 prisoners, commits a National Crime if he solicits, accepts, or
18 agrees to accept any benefit from a person known to be subject
19 to such regulation, inspection, investigation, or custody, or
20 against whom such litigation is known to be pending or
21 contemplated.

22 (2) Officials concerned with Government contracts
23 and transactions. A National public servant having any
24 discretionary function to perform in connection with contracts,
25 purchases, payments, claims, or other transactions of the

1 (1) A person commits a National Crime if he:

2 (a) threatens unlawful harm to any person with
3 purpose to influence his decision, opinion, recommendation,
4 vote, or other exercise of his discretion as a National public
5 servant, or a voter in any election, referendum, or plebiscite
6 of the Federated States of Micronesia; or

7 (b) threatens a member of any National public
8 servant's immediate family with purpose to influence his
9 decision, opinion, recommendation, vote, or other exercise of
10 discretion in an official National proceeding; or

11 (c) threatens a member of any National public
12 servant's immediate family, with purpose to influence him to
13 violate his known legal duty.

14 (2) It is no defense to prosecution under this
15 section that a person whom the defendant sought to influence
16 was not qualified to act in the desired way, whether because he
17 had not yet assumed office, or lacked jurisdiction, or for any
18 other reason.

19 (3) A person convicted under this section shall be
20 punished:

21 (a) by imprisonment for not more than five
22 years if the defendant threatened to commit a crime or made a
23 threat with purpose to influence an official National
24 proceeding; or

25 (b) otherwise, by imprisonment for not more

1 National Government commits a National Crime if he solicits,
2 accepts, or agrees to accept any benefit from any person known
3 to be interested in or likely to become interested in any such
4 contract, purchase, payment, claim, or transaction.

5 (3) Judicial and administrative officials. A
6 National public servant having judicial or administrative
7 authority and a National public servant employed by or in a
8 National Court or other tribunal having such authority, or
9 participating in the enforcement of its decisions, commits a
10 National Crime if he solicits, accepts, or agrees to accept any
11 benefit from a person known to be interested in or likely to
12 become interested in any matter before such National public
13 servant or a tribunal with which he is associated.

14 (4) Congressional officials. A National public
15 servant who is a member of the Congress of the Federated States
16 of Micronesia, or who is employed by the Congress or by any
17 committee or agency thereof, commits a National Crime if he
18 solicits, accepts, or agrees to accept any benefit from any
19 person known to be interested in a bill, transaction, or
20 proceeding, pending or contemplated, before the Congress or any
21 Committee or agency thereof.

22 (5) Exceptions. This section shall not apply to:

23 (a) fees prescribed by law to be received by a
24 National public servant or any other benefit for which the
25 recipient gives legitimate consideration or to which he is

1 otherwise legally entitled; or

2 (b) gifts or other benefits conferred on
3 account of custom, tradition, kinship, or other personal,
4 professional, or business relationship independent of the
5 official status of the receiver; or

6 (c) trivial benefits incidental to personal,
7 professional, or business contacts and involving no substantial
8 risk of undermining official impartiality.

9 (6) Offering benefit prohibited. A person commits a
10 National Crime if he knowingly confers, or offers, or agrees to
11 confer, any benefit prohibited in this section.

12 Section 535. Compensating a National public servant for
13 assisting private interests in relation to matters before him.

14 (1) Receiving compensation. A National public
15 servant commits a National Crime if he solicits, accepts, or
16 agrees to accept compensation for advice or other assistance in
17 preparing or promoting a bill, contract, claim, or other
18 transaction or proposal as to which he knows that he has or is
19 likely to have an official discretion to exercise.

20 (2) Paying compensation. A person commits a
21 National Crime if he pays or offers or agrees to pay
22 compensation to a National public servant with knowledge that
23 acceptance by the National public servant is unlawful.

24 (3) Penalty. A person convicted under subsection
25 (2) shall be punished by imprisonment for not more than one

1 year.

2 Section 536. Selling political endorsement; Special
3 influence.

4 (1) Selling political endorsement. A person commits
5 a National Crime if he solicits, receives, agrees to receive,
6 or agrees that any other person shall receive any benefit as
7 consideration for approval or disapproval of an appointment or
8 advancement in public service, or for approval or disapproval
9 of any person or transaction for any benefit conferred by a
10 National public servant, an official or agency of Government.
11 "Approval" includes recommendation, failure to disapprove, or
12 any other manifestation of favor or acquiescence.

13 "Disapproval" includes failure to approve, or any other
14 manifestation of disfavor or nonacquiescence.

15 (2) Other trading in special influence. A person
16 commits a National Crime if he solicits, receives, or agrees to
17 receive any benefit as consideration for exerting special
18 influence upon a National public servant or procuring another
19 to do so. "Special influence" means power to influence through
20 kinship, friendship, or other relationship, apart from the
21 merits of the transaction.

22 (3) Paying for endorsement or special influence. A
23 person commits a National Crime if he offers, confers, or
24 agrees to confer any benefit receipt of which is prohibited by
25 this section.

1 Section 537. Penalties and injunctions.

2 (1) The punishment for any national public servant
3 or public official, as defined in sections 105(12), 531(3) and
4 1401(2) of this title, for an offense under sections 521, 522,
5 531, 534, 535(1), 536, 610, 1303, 1305, 1306 and 1307 of this
6 title and sections 220, 221, 313(2) or 313(2) or 313(3) of
7 title 55 is the following:

8 (a) A term of imprisonment not to exceed 5
9 years, or the period set forth in the in the penalty provisions
10 of the enumerated sections, whichever is greater;

11 (b) A fine not to exceed \$5,000, the fine set
12 forth in the penalty provisions of the enumerated sections or
13 the fine set forth in section 1101 of this title, whichever is
14 greater; and

15 (c) Dismissal from the position held within
16 the National Government, whether elected, appointed, designated
17 or otherwise, and shall be permanently disqualified from
18 holding any employment, office of honor or trust in the
19 National Government of the Federated States of Micronesia.
20 This dismissal is mandatory and not subject to judicial
21 discretion pursuant to chapter 11 of this title or any other
22 provision of national law.

23 (d) Forfeiture pursuant to subchapter VIII of
24 Chapter 11 of this title.

25 (2) The Attorney General may bring a civil action in

1 the Trial Division of the Supreme Court of the Federated States
 2 of Micronesia against any person who engages in conduct
 3 constituting an offense under subchapter III, of this title,
 4 and upon proof of such conduct by a preponderance of the
 5 evidence, such person shall be subject to a civil penalty of
 6 not more than \$50,000 for each violation or the amount of
 7 compensation which the person received or offered for the
 8 prohibited conduct, whichever amount is greater. The
 9 imposition of a civil penalty under this subsection does not
 10 preclude any other criminal or civil statutory, common law, or
 11 administrative remedy, which is available by law to the
 12 Federated States of Micronesia or any other person.

13 (3) If the Attorney General has reason to believe
 14 that a person is engaging in conduct constituting an offense
 15 under subchapter III of this title, the Attorney General may
 16 petition the Trial Division of the Supreme Court of of the
 17 Federated States of Micronesia for an order prohibiting that
 18 person from engaging in such conduct. The court may issue an
 19 order prohibiting that person from engaging in such conduct if
 20 the court finds that the conduct constitutes such an offense.
 21 The filing of a petition under this section does not preclude
 22 any other remedy which is available by law to the Federated
 23 States of Micronesia or any other person.

Subchapter IV

Perjury and Related Offenses of Falsification

1 Section 541. Perjury.

2 (1) Perjury. A person commits the National Crime of
3 perjury if in any official proceeding of the National
4 Government he makes a false statement under oath or equivalent
5 affirmation, or swears or affirms the truth of a statement
6 previously made, when the statement is material and he does not
7 believe it to be true.

8 (2) Materiality. Falsification is material,
9 regardless of the admissibility of the statement under rules of
10 evidence, if it could have affected the course or outcome of
11 the proceeding. It is no defense that the declarant mistakenly
12 believed the falsification immaterial.

13 (3) Penalty. A person convicted of perjury shall be
14 punished by not more than five years imprisonment.

15 Section 542. False swearing in official matters of the
16 National Government.

17 (1) A person commits the National Crime of false
18 swearing if:

19 (a) he makes a false statement under oath or
20 equivalent affirmation, or swears or affirms the truth of such
21 a statement to be true, and:

22 (i) the falsification occurs in an
23 official National proceeding; or

24 (ii) the falsification is intended to
25 mislead a National public servant in performing his official

1 function; or

2 (b) he makes a false statement under oath or
3 equivalent affirmation, or swears or affirms the truth of such
4 a statement previously made, when he does not believe the
5 statement to be true and the statement is one which is required
6 by statute or regulation of the Federated States of Micronesia
7 to be sworn or affirmed before a notary or other person
8 authorized to administer oaths.

9 (2) A person convicted of false swearing shall be
10 punished by imprisonment for not more than one year.

11 Section 543. Unsworn falsification to National
12 authorities.

13 (1) In general. A person commits the National Crime
14 of falsification if, with purpose to mislead a National public
15 servant in performing his official function, he:

16 (a) makes any written false statement which he
17 does not believe to be true; or

18 (b) purposely creates a false impression in a
19 written application for any pecuniary or other benefit, by
20 omitting information necessary to prevent statements therein
21 from being misleading; or

22 (c) submits or invites reliance on any writing
23 which he knows to be forged, altered, or otherwise lacking in
24 authenticity; or

25 (d) submits or invites reliance on any sample,

1 specimen, map, boundary mark, or other object which he knows to
2 be false.

3 (2) Statement under penalty. A person commits the
4 National Crime of falsification if he makes a written false
5 statement which he does not believe to be true, on or pursuant
6 to a form bearing notice, authorized by statute or regulation
7 of the Federated States of Micronesia, to the effect that false
8 statements made therein are punishable.

9 (3) Penalty. A person convicted under this section
10 shall be punished by imprisonment for not more than one year.

11 Section 544. Limitations on prosecutions of perjury and
12 related National Crime. The following limitations apply to
13 prosecutions under sections 541, 542 and 543:

14 (1) Irregularities no defense. It is not a defense
15 that the oath or affirmation was administered or taken in an
16 irregular manner or that the declarant was not competent to
17 make the statement. A document purporting to be made upon oath
18 or affirmation at any time when the defendant presents it as
19 being so verified shall be deemed to have been duly sworn or
20 affirmed.

21 (2) Retraction. No person shall be guilty of a
22 National Crime if he retracted the falsification in the course
23 of the proceeding of the National Government in which it was
24 made before it became manifest that the falsification was or
25 would be exposed and before the falsification substantially

1 affected the proceeding.

2 (3) Inconsistent statements. Where the defendant
3 made inconsistent statements under oath or equivalent
4 affirmation, both having been made within the period of the
5 statute of limitations, the prosecution may proceed by setting
6 forth the inconsistent statements in a single count alleging in
7 the alternative that one or the other was false and not
8 believed by the defendant. In such case, it shall not be
9 necessary for the prosecution to prove which statement was
10 false but only that one or the other was false and not believed
11 by the defendant to be true.

12 (4) Corroboration. No person shall be convicted of
13 a National Crime where proof of falsity rests solely upon
14 contradiction by testimony of a single person other than the
15 defendant.

16 Section 545. Tampering with witnesses and informants.

17 (1) Tampering. A person commits a National Crime
18 if, believing that an official national proceeding or
19 investigation of the National Government is pending or about to
20 be instituted, he attempts to induce or otherwise cause a
21 witness or informant to:

22 (a) testify or inform falsely; or

23 (b) withhold any testimony, information,
24 document, or thing; or

25 (c) elude legal process summoning him to

1 testify or supply evidence; or

2 (d) absent himself from any proceeding or
3 investigation to which he has been legally summoned.

4 (2) Penalty. A person convicted under subsection
5 (1) of this section shall be punished:

6 (a) if the defendant uses force, deception,
7 threat, or offer of benefit, by imprisonment for not more than
8 five years; or

9 (b) otherwise, by imprisonment for not more
10 than one year.

11 (3) Witness or informant taking bribe. A person
12 commits a National Crime if he solicits, accepts, or agrees to
13 accept any benefit in consideration of his doing any of the
14 things specified in subsection (1) of this section.

15 (4) Penalty. A person convicted under subsection
16 (3) of this section shall be punished by imprisonment for not
17 more than five years.

18 Section 546. Retaliation against witness or informant.

19 (1) A person commits a National Crime if he harms
20 another, or a member of that person's immediate family, by any
21 unlawful act in retaliation for anything lawfully done in the
22 capacity of witness or informant in any official national
23 proceeding or investigation.

24 (2) A person convicted under this section shall be
25 punished by imprisonment for not more than one year.

1 Section 547. Tampering with or fabricating physical
2 evidence.

3 (1) A person commits a National Crime if, believing
4 that an official national proceeding or investigation of a
5 National Government is pending or about to be instituted, he:

6 (a) alters, destroys, conceals, or removes any
7 record, document, or thing with purpose to impair its verity or
8 availability in such proceeding or investigation; or

9 (b) makes, presents, or uses any record,
10 document, or thing knowing it to be false and with purpose to
11 mislead a national public servant who is or may be engaged in
12 such proceeding or investigation.

13 (2) A person convicted under this section shall be
14 punished by imprisonment for not more than one year.

15 Section 548. Tampering with public records or
16 information.

17 (1) A person commits a National Crime if he:

18 (a) knowingly makes a false entry in, or false
19 alteration of, any record, document, or thing received or kept
20 by a national public servant, or belonging to the Government of
21 the Federated States of Micronesia for information or record,
22 or required by statute or regulation of the Federated States of
23 Micronesia to be kept by anyone for information of the
24 Government; or

25 (b) makes, presents, or uses any record,

1 document, or thing knowing it to be false, and with purpose
2 that it be taken as a genuine part of information or records
3 referred to in paragraph (a) of this subsection; or

4 (c) purposely and unlawfully destroys,
5 conceals, removes, or otherwise impairs the verity or
6 availability of any such record, document, or thing.

7 (2) A person convicted under this section shall be
8 punished by imprisonment for not more than five years.

9 Section 549. Impersonating a national public servant.

10 (1) A person commits a National Crime if he falsely
11 pretends to be a national public servant with purpose to induce
12 another to submit to such pretended official authority or
13 otherwise to act in reliance upon that pretense to his
14 prejudice.

15 (2) A person convicted under this section shall be
16 punished by imprisonment for not more than one year.

17 Section 550. False, fictitious or fraudulent claims.

18 Whoever, either on behalf of themselves, or on behalf of or for
19 the financial benefit of a spouse, child, close relative,
20 partner, organization in which he serves as officer, director,
21 trustee, partner or employee makes or presents to any person or
22 department or agency of the Federated States of Micronesia, any
23 claim upon or against the Federated States of Micronesia or any
24 department or agency thereof, and knowing such claim to be
25 false, fictitious, or fraudulent shall be punished by

1 imprisonment for not more than five years, a fine not to exceed \$10,000, or both.

CHAPTER 6

Offenses Against Property

Section 601. Definitions. As used in this chapter:

(1) "Deprive" means:

(a) To withhold property of another

permanently or for so extended a period as to appropriate a

major portion of its economic value, or with intent to restore

only upon payment of reward or other compensation; or

(b) To dispose of the property so as to make

it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance

company, credit union, building and loan association,

investment trust, or other organization held out to the public

as a place of deposit of funds or medium of savings or

collective investment.

(3) "Government" means the Federated States of

Micronesia, and any department, agency, or subdivision thereof,

or any corporation or other association carrying out the

functions of Government.

(4) "Movable property" means property, the location

of which can be changed, including things growing on, affixed

to, or found in land, and documents, although the rights

represented thereby have no physical location. "Immovable

1 property" is all other property.

2 (5) "Obtain" means:

3 (a) In relation to property, to bring about a
4 transfer or purported transfer of a legal interest in the
5 property, whether to the obtainer or another; or

6 (b) In relation to labor or service, to secure
7 performance thereof.

8 (6) "Property" means anything of value, including
9 real estate, tangible and intangible personal property,
10 contract rights, choses-in-action, and other interests in or
11 claims to wealth, admission, or transportation tickets,
12 captured or domestic animals, food and drink, electric or other
13 utilities.

14 (7) "Property of another" includes property in which
15 any person other than the defendant has an interest which the
16 actor is not privileged to infringe, regardless of the fact
17 that the defendant also has no interest in the property and
18 regardless of the fact that the other person might be precluded
19 from civil recovery because the property was used in an
20 unlawful transaction or was subject to forfeiture as
21 contraband. Property in possession of the defendant shall not
22 be deemed property of another who has only a security interest
23 therein, even if legal title is in the creditor pursuant to a
24 conditional sales contract or other security agreement.

25 Section 602. Theft against the National Government.

1 (1) Theft. A person commits the National Crime of
2 theft against the National Government if he commits theft of
3 any property or service in which the Government of the
4 Federated States of Micronesia has any legal, equitable, or
5 possessory interest.

6 Section 603. Grand theft.

7 (1) Theft. A person commits the National Crime of
8 grand theft if he commits theft of property or services in the
9 value of \$5,000 or more.

10 (2) Claim of right. It is an affirmative defense to
11 prosecution for theft that the defendant:

12 (a) Was unaware that the property or service
13 was that of another; or

14 (b) Acted under an honest claim of right to the
15 property or service involved or that he had a right to acquire
16 or dispose of it as he did; or

17 (c) Took property exposed for sale, intending
18 to purchase and pay for it promptly, or reasonably believing
19 that the owner, if present, would have consented.

20 Section 604. Theft by unlawful taking or disposition.

21 (1) Movable property. A person commits theft if he
22 unlawfully takes or exercises unlawful control over movable
23 property of another with purpose to deprive him thereof.

24 (2) Immovable property. A person commits theft if
25 he unlawfully transfers immovable property of another or any

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1 interest therein, with purpose to benefit himself or another

2 not entitled thereto.

3 Section 605. Theft by deception.

4 (1) A person commits theft if he purposely obtains

5 property of another by deception. A person deceives if he

6 purposely:

7 (a) Creates or reinforces a false impression,

8 including false impressions as to law, value, intention, or

9 other state of mind; but deception as to a person's intention

10 to perform a promise shall not be inferred from the fact alone

11 that he did not subsequently perform the promise; or

12 (b) Prevents another from acquiring information

13 which would affect his judgment of a transaction; or

14 (c) Fails to correct a false impression which

15 the deceiver previously created or reinforced, or which the

16 deceiver knows to be influencing another to whom he stands in a

17 fiduciary or confidential relationship; or

18 (d) Fails to disclose a known lien, adverse

19 claim, or other legal impediment to the enjoyment of property

20 which he transfers or encumbers in consideration for the

21 property obtained, whether such impediment is or is not valid,

22 or is or is not a matter of official record.

23 (2) The term "deceive" does not, however, include

24 falsity as to matters having no pecuniary significance, or

25 puffing by statements unlikely to deceive ordinary persons.

1 Section 606. Theft by extortion.

2 (1) A person commits theft if he purposely obtains
3 property of another by threatening to:

4 (a) Inflict bodily injury on anyone or commit
5 any other criminal National Crime; or

6 (b) Accuse anyone of a National Crime; or

7 (c) Expose any secret tending to subject any
8 person to hatred, contempt, or ridicule, or impair his credit
9 or business repute; or

10 (d) Take or withhold action as an official or
11 national public servant, or cause an official or national
12 public servant to take or withhold action; or

13 (e) Testify or provide information or withhold
14 testimony or information with respect to another's legal claim
15 or defense; or

16 (f) Inflict any other harm which would not
17 benefit the defendant.

18 (2) It is an affirmative defense to prosecution
19 based on paragraphs (b), (c), or (d) in subsection (1) of this
20 section that the property obtained by threat or accusation,
21 exposure, lawsuit, or other invocation of official action was
22 honestly claimed as restitution or indemnification for harm
23 done in the circumstances to which such accusation, exposure,
24 lawsuit, or other official action relates, or as compensation
25 for property or lawful services.

1 Section 607. Theft of property lost, mislaid or delivered
2 by mistake. A person who comes into control of property of
3 another that he knows to have been lost, mislaid, or delivered
4 under a mistake as to the nature or amount of the property or
5 the identify of the recipient commits theft if, with purpose to
6 deprive the owner thereof, he fails to take reasonable measures
7 to restore the property to a person entitled to have it.

8 Section 608. Receiving stolen property.

9 (1) A person commits theft if he purposely receives,
10 retains, or disposes of movable property of another knowing
11 that it has been stolen, or believing that it has probably been
12 stolen, unless the property is received, retained, or disposed
13 with purpose to restore it to the owner.

14 (2) "Receiving" means acquiring possession, control,
15 or title of the property.

16 Section 609. Theft of services.

17 (1) A person commits theft if he purposely obtains
18 services which he knows are available only for compensation, by
19 deception or threat, or by false token or other means to avoid
20 payment for the service. "Services" includes labor,
21 professional service, transportation, telephone or other public
22 service, accommodation in hotels, restaurants, or elsewhere,
23 admission to exhibitions, and use of vehicles or other movable
24 property.

25 (2) A person commits theft if, having control over

1 the disposition of services of others to which he is not
2 entitled, he knowingly diverts such services to his own benefit
3 or to the benefit of another not entitled thereto.

4 Section 610. Theft by failure to make required
5 disposition of funds received. A person who purposely obtains
6 property upon agreement or subject to a known legal obligation
7 to make specified payment or other disposition, whether from
8 such property or its proceeds or from his own property in
9 equivalent amount, commits theft if he deals with the property
10 obtained as his own and fails to make the required payment or
11 disposition. The foregoing applies notwithstanding that it may
12 be impossible to identify particular property as belonging to
13 the victim at the time of the defendant's failure to make the
14 required payment or disposition. A national public servant or
15 officer or employee of a financial institution is presumed:

16 (1) To know any legal obligation relevant to his
17 criminal liability under this section; and

18 (2) To have dealt with the property as his own if he
19 fails to pay or account upon lawful demand, or if an audit
20 reveals as shortage or falsification of accounts.

21 Section 611. Criminal mischief against the National
22 Government.

23 (1) Criminal mischief. A person commits the
24 National Crime of criminal mischief against the Government if
25 he intentionally or recklessly:

1 (a) Causes any damage to property in which the
2 Government of the Federated States of Micronesia has any legal,
3 equitable, or possessory interest; or

4 (b) Causes the Government of the Federated
5 States of Micronesia by deception or threat to suffer any loss.

6 (2) Claim of rights. It is an affirmative defense
7 to prosecution under subsection (1)(a) of this section that the
8 defendant:

9 (a) Was unaware that the property was that of
10 another; or

11 (b) Acted under an honest claim of right to
12 dispose of the property as he did.

13 Section 612. Unauthorized possession or removal of
14 National Government property.

15 (1) Unauthorized possession or removal. A person
16 commits a National Crime if, knowing he does not have proper
17 authority, he has in his possession or has removed from its
18 location any property, wherever situated, in which the
19 Government of the Federated States of Micronesia has any legal,
20 equitable, or possessory interest.

21 Section 613. Trespass on National Government property.

22 (1) A person commits the National Crime of trespass
23 on National Government property if he knowingly enters or
24 remains unlawfully on any property owned, operated, or
25 controlled by the National Government.

1 (2) Penalty. A person convicted under this section
2 shall be punished:

3 (a) By imprisonment for not more than one year
4 if the defendant entered or remained in any building or
5 structure, or in any area that is fenced or enclosed in such a
6 manner as to exclude intruders:

7 (i) at night; or

8 (ii) while in possession of a dangerous
9 weapon.

10 (b) Otherwise, by imprisonment for not more
11 than 30 days.

12 Section 614. Penalties.

13 (1) Unless otherwise provided for in this chapter,
14 punishment shall be determined as follows:

15 (a) If the value of the property, service or
16 loss is \$5,000 or more, by imprisonment for not more than ten
17 years; or

18 (b) If the value of the property, service or
19 loss is at least \$1,000 but less than \$5,000, by imprisonment
20 for not more than five years; or

21 (c) If the value of the property, service or
22 loss is at least \$100 but less than \$1,000, by imprisonment for
23 not more than one year; or

24 (d) If the value of the property, service or
25 loss is at least \$25 but less than \$100, by imprisonment for

1 not more than six months; or

2 (e) If the value of the property, service or
3 loss is less than \$25, by imprisonment for not more than 30
4 days.

CHAPTER 7

Civil Rights

Section 701. Deprivation of rights.

8 (1) Deprivation of rights. A person commits a
9 National Crime if he willfully, whether or not acting under
10 color of law, deprives another of, or injures, oppresses,
11 threatens, or intimidates another in the free exercise or
12 enjoyment of, or because of his having so exercised any right,
13 privilege, or immunity secured to him by the Constitution or
14 laws of the Federated States of Micronesia.

15 (2) Penalty. A person convicted under this section
16 shall be punished by imprisonment for not more than three
17 years.

Section 702. Right to full and equal enjoyment of public accommodations.

20 (1) Equal access. No person shall be denied the
21 full and equal enjoyment of goods, services, facilities,
22 privileges, advantages, benefits or accommodations of any
23 department, agency, or institution of:

24 (a) any department, agency, or institution of,
25 or acting on behalf of, the Federated States of Micronesia; or

(b) any public accommodation which affects commerce, as defined in this section.

(2) Public accommodation. "Public accommodation" means any establishment which provides lodging to transient guests for charge, or any establishment which is engaged in selling food, beverage, or gasoline to the public, or any place of recreation, amusement, exhibition, sightseeing, or entertainment which is open to members of public, or any facility for the public transportation of persons or goods.

(3) Affects commerce. A public accommodation affects commerce if:

(a) it is a place of lodging; or

(b) it serves or offers to serve interstate travelers; or

(c) a substantial portion of the goods or entertainment it sells or provides has moved in commerce.

(4) Commerce. "Commerce" means travel, trade, traffic, transportation, communication, and all other forms of commerce among the several States, if between any State and any foreign country or other area outside the Federated States of Micronesia, or between points in the same State but through any area outside the State.

(5) Limitation. This section shall not apply to any private club or other establishment not in fact open to the public, except to the extent that the facilities of such

1 establishment are made available to the customers or patrons of
 2 an establishment within the scope of subsection (1) of this
 3 section.

4 (6) Offense defined. A person commits an offense if
 5 he:

6 (a) withholds, denies, deprives, or attempts
 7 to withhold, deny, or deprive any person of any right or
 8 privilege protected under this section; or

9 (b) intimidates, threatens, coerces, or
 10 attempts to intimidate, threaten, or coerce any person for the
 11 purpose of interfering with any right or privilege protected
 12 under this section; or

13 (c) punishes or attempts to punish any person
 14 for exercising or attempting to exercise any right or privilege
 15 protected under this section.

16 (7) Penalty. A person convicted under this section
 17 shall be punished by imprisonment for not more than one year.

18 (8) Civil liability. A person who deprives another
 19 of any right or privilege protected under this section shall be
 20 civilly liable to the party injured in an action at law, suit
 21 in equity, or other proper proceeding for redress, without
 22 regard to whether a criminal case has been brought or conviction
 23 obtained. In an action brought under this subsection, the
 24 Court may award costs and reasonable attorney's fees to the
 25 prevailing party.

CHAPTER 8

Emergency Proclamations

Section 801. Proclamation of State of Emergency. When required to preserve public peace, health, or safety in any area, at a time of extreme emergency caused by civil disturbance, natural disaster, or immediate threat of war, or insurrection, the President of the Federated States of Micronesia may declare a National State of Emergency and issue appropriate decrees.

Section 802. Emergency restrictions.

(1) During the existence of a National State of Emergency, the President may, by proclamation, prohibit:

(a) any person being on the public roads or at any other public place during the hours proclaimed by the President to be a period of curfew;

(b) the manufacture, transfer, use, possession, or transportation of any device or object designed to explode or produce uncontained combustion;

(c) the transportation, possession, or use of combustible, flammable, or explosive materials in a container of any kind except in connection with the normal operation of motor vehicles, motor boats, normal home use, or legitimate commercial use;

(d) the possession of firearms or any other dangerous weapon by a person in any place other than his place

1 of residence, work, or business;

2 (e) the sale, purchase, dispensing, importing,
3 or exporting of alcoholic beverages or other commodities or
4 goods designated by the President;

5 (f) the use of certain roads by the public; and

6 (g) other activities the President reasonably
7 believes should be prohibited to help preserve public peace,
8 health, or safety.

9 (2) Any proclamation issued under this section
10 becomes effective immediately upon its signing by the
11 President, who shall immediately give public notice of its
12 contents by the most effective means available. The
13 restrictions may be imposed during times, upon conditions, with
14 exceptions and in areas designated by proclamation of the
15 President.

16 (3) Prohibitions imposed by proclamation issued
17 under this section shall automatically terminate at noon on the
18 fiftieth day after it becomes effective, unless sooner
19 terminated by proclamation of the President.

20 Section 803. Offense defined and penalty. Any person
21 who, during a National State of Emergency, fails to comply with
22 restrictions imposed by proclamation of the President under
23 section 802 commits a National Crime, and upon conviction,
24 shall be punished:

25 (1) Upon the first conviction under this section, by

1 imprisonment for not more than one year;

2 (2) Upon a second or subsequent conviction under
3 this section, by imprisonment for not more than five years.

4 Section 804. Powers not limited. Nothing in this chapter
5 shall limit any other power to maintain the public peace and
6 safety which is vested in the President.

7 CHAPTER 9

8 Offense's Against the Person

9 Subchapter I

10 Homicide

11 Section 911. Murder.

12 (1) Murder. Except as provided in section
13 912(1)(b), a person commits the National Crime of murder if he
14 unlawfully causes the death of another human being:

15 (a) Intentionally or knowingly; or

16 (b) Recklessly under circumstances manifesting
17 extreme indifference to the value of human life.

18 (2) Penalty. A person convicted of murder shall be
19 punished by imprisonment for a minimum term of five years, and
20 may be punished by imprisonment for a maximum term of life.

21 Section 912. Manslaughter.

22 (1) A person commits the National Crime of
23 manslaughter if he causes the death of another human being
24 when:

25 (a) The person has acted recklessly; or

1 (b) A homicide which would otherwise be murder
 2 if committed under influence of extreme mental or emotional
 3 disturbance for which there is reasonable explanation or
 4 excuse. The reasonableness of such explanation or excuse shall
 5 determined from the viewpoint of a person in the defendant's
 6 situation under the circumstances as he believes them to be.

7 (2) Manslaughter is punishable by imprisonment for
 8 not more than ten years.

9 Subchapter II

10 Sexual Abuse

11 Section 921. Definitions for subchapter. As used in this
 12 subchapter:

13 (1) The term "sexual act" means:

14 (a) Contact between the penis and the vulva or
 15 the penis and the anus, and for purposes of this subparagraph
 16 contact involving the penis occurs upon penetration, however
 17 slight;

18 (b) Contact between the mouth and the penis,
 19 the mouth and the vulva, or the mouth and the anus; or

20 (c) The penetration, however slight, of the
 21 anal or genital opening of another by a hand or finger or by
 22 any object, with an intent to abuse, humiliate, harass,
 23 degrade, or arouse or gratify the sexual desire of any person.

24 (2) The term "sexual contact" means the intentional
 25 touching, either directly or through the clothing, of the

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1 genitalia, anus, groin, breast, inner thigh, or buttocks of any
2 person with an intent to abuse, humiliate, harass, degrade, or
3 arouse or gratify the sexual desire of any person.
4 (3) The term "serious bodily injury" means bodily
5 injury that involves a substantial risk of death,
6 unconsciousness, extreme physical pain, protracted and obvious
7 disfigurement, or protracted loss or impairment of the function
8 of a bodily member, organ, or mental faculty.
9 Section 922. Aggravated sexual abuse.
10 (1) By force or threat. Whoever knowingly causes
11 another person to engage in a sexual act:
12 (a) By using force against that other person;
13 or
14 (b) By threatening or placing that other person
15 in fear that any person will be subjected to death, serious
16 bodily injury, or kidnapping; or attempts to do so, shall be
17 fined under this title, imprisoned for not more than 20 years,
18 or both.
19 (c) By other means. Whoever, knowingly:
20 (i) renders another person unconscious
21 and thereby engages in a sexual act with that other person;
22 or
23 (ii) administers to another person by
24 force or threat of force, or without the knowledge or
25 permission of that person, a drug, intoxicant, or other similar

1 substance and thereby:

2 (1) substantially impairs the ability
3 of that other person to appraise or control conduct; and

4 (2) engages in a sexual act with
5 other person; or attempts to do so, shall be fined under this
6 title, imprisoned for not more than 20 years, or both.

7 (2) With children. Whoever, knowingly engages in a
8 sexual act with another person who has not attained the age of
9 14 years, or attempts to do so, shall be fined under this
10 title, imprisoned for not more than 20 years, or both.

11 (3) State of mind proof requirement. In a
12 prosecution under subsection (2) of this section, the
13 Government need not prove that the defendant knew that the
14 other person engaging in the sexual act had not attained the
15 age of 14 years.

16 Section 923. Sexual abuse. Whoever, knowingly:

17 (1) Causes another person to engage in a sexual act
18 by threatening or placing that other person in fear (other than
19 by threatening or placing that other person in fear that any
20 person will be subjected to death, serious bodily injury, or
21 kidnapping); or

22 (2) Engages in a sexual act with another person if
23 that other person is:

24 (a) Incapable of appraising the nature of the
25 conduct; or

1 (b) Physically incapable of declining
2 participation in, or communicating unwillingness to engage in,
3 that sexual act; or attempts to do so, shall be fined under
4 this title, imprisoned not more than 15 years, or both.

5 Section 924. Abusive sexual contact.

6 (1) Sexual conduct in circumstances where sexual
7 acts are punished by this chapter: Whoever, knowingly engages
8 in or causes sexual contact with or by another person, if so to
9 do would violate:

10 (a) Section 922 of this title had the sexual
11 contact been a sexual act, shall be fined under this title,
12 imprisoned not more than 10 years, or both.

13 (b) Section 923 of this title had the sexual
14 contact been a sexual act, shall be fined under this title,
15 imprisoned not more than 3 years, or both.

16 (2) In other circumstances. Whoever, knowingly
17 engages in sexual contact with another person without that
18 other person's permission shall be fined not more than \$5,000,
19 imprisoned not more than 6 months; or both.

20 Section 925. Domestic sexual assault. A defendant may
21 not be convicted of the National Crime of sexual assault if the
22 defendant and complainant were cohabitating in an
23 ongoing voluntary sexual relationship at the time of the
24 alleged National Crime, or if the complainant is the
25 defendant's spouse, unless:

1 (1) The defendant was an accomplice or accessory to
2 the sexual assault by a third person; or

3 (2) At the time of the sexual assault the married
4 couple either were living apart and one of them had filed an
5 action for separate maintenance or divorce or were no longer
6 husband and wife under custom and tradition.

7 Subchapter III

8 Sexual Exploitation

9 Section 931. Sexual exploitation of children.

10 (1) Any person who employs, uses, persuades,
11 induces, entices, or coerces any minor to engage in, or who has
12 a minor assist any other person to engage in, or who transports
13 any minor in interstate or foreign commerce, or in any
14 territory or possession of the Federated States of Micronesia,
15 with the intent that such minor engage in any sexually explicit
16 conduct for the purpose of producing any visual depiction of
17 such conduct, shall be punished as provided under subsection
18 (5), if such person knows or has reason to know that such
19 visual depiction will be transported in interstate or foreign
20 commerce or mailed, or if such visual depiction has actually
21 been transported in interstate or foreign commerce or mailed.

22 (2) Any parent, legal guardian, or person having
23 custody or control of a minor who knowingly permits such minor
24 to engage in, or to assist any other person to engage in,
25 sexually explicit conduct for the purpose of producing any

1 visual depiction of such conduct shall be punished as provided
2 under subsection (5) of this section, if such parent, legal
3 guardian, or person knows or has reason to know that such
4 visual depiction will be transported in interstate or foreign
5 commerce or mailed or if such visual depiction has actually
6 been transported in interstate or foreign commerce or mailed.
7 (3) Any person who, in a circumstance described in
8 subsection (2), knowingly makes, prints, or publishes, or
9 causes to be made, printed, or published, any notice or
10 advertisement seeking or offering:
11 (a) To receive, exchange, buy, produce,
12 display, distribute, or reproduce, any visual depiction, if the
13 production of such visual depiction involves the use of a minor
14 engaging in sexually explicit conduct and such visual depiction
15 is of such conduct; or
16 (b) Participation in any act of sexually
17 explicit conduct by or with any minor for the purpose of
18 producing a visual depiction of such conduct; shall be punished
19 as provided under subsection (5).
20 (4) The circumstance referred to in subsection (1)
21 is that:
22 (a) Such person knows or has reason to know
23 that such notice or advertisement will be transported in
24 interstate or foreign commerce by any means including by
25 computer or mailed; or

1 (b) Such notice or advertisement is transported
2 in interstate or foreign commerce by any means including by
3 computer or mailed.

4 (5) Any individual who violates this section shall
5 be fined not more than \$100,000, or imprisoned not more than 10
6 years, or both, but, if such individual has a prior conviction
7 under this section, such individual shall be fined not more
8 than \$200,000, or imprisoned not less than 5 years nor more
9 than 15 years, or both. Any organization which violates this
10 section shall be fined not more than \$250,000.

11 Section 932. Selling or buying of children.

12 (1) Any parent, legal guardian, or other person
13 having custody or control of a minor who sells or otherwise
14 transfers custody or control of such minor, or offers to sell
15 or otherwise transfer custody of such minor either:

16 (a) With knowledge that, as a consequence of
17 the sale or transfer, the minor will be portrayed in a visual
18 depiction engaging in, or assisting another person to engage
19 in, sexual explicit conduct; or

20 (b) With intent to promote either:

21 (i) the engaging in of sexually
22 explicit conduct by such minor for the purpose of producing any
23 visual depiction of such conduct; or

24 (ii) the rendering of assistance by the
25 minor to any other person to engage in sexually explicit

1 conduct for the purpose of producing any visual depiction of
2 such conduct; shall be punished by imprisonment for not less
3 than 20 years and by a fine under this title, if any of the
4 circumstances described in subsection 3 of this section exist.

5 (2) Whoever purchases or otherwise obtains custody
6 or control of a minor, or offers to purchase or otherwise
7 obtain custody or control of a minor either:

8 (a) With knowledge that, as a consequence of
9 the purchase or obtaining of custody, the minor will be
10 portrayed in a visual depiction engaging in, or assisting
11 another person to engage in, sexually explicit conduct; or

12 (b) With intent to promote either:

13 (i) the engaging in of sexually
14 explicit conduct by such minor for the purpose of producing any
15 visual depiction of such conduct; or

16 (ii) the rendering of assistance by the
17 minor to any other person to engage in sexually explicit
18 conduct for the purpose of producing any visual depiction of
19 such conduct; shall be punished by imprisonment for not less
20 than 20 years or for life and by a fine under this title, if
21 any of the circumstances described in subsection (3) of this
22 section exist.

23 (3) The circumstances referred to in subsections (1)
24 and (2) are that:

25 (a) In the course of the conduct described in

1 such subsections the minor or the actor traveled in or was
2 transported in interstate or foreign commerce;

3 (b) Any offer described in such subsections was
4 communicated or transported in interstate or foreign commerce
5 by any means including by computer or mail; or

6 (c) The conduct described in such subsections
7 took place in any territory or possession of the Federated
8 States of Micronesia.

9 Section 933. Certain activities relating to material
10 involving the sexual exploitation of minors. Any person who:

11 (1) Knowingly transports or ships in interstate or
12 foreign commerce by any means including by computer or mails,
13 any visual depiction, if:

14 (a) the producing of such visual depiction
15 involves the use of a minor engaging in sexually explicit
16 conduct;

17 (b) such visual depiction is of such conduct;

18 (2) Knowingly receives, or distributes, any visual
19 depiction that has been mailed, or has been shipped or
20 transported in interstate or foreign commerce, or which
21 contains materials which have been mailed or so shipped or
22 transported, by any means including by computer, or knowingly
23 reproduces any visual depiction for distribution in interstate
24 or foreign commerce by any means including by computer or
25 through the mails, if:

1 (a) The producing of such visual depiction
 2 involves the use of a minor engaging in sexually explicit
 3 conduct; and
 4 (b) Such visual depiction is of such conduct;
 5 (3) Either:
 6 (a) Knowingly sells or possesses with intent to
 7 sell any visual depiction; or
 8 (b) Knowingly sells or possesses with intent
 9 to sell any visual depiction that has been mailed, or has been
 10 shipped or transported in interstate or foreign commerce, or
 11 which was produced using materials which have been mailed or so
 12 shipped or transported, by any means, including by computer,
 13 if:
 14 (i) the producing of such visual
 15 depiction involves the use of a minor engaging in sexually
 16 explicit conduct; and
 17 (ii) such visual depiction is of such
 18 conduct; or
 19 (4) Either:
 20 (a) Knowingly possesses 3 or more books,
 21 magazines, periodicals, films, video tapes, or other matter
 22 which contain any visual depiction; or
 23 (b) Knowingly possesses 3 or more books,
 24 magazines, periodicals, films, video tapes, or other matter
 25 which contain any visual depiction that has been mailed, or has

1 been shipped or transported in interstate or foreign commerce,
 2 or which was produced using materials which have been mailed or
 3 so shipped or transported, by any means including by computer,
 4 if:

5 (i) the producing of such visual
 6 depiction involves the use of a minor engaging in sexually
 7 explicit conduct; and

8 (ii) such visual depiction is of such
 9 conduct, shall be punished as provided in subsection (2) of
 10 this section.

11 (5) Whoever violates paragraphs (a), (b), or (c) of
 12 subsection (1) shall be fined under this title or imprisoned
 13 not more than 10 years, or both, but, if such person has a
 14 prior conviction under this section, such person shall be fined
 15 under this title and imprisoned for not less than 5 years nor
 16 more than 15 years.

17 (6) Whoever violates paragraph (d) of subsection (i)
 18 shall be fined under this title or imprisoned for not more than
 19 5 years, or both.

Subchapter IV

Other Offenses Against Persons

Section 941. Aggravated assault.

23 (1) A person commits a National Crime of aggravated
 24 assault if he causes serious bodily injury to another
 25 intentionally, knowingly, or recklessly under circumstances

1 showing extreme indifference to the value of human life.

2 (2) A person convicted of aggravated assault shall
3 be punished by imprisonment for not more than ten years.

4 Section 942. Aggravated robbery.

5 (1) A person commits the National Crime of
6 aggravated robbery if he takes away anything of value from the
7 person of another, or from the immediate control of another, by
8 use or threatened use of immediate force or violence, and:

9 (a) the defendant or an accomplice uses a
10 dangerous weapon to obtain the property; or

11 (b) the defendant or an accomplice inflicts
12 serious bodily injury.

13 (2) A person convicted under this section shall be
14 punished by imprisonment for not more than 10 years.

15 Section 943. Kidnapping.

16 (1) A person commits the National Crime of
17 kidnapping if he unlawfully removes another from his place of
18 residence or business, or a substantial distance from the
19 vicinity where he is found, or if he unlawfully confines
20 another for a substantial period in a place of isolation, with
21 any of the following purposes:

22 (a) to hold for ransom or reward, or as a
23 shield or hostage; or

24 (b) to facilitate commission of any felony or
25 flight thereafter; or

1 (c) to inflict bodily injury on or to terrorize
2 the victim or another; or

3 (d) to interfere with the performance of any
4 government or political function.

5 (2) A removal or confinement is unlawful under this
6 section if it is accomplished by force, threat, or deception,
7 or, in the case of a person who is under the age of 14 or
8 incompetent, without the consent of a parent, guardian, or
9 other person responsible for general supervision of his
10 welfare.

11 (3) A person convicted under this section shall be
12 punished by imprisonment for a maximum term of ten years. If
13 the person committing the National Crime voluntarily releases
14 the victim alive and in a safe place prior to trial, this shall
15 be considered during sentencing as a mitigating factor.

16 Section 945. Criminal coercion through use of a dangerous
17 instrument.

18 (1) A person commits the National Crime of criminal
19 coercion through use of a dangerous instrument if he
20 intentionally compels or induces another person to engage in
21 conduct from which he has a legal right to abstain or to
22 abstain from conduct in which he has a legal right to engage,
23 by instilling in him a fear through use of a dangerous
24 instrument that, if the demand is not complied with, the
25 defendant or a third person will:

1 (a) commit any National felony; or
2 (b) accuse anyone of a National felony; or
3 (c) expose any secret or publicize any asserted
4 fact, whether true or false, tending to subject any person to
5 hatred, contempt, or ridicule or to impair his credit or
6 business reputation; or
7 (d) reveal any information sought to be
8 concealed by the person; or
9 (e) testify or provide information or withhold
10 testimony or information with respect to any person's legal
11 claim or defense; or
12 (f) take or withhold action as a national
13 public servant or cause a national public servant to take or
14 withhold such action.
15 (2) Defense. It is a defense to a prosecution under
16 paragraph (b), (c), (d), and (f) of subsection (1) of this
17 section, that the defendant believed the threatened accusation
18 or exposure to be true or the proposed action of a national
19 public servant justified, and that his sole intention was to
20 compel or induce the victim to take reasonable action to
21 prevent or remedy the wrong which was the subject of the
22 threatened accusation, exposure, or action of a national public
23 servant.
24 (3) Penalty. A person convicted under this section
25 shall be punished by imprisonment for not more than ten years.

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1 Section 946. Hijacking.

2 (1) A person commits the National Crime of hijacking
3 if, by force, threat of force, or deception he usurps an
4 aircraft in flight.

5 (2) A person convicted under this section may be
6 punished by a maximum term of life imprisonment.

7 Section 947. Mutiny on a vessel on the high seas or on
8 national waters.

9 (1) A person commits a National Crime the mutiny if,
10 by force, threat of force, or deception, he usurps or attempts
11 to usurp command of a vessel on the high seas or on waters
12 within the jurisdiction of the Federated States of Micronesia.

13 (2) A person convicted under this section shall be
14 punished by imprisonment for not more than ten years.

15 Subchapter V

16 Forgery and Other Fraud Offenses

17 Section 951. Forgery of specified instruments.

18 (1) Forgery of specified instruments. A person
19 commits the National Crime of forgery of specified instruments
20 if he forges a writing which is or purports to be part of an
21 issue of money, securities, postage or revenue stamps, or other
22 instruments issued by any government or part of an issue of
23 stock, bonds, or other instruments representing interests in or
24 claims against any property or enterprise.

25 (2) Definitions.

1 (a) A person forges a writing if, with purpose
2 to defraud or injure anyone, or with knowledge that he is
3 facilitating a fraud or injury to be perpetrated by anyone, he:
4 (i) alters any writing of another
5 without his authority; or
6 (ii) makes, completes, executes,
7 authenticates, issues, or transfers any writing so that it
8 purports to be the act of another who did not authorize that
9 act, or to have been executed at a time or place or in a
10 numbered sequence other than was in fact the case, or to be a
11 copy of an original when no such original existed; or
12 (iii) utters any writing which he knows
13 to be forged in manner specified in subparagraphs (i) or (ii)
14 of this subparagraph.
15 (b) "Writing" includes printing or any other
16 method of recording information, money, coins, tokens, stamps,
17 seals, credit cards, badges, trademarks, and other symbols of
18 value, right, privilege, or identification.
19 (3) Penalty. A person convicted of forgery shall be
20 punished by imprisonment for not more than ten years.
21 Section 952. Grand misuse of credit cards.
22 (1) A person commits a National Crime if he misuses
23 a credit card or credit cards to obtain, within any consecutive
24 six-month period, property or services in the value of \$5,000
25 or more from one or more persons.

1 (2) A person misuses a credit card if he uses a
2 credit card for the purpose of obtaining property or services
3 with knowledge that:

4 (a) The card is stolen or forged; or

5 (b) The card has been revoked or cancelled; or

6 (c) For any other reason his use of the card is
7 unauthorized by the issuer.

8 (3) It is an affirmative defense to prosecution
9 under paragraph (c) of subsection (2) if the actor proves by a
10 preponderance of the evidence that he had the purpose and
11 ability to meet all obligations to the issuer arising out of
12 his use of the card.

13 (4) A person convicted under this section shall be
14 punished by imprisonment for not more than ten years.

15 Section 953. Passports and visas, issuance without
16 authority.

17 (1) Whoever, acting or claiming to act in any office
18 or capacity under the Federated States of Micronesia, or a
19 State or possession, without lawful authority grants, issues,
20 or verifies any passport or other instrument in the nature of a
21 passport to or for any person whomsoever; or

22 (2) Whoever, being a consular officer authorized to
23 grant, issue, or verify passports, knowingly and willfully
24 grants, issues, or verifies any such passport to or for any
25 person not owing allegiance, to the Federated States of

1 Micronesia whether a citizen or not:

2 Shall be fined not more than \$5,000 or imprisoned not more than
3 10 years, or both.

4 Section 954. False statement in application and use of
5 passport.

6 (1) Whoever willfully and knowingly makes any false
7 statement in an application for passport with intent to induce
8 or secure the issuance of a passport under the authority of the
9 Federated States of Micronesia either for his own use or the
10 use of another contrary to the laws regulating the issuance of
11 passports or the rules prescribed pursuant to such laws; or

12 (2) Whoever willfully and knowingly uses or attempts
13 to use, or furnishes to another for use any passport the
14 issuance of which was secured in any way by reason of any false
15 statement; shall be fined not more than \$5,000 or imprisoned
16 not more than 10 years, or both.

17 Section 954. Forgery or false use of passport.

18 (1) Whoever falsely makes, forges, counterfeits, or
19 alters any passport or instrument purporting to be a passport,
20 with intent that the same may be used; or

21 (2) Whoever willfully and knowingly uses, or
22 attempts to use, or furnishes to another for use any such
23 false, forged, counterfeited, mutilated, or altered passport
24 or instrument purporting to be a passport, or any passport
25 validly issued which has become void by the occurrence of any

1 condition therein prescribed invalidating the same;
2 shall be fined not more than \$5,000 or imprisoned not more than
3 10 years, or both.

4 Section 955. Misuse of passport.

5 (1) Whoever willfully and knowingly uses, or
6 attempts to use, any passport issued or designed for the use of
7 another;

8 (2) Whoever willfully and knowingly uses or attempts
9 to use any passport in violation of the conditions or
10 restrictions therein contained, or of the rules prescribed
11 pursuant to the laws regulating the issuance of passports; or

12 (3) Whoever willfully and knowingly furnishes,
13 disposes of, or delivers a passport to any person, for use by
14 another than the person whose use it was originally issued and
15 designed; shall be fined not more than \$5,000 or imprisoned not
16 more than 10 years, or both.

17 CHAPTER 10

18 Sentencing

19 Section 1001. Fines. A person who has been convicted of
20 a National Crime, in addition to any other punishment
21 authorized by law, may be sentenced to pay a fine not
22 exceeding:

23 (1) \$100,000, when the conviction is for a National
24 Crime punishable by a maximum of ten years imprisonment;

25 (2) \$5,000, when the conviction is for a National

1 Crime punishable by a maximum of five years imprisonment;

2 (3) \$1,000, when the conviction is for a National

3 Crime punishable by a maximum of one year imprisonment;

4 (4) \$200, when the conviction is for a National

5 Crime punishable by a maximum of six months imprisonment;

6 (5) \$50, when the conviction is for a National Crime

7 punishable by a maximum of 30 days imprisonment;

8 (6) Any higher amount equal to double the pecuniary

9 gain obtained from the National Crime by the defendant; or

10 (7) Any higher or lower amount specifically

11 authorized by statute.

12 Section 1002. Authorized sentences. In any case where
13 the Court finds that the ends of justice and the best interests
14 of the public and the defendant do not require that the maximum
15 sentence permitted by law be impose on a person convicted of a
16 crime, the Court may impose a sentence consisting of any one or
17 any combination of the following:

18 (1) Imprisonment for a term less than the maximum
19 allowed by law;

20 (2) Imposition of a fine as prescribed by law;

21 (3) Suspension of a term of imprisonment and/or fine
22 upon such reasonable conditions as shall be set by the Court;

23 (4) Suspension of imposition of sentence on such
24 reasonable conditions as shall be set by the Court;

25 (5) Probation for a period not exceeding the maximum

1 term of imprisonment to which the convicted person could have
2 been sentenced upon such reasonable conditions as shall be set
3 by the Court;

4 (6) Appropriate restitution, reparation, or service
5 to the victim of the crime or to his family;

6 (7) Confinement to a particular geographical area;
7 and

8 (8) A period of community service.

9 Section 1003. Custom in sentencing. In determining the
10 sentence to be imposed, the Court shall apply subsection (6) of
11 section 1002 wherever appropriate, and shall otherwise give due
12 recognition to the generally accepted customs prevailing in the
13 Federated States of Micronesia.

14 CHAPTER 11

15 Controlled Substances

16 Subchapter I

17 General Provisions

18 Section 1101. Short title. This chapter shall be known
19 as cited as the "National Controlled Substances Act."

20 Section 1102. Definitions. In this act, unless the
21 context indicates otherwise:

22 (1) "Acquire" includes to acquire by way of
23 purchase, exchange, lease or hire;

24 (2) "Authorized officer" means a police officer and
25 any other person or class of persons designated by the Attorney

1 General as an authorized officer for purposes relating to the
2 detection, investigation or prosecution of any offense
3 against this chapter;

4 (3) "Cannabis" means the flowering or fruiting
5 tops of the cannabis plant (excluding the seeds and leaves
6 when not accompanied by the tops) from which the resin has
7 not been extracted; "cannabis plant" means any plant of the
8 genus Cannabis; and "cannabis resin" means the separated
9 resin, whether crude or purified, obtained from the cannabis
10 plant;

11 (4) "Coca bush" means the plant of any of the
12 species Erythroxylon;

13 (5) "Controlled chemical" means a substance listed
14 in Schedule V of this act;

15 (6) "Controlled equipment" means an item listed in
16 Schedule VI of this act;

17 (7) "Controlled delivery" means the investigative
18 technique of allowing an unlawful or suspect consignment of a
19 drug of dependence, a controlled chemical, an innocuous
20 substitute substance, an item of controlled equipment or
21 property derived from any offense to pass into, through or
22 out of the Federated States of Micronesia under the supervi-
23 sion of an authorized officer, with a view to identifying
24 persons responsible for committing any serious offense;

25 (8) "Cultivate" includes planting, sowing,

1 scattering the seed, growing, nurturing, tending or
2 harvesting, and also includes the separating of opium, coca
3 leaves, cannabis and cannabis resin from the plant from which
4 they are obtained;

5 (9) "Data" means representations, in any form, of
6 information or concepts;

7 (10) "Dentist" means a person who is registered and
8 entitled under the laws of the Federated States of Micronesia
9 to practice the profession of dentistry;

10 (11) "Drug abuser" in relation to a drug of
11 dependence, means a person who uses a drug of dependence
12 without medical prescription;

13 (12) "Drug dependent person", in relation to a drug
14 of dependence, means a person who is using a drug of
15 dependence and who is in a state of psychic or physical
16 dependence, or both, arising from administration of the drug
17 of dependence on a continuous basis. Drug dependence is
18 characterized by behavioral and other responses which
19 includes a strong compulsion to take the substance on a
20 continuous basis in order to experience its psychic effects,
21 or to avoid the discomfort of its absence;

22 (13) "Drug of dependence" means a prohibited drug,
23 a high-risk drug, or a risk drug, and includes a preparation;

24 (14) "Encapsulating machine" means any device
25 which may be used to fill shells, capsules or other

1 containers with a drug of dependence in whatever physical form;

2 (15) "High-risk drug" means a drug listed in
3 Schedule II of this act;

4 (16) "International drug control conventions" means
5 the Single Convention on Narcotic Drugs done at New York on 30
6 March 1961, as amended by the 1972 Protocol amending the Single
7 Convention done at Geneva on 25 March 1972; the Convention
8 Against Psychotropic Substances done at Vienna on 21 February
9 1971; the United Nations Convention Against Illicit Traffic in
10 Narcotic Drugs and Psychotropic Substances done at Vienna on 20
11 December 1988; and any other international convention to which
12 the Federated States of Micronesia may become party after the
13 commencement of this act relating in whole or in part to the
14 control of drugs of dependence;

15 (17) "Medical practitioner" means a person who is
16 registered and entitled under the laws of the Federated States
17 of Micronesia to practice the profession of medicine;

18 (18) "Manufacture" means to carry out any process by
19 which a drug of dependence is obtained, and includes
20 extracting, refining, formulating, preparing, mixing,
21 compounding, transforming a drug of dependence into another,
22 making into dosage form, or packing;

23 (19) "Operator" means any person who carries on a
24 business of the manufacture, acquisition or supply of:

25 (a) A drug of dependence intended for medical

1	or scientific use;
2	(b) A controlled chemical;
3	(c) Any controlled equipment; or
4	(d) A related business, such as import, export, transit or acting as a broker, but excludes a person carrying on a business of customs agent, warehouse depositor or carrier when acting solely in that capacity.
8	(20) "Opium poppy" means the plant of the species Papaver somniferum;
10	(21) "Person" means any natural or legal person;
11	(22) "Pharmacist" means a person who is registered and entitled under the laws of the Federated States of Micronesia to practice the profession of pharmacy;
14	(23) "Place" includes any vacant land, premises, vehicle, vessel, or aircraft;
16	(24) "Practitioner" means a person who is registered and entitled under the laws of the Federated States of Micronesia to practice the profession of medicine, dentistry or veterinary medicine;
20	(25) "Prescription" means a written direction by a practitioner that a stated amount of a drug of dependence be dispensed for the person named therein;
23	(26) "Preparation" means a solution or mixture, in whatever physical state, containing a drug of dependence in dosage form;
24	
25	

1	(27) "Prohibited drug" means a substance listed in
2	Schedule I of this chapter;
3	(28) "Property" means real or personal property of
4	every description, whether situated in the Federated States of
5	Micronesia or elsewhere and whether tangible or intangible, and
6	includes an interest in any such real or personal property;
7	(29) "Property derived from an offense" means any
8	property derived or realized directly or indirectly from an
9	offense described in this chapter and includes, on a
10	proportional basis, property into which any property derived or
11	realized directly from the offense was later successively
12	converted, transformed or intermingled, as well as income,
13	capital or other economic gains derived or realized from such
14	property at any time since the offense;
15	(30) "Record" means any material on which data are
16	recorded or marked and which is capable of being read or
17	understood by a person, computer system or other device;
18	(31) "Risk drug" means a drug listed in Schedule III
19	of this chapter;
20	(32) "Sell" includes offer or expose for sale;
21	(33) "Serious offense" means an offense against a
22	provision of:
23	(a) Any law in the Federated States of
24	Micronesia, punishable on conviction by imprisonment for a term
25	of two or more years;

1 (b) A law of a foreign State, in relation to

2 acts or omissions, which had they occurred in the Federated

3 States of Micronesia, would have constituted an offense

4 punishable on conviction by imprisonment for a term of two or

5 more years;

6 (34) "Supply" includes assignment, dispatch,

7 transport, delivery, distribution, as well as offer to supply,

8 but does not include sale, export or professional supply.

9 (35) "Tabletting machine" means any device which may

10 be used to compact or mold a drug of dependence into a solid

11 tablet;

12 (36) "Transit" means the physical transfer of any

13 drug of dependence or controlled chemical into and out of the

14 territory of the Federated States of Micronesia;

15 (a) Without it passing through the Federated

16 States of Micronesia Customs; and

17 (b) Where the Federated States of Micronesia

18 is neither its country of origin nor destination;

19 (37) "Federated States of Micronesian aircraft"

20 means:

21 (a) An aircraft registered in the Federated

22 States of Micronesia as a Federated States of Micronesia

23 aircraft in accordance with Title 20 of the Federated States

24 of Micronesia Code;

25 (b) An aircraft that is owned by or in the

1 possession or control of the Government of the Federated States
2 of Micronesia or an authority of the Government of the
3 Federated States of Micronesia;

4 (38) "Federated States of Micronesian ship" means:

5 (a) A ship registered in the Federated States
6 of Micronesia;

7 (b) An unregistered ship that has the
8 Federated States of Micronesian nationality;

9 (39) "Veterinary surgeon" means a person who is
10 registered and entitle under the laws of the Federated States
11 of Micronesia to practice the profession of veterinary
12 medicine.

13 Subchapter II

14 Regulation of Drugs of Dependence, Controlled

15 Chemicals and Controlled Equipment Used for

16 Medical, Scientific or Industrial Purposes

17 Section 1105. Classification of drugs of dependence.

18 (1) Each of the drugs of dependence to which this
19 chapter applies is classified by the Schedule of this chapter
20 in which it appears under its international non-proprietary
21 name or, lacking such a name, under its scientific name.

22 (2) Different measures of control are specified in
23 this act for different drugs of dependence according to the
24 classification so adopted, with the strictest measures being
25 applied in relation to drugs of dependence listed in Schedule

1 I, less strict measures in relation to those listed in Schedule
2 II, and the least strict in relation to those listed in
3 Schedule III.

4 Section 1106. Preparations.

5 (1) Preparations shall be subject to the same
6 measures of control under this chapter as the drugs of
7 dependence they contain, and where any preparation contains two
8 or more constituent drugs of dependence, it shall be subject to
9 the measures governing the most strictly controlled
10 constituent.

11 (2) The Secretary of Health may by regulation exempt
12 any preparation containing a drug of dependence listed in
13 Schedule II or III from such measure of control provided by
14 this chapter, when the Secretary is satisfied that:

15 (a) The preparation is compounded in such way
16 as to present no significant risk of abuse; and

17 (b) The drug of dependence cannot be readily
18 recovered from it in a quantity liable to present such a risk;

19 Section 1107. Amendment of Schedules.

20 (1) The Secretary of Health may by regulation amend
21 any Schedule to this chapter by, in accordance with subsection
22 (2), adding or deleting a drug of dependence, controlled
23 chemical or item of controlled equipment to or from the
24 relevant Schedule or, in the case of a drug of dependence, by
25 transferring it from one Schedule to another.

1 (2) In deciding whether to, and if so, how to amend
2 Schedule I, II, III or IV of this act in relation to any drug
3 of dependence or controlled chemical, the Secretary of Health
4 shall have regard:

5 (a) To any classification of that drug of
6 dependence or controlled chemical under any international drug
7 control convention to which the Federated States of Micronesia
8 may from time to time be a party;

9 (b) In the case of a drug or dependence or
10 preparation, to:

11 (i) any recommendation made to the
12 Secretary concerning classification of that drug of dependence
13 by any body exercising public interest supervisory functions in
14 the Federated States of Micronesia in relation to pharmacists
15 or practitioners;

16 (ii) the extent which any likely public
17 detriment associated with the actual or potential abuse of the
18 drug in the Federated States of Micronesia might outweigh any
19 likely public benefit associated with its actual or potential
20 medical or scientific use in the Federated States of
21 Micronesia.

22 (3) The Secretary of Health's powers under
23 subsection (1) extend to transferring any substance listed in
24 Schedule II or III of this chapter to Schedule I and vice
25 versa.

Subchapter III

Registration, Licensing and Permit System

Section 1108. Application for registration.

(1) An operator who wishes to be authorized to manufacture, acquire or supply any:

(a) Controlled chemical listed in Table 2 of Schedule IV of this chapter; or

(b) Any item of controlled equipment, may apply to the Secretary of Health for registration under this subchapter.

(2) An application by an operator for registration shall be made in writing and specify:

(a) The full name, private and business address of the applicant;

(b) The activity to which the application relates;

(c) If the applicant is a company, the full name and residential address of each director and of the company secretary;

(d) If the applicant proposes to engage in the activity under a business name, that name;

(e) Each controlled chemical or item of controlled equipment to which the application relates;

(f) The address of each:

(i) place where the proposed activity

1 will be carried out;

2 (ii) premises where the controlled
3 chemical or controlled equipment will be stored;

4 (g) The security arrangements that would be
5 implemented at each address; and

6 (h) Such other particulars as may be
7 prescribed by regulation.

8 (3) An application for registration shall be
9 accompanied by:

10 (a) A plan of each of the relevant premises,
11 indicating where the controlled chemical or controlled
12 equipment would be stored, and the location and nature of any
13 security arrangements or devices;

14 (b) The prescribed fee.

15 Section 1109. Grant of registration.

16 (1) Where an application is made pursuant to section
17 1108(1), the Secretary of Health may register the applicant, if
18 satisfied that:

19 (a) The applicant and, if a company, each
20 director and the company secretary:

21 (i) has never been convicted and served
22 a custodial sentence in the Federated States of Micronesia or
23 elsewhere for an offense relating to a drug of dependence, a
24 controlled chemical or controlled equipment;

25 (ii) is otherwise a fit and proper person

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1 to be registered;

2 (b) The applicant proposes to engage in the
3 activity;

4 (c) All places and premises at or in which the
5 activity is to be undertaken are in fit condition;

6 (d) The security arrangements proposed at each
7 relevant place and premises are appropriate and sufficient; and

8 (e) The activity will at all times be carried
9 out under the supervision of a person who is a fit and proper
10 person to carry out that supervision.

11 (f) Such conditions as may be necessary and
12 reasonable for ensuring the proper:

13 (i) carrying out and supervision of the
14 registered activity;

15 (ii) maintenance and security of all
16 places and premises at or in which the registered activity will
17 be carried out.

18 (g) Such other requirements as may be
19 prescribed by regulation.

20 Section 1110. Application for a license.

21 (1) An operator who wishes to be authorized under
22 this chapter to:

23 (a) Manufacture, acquire or supply otherwise
24 then by retail any drug of dependence, or controlled chemical
25 listed in Table 1 of Schedule IV of this chapter; or

1 (b) Import, export, or bring to the Federated
2 States of Micronesia in transit, any controlled chemical in
3 Table 2 of Schedule IV of this chapter, or controlled
4 equipment, may apply to the Secretary of Health for the grant
5 of a license under section 1111.
6 (2) Subject to subsection (3), any operator who
7 wishes to import, export or bring into the Federated States of
8 Micronesia in transit, any drug of dependence or controlled
9 chemical listed in Table 1 of Schedule IV of this chapter, may
10 apply to the Secretary of Health to be authorized to do so by
11 grant of:
12 (a) A license issued by the Secretary of Health
13 under section 1111 authorizing the applicant to carry out such
14 activities in general; and
15 (b) A separate import permit, export permit or
16 transit permit, as the case may be, authorizing the applicant
17 to carry out the specific transaction the subject of the permit
18 application.
19 (3) Subsection (2) shall not apply in relation to
20 any drug of dependence in transit by post or forming part of
21 the medical stores of any ship or aircraft.
22 (4) An application by an operator for a license
23 shall be made in writing to the Secretary of Health and
24 specify:
25 (a) The full name, private and business address

1 of the applicant;

2 (b) The activity to which the application
3 relates;

4 (c) If the applicant is a company, the full
5 name and residential address of each director and the company
6 secretary;

7 (d) If the applicant proposes to engage in the
8 activity under a business name, that name;

9 (e) The drug of dependence, controlled chemical
10 or item of controlled equipment to which the application
11 relates;

12 (f) The address of each:

13 (i) place where the proposed activity
14 would be carried out;

15 (ii) premises where the drug of
16 dependence, controlled chemical or item of controll equipment
17 would be stored;

18 (g) The security arrangements that would be
19 implemented at each address;

20 (h) The name, residential address and
21 qualifications of each person under whose supervision the
22 activity would be carried out; and

23 (i) Such other requirements including, but not
24 limited to volume estimates in the forthcoming year, plus
25 volume statistics for the past year; in the case of

1 cultivation, the geographical location, land surface area, as
2 well as the storage location and ultimate destination of the
3 harvest; in the case of manufacture, the extraction,
4 manufacturing and denaturing procedure to be used, name and
5 quantities of the substances and raw materials to be used,
6 estimates relating to each drug of dependence and
7 preparation produced.

8 (5) An application for license shall be accompanied
9 by:

10 (a) A plan of each of the relevant premises,
11 indicating where the drug of dependence, controlled chemical or
12 item of controlled equipment would be stored, and the location
13 and nature of any security arrangements or devices;
14 (b) The fee prescribed by regulation.

15 Section 1111. Grant of license. Where an application has
16 been made in accordance with section 1110, the Secretary of
17 Health may grant a license if satisfied that:

18 (1) The applicant and, if a company, each director
19 and the company secretary:

20 (a) Has never been convicted and served a
21 custodial sentence in the Federated States of Micronesia or
22 elsewhere for an offense relating to a drug of dependence,
23 controlled chemical or item of controlled equipment;
24 (b) Is otherwise a fit and proper person to
25 hold a license;

1 (2) The applicant proposes to engage in the activity;

2 activity;

3 (3) All places and premises at or in which the activity is to be undertaken are in fit condition;

4 (4) The security arrangements proposed at each relevant place and premises are appropriate and sufficient;

5 (5) The activity will at all times be carried out under the supervision of a person who is a fit and proper person to carry out that supervision;

6 (6) Where the activity relates to a drug of dependence, the activity will be carried out (whether or not for profit) exclusively for medical or scientific purposes, or in the case of any application to cultivate cannabis, exclu-

7 sively for industrial (fibers and seeds) or horticultural purposes.

8 Section 1112. Contents and conditions of licenses.

9 (1) A license by the Secretary of Health under section 1111 shall specify:

10 (a) The full name and address of the licensee;

11 (b) The activity to which the license relates;

12 (c) The drug of dependence, controlled chemical or item of controlled equipment to which the license relates;

13 (d) The address of each place and premises at which the licensed activity is to be carried out;

1 (e) Such conditions as are necessary and reason
2 able for ensuring the proper:
3 (i) carrying out and supervision of the
4 licensed activity;
5 (ii) maintenance and security of all
6 places and premises at or in which the licensed activity will
7 be carried out;
8 (f) In the case of any license to import,
9 export or bring to the Federated States of Micronesia in
10 transit a drug of dependence or controlled chemical, the
11 condition that a separate import, export or transit is to take
12 place; and
13 (g) Such other requirements as may be
14 prescribed by regulation.
15 Section 1113. Applications for import, export or transit
16 permits.
17 (1) An application for an import, export or transit
18 permit shall be made in writing to the Secretary of Health and
19 specify:
20 (a) The full name and address of the importer,
21 exporter, carrier, consignee and, if known, of any ultimate
22 consignee;
23 (b) In the case of a proposed import, export or
24 transit of a drug of dependence:
25 (i) its international non-proprietary

1 name or failing this, its name as listed in Schedule II or III
2 of this chapter together with its trade name, if it has one;
3 and

4 (ii) its pharmaceutical form;

5 (c) In the case of a proposed import, export or
6 transit of a controlled chemical, its trade name;

7 (d) The quantity, mass, and volume or volume
8 percent in mixture of any drug of dependence or controlled
9 chemical the subject of the proposed operation;

10 (e) A description of the quantity and type of
11 any controlled equipment the subject of operation;

12 (f) The date on which, or period in which, when
13 the planned import, export or transmit is to take place; and

14 (g) The planned transport route, if known,
15 including the planned point of entry or exit from the Federated
16 States of Micronesia.

17 (2) The import permit (by whatever name described)
18 issued by the Government of the importing country or territory
19 shall be attached to every application for export permit.

20 Section 1114. Grant of import, export or transit permits.

21 (1) The Secretary of Health may, on written
22 application made in accordance with section 1113 by a licensed
23 importer or licensed exporter, grant an import permit, export
24 permit, or transit permit in relation to a specified import
25 export transaction involving a drug of dependence or

1 controlled chemical in Table 1 of Schedule IV.

2 (2) An import permit, export permit or transit permit granted pursuant to subsection (1) may allow import, export or transit in more than one consignment.

3 (3) An import permit, export permit or transit permit shall specify:

4 (a) The full name and address of the licensed operator granted it;

5 (b) The name (including any international non-proprietary name) and quantity of any drug of dependence, controlled chemical or item of controlled equipment for which it is granted;

6 (c) In the case of an import permit:

7 (i) the name and address of the exporter; and

8 (ii) whether the import is to be effected in a single consignment or more than one consignment.

9 (d) In the case of export permit:

10 (i) the name and address of the immediate consignee, and if known, of the ultimate consignee;

11 (ii) the number and date of the import certificate, affirming that the import of the drug of dependence or preparation has been authorized;

12 (e) The period during which import or export is to be effected;

1 it, together with notice of the name of the foreign country to
2 which the consignment has been diverted.

3 Section 1144. Seizure and detention of improperly or
4 undocumented consignments.

5 (1) Where an import, export or transit consignment
6 of a drug of dependence or controlled chemical in Table 1 of
7 Schedule IV of this act is:

8 (a) Accompanied by an import permit, export
9 permit, transit permit or diversion permit, and the Secretary
10 of Health has reasonable grounds to believe that the permit is
11 false, or has been obtained by fraud or willful
12 misrepresentation of a material particular; or

13 (b) Is not accompanied by any such permit, the
14 Commissioner of Customs shall seize and detain the consignment
15 until the legitimacy of the consignment is confirmed by the
16 Secretary of Health, or until a court orders it forfeiture.

17 (2) Where the Secretary of Health confirms the
18 legitimacy of any consignment seized and detained pursuant to
19 subsection (1), the Customs authorities shall forthwith
20 release the consignment to those lawfully entitled to it.

21 Section 1145. Drugs of dependence registers.

22 (1) The following persons shall keep, or cause to be
23 kept at a place where any drug of dependence is kept by that
24 person, a register in accordance with the form prescribed from
25 time to time by the Secretary of Health:

1 (a) Any person granted registration, or a
2 license or a permit under subchapter III of this chapter in
3 relation to any drug of dependence;

4 (b) Any person authorized under subchapter IV
5 of this subchapter to issue a prescription or requisition for a
6 drug of dependence, or to supply such a drug by retail;

7 (c) Any pharmacist, including a pharmacist
8 responsible for the supervision of all other pharmacists
9 employed in a hospital or other institution for medical
10 treatment or care; or

11 (d) Any person in charge of a ward or other
12 area of an institution for medical treatment in which any drug
13 of dependence is administered.

14 (2) A person required by subsection (1) to keep or
15 cause to be kept a register in relation to any drug of
16 dependence, shall within 24 hours of any import, export,
17 manufacture, administration, supply, acquisition, disposal or
18 surrender of such drug, enter or cause to be entered in the
19 register:

20 (a) The date of the import, export,
21 manufacture, administration, supply, acquisition, disposal or
22 surrender;

23 (b) The name, quantity, form, strength and, if
24 relevant, dosage of the drug, imported, exported, manufactured,
25 administered, supplied, acquired, disposed of or surrendered;

1 (c) The name and occupational or business
2 address of the person to or from whom the drug was imported,
3 exported, supplied or acquired;

4 (d) In the case of export or supply, the
5 quantity of the drug, if any, still kept;

6 (e) In the case of supply on prescription for
7 the purpose of treatment, or of administration of a drug of
8 dependence for that purpose:

9 (i) the name and residential address of
10 the person who prescribed the drug or ordered its
11 administration;

12 (ii) the name and residential address of
13 the patient for whom or to whom the drug was prescribed or
14 administered, or where prescribed for or administered to an
15 animal, of the person having custody of the animal at the time;

16 (iii) the name and residential address of
17 the patient to whom the drug was prescribed, if different from
18 the person referred to in subsection (ii);

19 (iv) the mental or physical condition for
20 which the drug was supplied or administered;

21 (v) where applicable, the name and
22 address of any person other than the treating practitioner who
23 administered the drug, the time of administration, and
24 particulars sufficient to identify any animal for whose
25 treatment the drug was administered, prescribed or supplied on

1 prescription;

2 (f) In the case of supply on requisition in a
3 hospital or other institution for medical treatment or care,
4 for the purpose of treatment, details of the dispensary, ward
5 or other place to which the drug was supplied;

6 (g) In the case of surrender, the name of the
7 person to whom the drug was surrendered;

8 (h) In the case of disposal, the method of
9 disposal.

10 (3) A person who makes an entry in a drugs register
11 shall sign the entry.

12 (4) A person may, in the presence of a witness,
13 correct a mistake in an entry in a drugs register, providing
14 the person making the correction makes and signs a notation to
15 that effect adjacent to the correction, and the witness
16 countersigns the notation.

17 (5) A person who:

18 (a) Supplies a drug of dependence to a ward or
19 other area of an institution for medical treatment or care; or

20 (b) In the ordinary course of duties in a
21 medical, dental or veterinary practice, or in a ward or other
22 area of an institution for medical treatment or care, witnesses
23 the administration of that drug, shall countersign the relevant
24 entry in the drugs register.

25 (6) The register, and all prescriptions,

1 requisitions and commercial documents relating to entries
2 therein shall be kept for at least 3 years after the end of the
3 calendar year of the last entry in the register.

4 (7) A person who keeps or causes to be kept a drug
5 register shall:

6 (a) Subject to any written direction to the
7 person by the Secretary of Health, retain possession of the
8 register for 3 years after the date of the last entry in the
9 register;

10 (b) Permit the register to be inspected on
11 request by any person authorized in writing by the Secretary of
12 Health.

13 Section 1146. Controlled chemicals and controlled
14 equipment registers.

15 (1) Any person granted registration, or a license or
16 a permit under subchapter III of this chapter in relation to
17 any controlled chemical or item of controlled equipment shall
18 keep, or cause to be kept, at a place where any such chemical
19 or item is kept by that person, a register in accordance with
20 the form prescribed by the Secretary of Health.

21 (2) A person required under subsection (1) to keep
22 and maintain a register in relation to any controlled chemical
23 or item of controlled equipment shall, within 24 hours of any
24 import, export, manufacture, supply, acquisition or disposal by
25 that person of any such chemical or item, enter or cause to be

1 entered in such register:

2 (a) The date of the import, export,
3 manufacture, supply, acquisition or disposal;

4 (b) The name of the chemical or equipment and
5 the quantity involved;

6 (c) In the case of a controlled chemical, its
7 form and strength;

8 (d) In the case of disposal, the method of
9 disposal;

10 (e) In the case of import, export, acquisition
11 or supply, the name and occupational or business address of the
12 person to or from whom the chemical or item was imported,
13 exported, acquired or supplied, and where known, the name of
14 any ultimate consignee.

15 (3) The register, and all commercial documents
16 relating to entries therein such as orders, invoices, dispatch
17 notes, cargo manifests or customs or other shipping documents
18 shall be kept for at least 3 years after the end of the
19 calendar year of the last entry in the register.

20 Section 1147. False entries in registers. A person
21 required to keep a register under this part shall not make, or
22 cause or permit to be made, an entry in the register that is,
23 to the knowledge of that person, false or misleading in any
24 particular.

25 Penalty: Any person who violates this section is punishable by

1 imprisonment for not more than five years , or a fine of
2 \$5,000; or both.

3 Section 1148. Duty to notify loss, destruction or
4 discrepancies in registers. A person required to keep a
5 register under this part shall, immediately on discovering:

6 (1) The loss or destruction of the whole or any part
7 of the contents of the register; or

8 (2) Any discrepancy in the register, other than a
9 mistaken entry, advise the Secretary of Health in writing
10 accordingly.

11 Section 1149. Safe keeping of drugs of dependence.

12 (1) A person:

13 (a) Authorized under subchapter III to import,
14 export, manufacture, administer, supply or acquire a drug of
15 dependence;

16 (b) Referred to in section 1130, shall while
17 the drug is in the person's custody or control, keep it in a
18 vault, strongroom, safe or other prescribed secure storage;

19 Penalty: Any person who violates this section shall be
20 sentenced to a term of imprisonment of not more than two years,
21 a fine of \$5,000, or both.

22 (2) A person referred to in subsection (1) shall
23 take such measures as the Secretary of Health may direct in
24 writing to ensure that no unauthorized person has:

25 (a) Access to the combination, key or other

1 Means of access to any secure receptacle containing a drug of
2 dependence, or

3 (b) The drug of dependence contained therein.

4 Section 1150. Duties where loss or theft of a drug of
5 dependence. A person authorized under subchapter III to
6 import, export, manufacture, administer, supply or acquire a
7 drug of dependence or referred to in section 1130, shall
8 immediately upon becoming aware of the loss or theft of any
9 quantity of the drug in the person's custody or control:

10 (1) If the person believes on reasonable grounds
11 that the drug has been stolen, orally notify a police officer
12 immediately, and place such notification in writing within 24
13 hours;

14 (2) In the case of loss, give a written report of
15 the circumstances of the loss to a police officer;

16 (3) Record relevant particulars of the loss or theft
17 in the appropriate drug register.

18 Section 1151. Regulations. The Secretary of Health is
19 authorized to promulgate regulations in accordance with chapter
20 1 of title 17 of this Code and charge reasonable fees relating
21 to the registration, licensing, permitting and control of the
22 manufacturing, distribution and dispensing of drugs of
23 dependence.

24 Subchapter VI

25 Trafficking and Related Offenses

1 Section 1170. Unlawful cultivation.

2 (1) No person shall cultivate a cannabis plant, coca
3 bush or opium poppy for the purpose of producing a drug of
4 dependence, or for any other purpose.

5 Penalty: Subject to subsection (3), in the case of a natural
6 person, imprisonment not exceeding the applicable period shown
7 in Table 1, fine not exceeding the amount shown in Table 1, or
8 both; in the case of a corporation, fine not exceeding five
9 times the amount shown in Table 1:

10 Table 1

Plant cultivated	Maximum Period of Imprisonment/ Fine-Unlawful Cultivation			
	Number of plants cultivated			
	Over 1,000	21 to 1,000	6 to 20	1 to 5
Opium poppy	25 yrs	15 yrs/\$25000	10 yrs/\$15000	5 yrs/\$5000
Coca bush	25 yrs	15 yrs/\$25000	10 yrs/\$15000	5 yrs/\$5000
Cannabis Plant	15 yrs	10 yrs/\$15000	5 yrs/\$ 5000	2 yrs/\$2500

18 (2) If in prosecution of a person for an offense
19 against subsection (1) it is proved that:

20 (a) 21 or more cannabis plants, opium poppy
21 plants or coca bush plants, the existence of which plants the
22 accused was aware or could reasonably be expected to be aware,
23 were found on a particular date on cultivated land; and

24 (b) The accused was on that date the owner,
25 occupier, manager or person in charge of that land, there shall

1 be a rebuttable presumption that the accused cultivated the
2 plants for the purpose of sale or supply.

3 (3) Where a person is convicted of an offense
4 against subsection (1) by virtue of the person having separated
5 opium, coca leaves, or cannabis resin from the plant from which
6 they are obtained, the penalty shall be in the case of a
7 natural person, imprisonment not exceeding 10 years, fine not
8 exceeding \$15,000, or both; in the case of a corporation, fine
9 not exceeding \$75,000.

10 Section 1171. Unlawful import, export, possession for the
11 same.

12 (1) No person shall import or export a drug of
13 dependence, or acquire or possess a drug of dependence for the
14 purpose of importing or exporting it, except pursuant to and in
15 accordance with the terms and conditions:

16 (a) Of a license issued under section 1111;
17 and

18 (b) Of a permit issued under section 1114.

19 Penalty: In the case of a natural person, imprisonment not
20 exceeding the applicable period shown in Table 2, fine not
21 exceeding the amount shown in Table 2, or both; in the case of
22 a corporation, fine not exceeding five times the amount shown
23 in Table 2:

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Table 2

Maximum Period of Imprisonment/Fine for Import, Export of Drug of Dependence			
Import/export purpose	Drugs of dependence involved		
	Prohibited drug	High risk drug	Risk drug
for the purpose of sale or supply	25yrs/\$50000	15yrs/\$25000	10yrs/\$15000
in any other case	15yrs/\$15000	10yrs/\$15000	5yrs/\$ 5000

(2) No person shall import or export a controlled chemical or item of controlled equipment, or acquire or possess a controlled chemical or item of controlled equipment for the purpose of importing or exporting it, except pursuant to and in accordance with the terms and conditions of:

(a) A license under section 1111 and a permit issued under section 1111, in the case of any controlled chemical listed in Table 1 of Schedule IV; or

(b) A license issued under section 1111, in any other case.

Penalty: In the case of a natural person, imprisonment not exceeding the applicable period shown in Table 3, fine not exceeding the amount shown in Table 3, or both; in the case of a corporation, fine not exceeding five times the amount shown in Table 3:

Table 3

Maximum Period of Imprisonment/Fine for Import, Export of Controlled Chemicals or Controlled Equipment				
Subject of the offense If to be used in the manufacture of a				
	Prohibited drug	High risk drug	Risk drug	In any other case
Controlled chemical Table 1 of Schedule IV	15yrs/\$25000	10yrs/\$15000	5yrs/\$5000	2yrs/\$2500
Controlled chemical Table 2 of Schedule IV	10yrs/\$15000	5yrs/\$5000	2yrs/\$2500	1yrs/\$1000
Item of Controlled equipment	10yrs/\$15000	5yrs/\$5000	2yrs/\$2500	1yrs/\$1000

Section 1172. Unlawful manufacture, possession for the same.

(1) Subject to subsection (3), no person shall manufacture a drug of dependence, or acquire or possess a drug of dependence for the purpose of manufacturing another drug of dependence, except pursuant to and in accordance with the terms and conditions of a license issued under section 1111.

(2) Subject to subsection (3), no person shall manufacture a controlled chemical or item of controlled

1 equipment, or acquire or possess a controlled chemical or item
2 of controlled equipment for the purpose of such manufacture:

3 (a) Except pursuant to, and in accordance with
4 the terms and conditions of:

5 (i) a license issued pursuant to section
6 1111 and a permit issued pursuant to section 1114, in the case
7 of any controlled chemical listed in Division 1 of Schedule V;

8 (ii) in any other case, a license issued
9 pursuant to section 1111; or

10 (b) If the person knows or has reasonable
11 grounds for believing that the controlled chemical or item of
12 controlled equipment is to be used, in the Federated States of
13 Micronesia or elsewhere, for the unlawful manufacture of a drug
14 of dependence, or in the unlawful cultivation of a cannabis
15 plant, coca bush or opium poppy.

16 Penalty: For an offense against subsection (1) or (2), in the
17 case of a natural person, imprisonment not exceeding the
18 applicable period shown in Table 4, fine not exceeding the
19 amount shown in Table 4, or both; in the case of a corporation,
20 fine not exceeding five times the amount shown in Table 4:

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1 Penalty: In the case of a natural person, imprisonment not
2 exceeding the applicable period shown in Table 5, fine not
3 exceeding the amount shown in Table 5, or both; in the case of
4 a corporation, fine not exceeding five times the amount shown
5 in Table 5:

Table 5

Maximum Period of Imprisonment/Fine			
Sale, Supply or Administration of Drug of Dependence			
Quantity of drug of dependence sold, supplied or possessed	Maximum period of imprisonment		
	Prohibited drug	High risk drug	Risk drug
Commercial quantity	25yrs/\$50000	25yrs/\$50000	15yrs/\$25000
Trafficable quantity	15yrs/\$15000	25yrs/\$15000	5yrs/\$ 5000
Less than a Trafficable quantity	5yrs/\$ 5000	2yrs/\$ 2500	1yr/\$ 1000

(2) No person shall sell a controlled chemical or item of controlled equipment (whether or not by retail) or supply it, or acquire or possess a controlled chemical or item of controlled equipment for the purpose of such sale or supply:

(a) Except pursuant to, and in accordance with the terms and conditions of:

(i) in the case of any controlled chemical listed in Table 1 of Schedule IV, a license issued pursuant

1 to section 1111 and any permit issued pursuant to section 1114;
2 or

3 (ii) in any other case, a license issued
4 pursuant to section 1111; or

5 (b) If the person knows or has reasonable
6 grounds for believing that the controlled chemical or item of
7 controlled equipment is to be used, in the Federated States of
8 Micronesia or elsewhere, for the unlawful manufacture of a drug
9 of dependence, or in the unlawful cultivation of an cannabis
10 plant, coca bush or opium poppy.

11 Penalty: In the case of a natural person, imprisonment not
12 exceeding the applicable period shown in Table 6, fine not
13 exceeding the amount shown in Table 6, or both; in the case of
14 a corporation, fine not exceeding five times the amount shown
15 in Table 6:

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Table 6

Maximum Period of Imprisonment/Fine Sale or Supply of Controlled Chemical or Item of Controlled Equipment				
Subject of the offense	If to be used in the manufacture of a			In any other case
	Prohibited drug	High risk drug	Risk drug	
Controlled chemical Division 1 of sched. V	15 years/ \$25000	10 years/ \$15000	5 years/ \$ 5000	2 years/ \$ 2500
Controlled chemical Division 2 of Sched. V	10 years/ \$15000	5 years/ \$ 5000	2 years/ \$ 2500	1 year/ \$ 1000
Item of Controlled equipment	10 years/ \$15000	5 years/ \$ 5000	2 years/ \$ 2500	1 year/ \$ 1000

Section 1174. Facilitating personal use by others.

(1) No person, other than a licensee in accordance with the terms and conditions of license issued under section 1111, shall publish or display, or cause or permit to be published or displayed

(2) No owner or occupier of any place used by or accessible to the public shall cause or permit there the unlawful use of a drug of dependence.

(3) No person shall administer a drug of dependence, or cause or permit it to be administered, except an authorized person acting in the circumstances referred to in section 1131.

1 (4) No person shall add a drug of dependence to food
2 or drink without the knowledge of the consumer.

3 (5) A person who knows or has reason to believe that
4 a substance is a drug of dependence shall not sell it as
5 another substance.

6 (6) No person shall sell as a drug of dependence, a
7 substance which the person knows or has reason to believe is
8 not a drug of dependence.

9 Penalty: Imprisonment for a maximum of 2 years or a maximum
10 fine of \$2500, or both.

11 (7) No person shall sell, supply or acquire a drug
12 of dependence on presentation of a prescription, if the person
13 knows or has reason to believe that the prescription is forged,
14 unlawfully altered, cancelled, or issued more than six months
15 before presentation.

16 Penalty: Imprisonment for a maximum of 2 years, or a maximum
17 fine of \$2500, or both.

18 Section 1175. Grounds for aggravation. The maximum
19 penalties specified in relation to an offense against this
20 chapter shall be imposed when:

21 (1) The convicted offender:

22 (a) Belonged to an organized criminal
23 syndicate;

24 (b) Participated in other illegal activities
25 facilitated by the offense;

1	(c) Used violence or arms;
2	(d) Committed the offense in the exercise of public office;
3	
4	(e) Added any substance to the drugs which aggravated their danger to a user;
5	
6	(f) Is in a state of recidivism; convictions pronounced abroad shall be taken into account in establishing recidivism.
7	
8	
9	(2) The offense was committed:
10	(a) By a health professional or person responsible for combating drug abuse or traffic;
11	
12	(b) A penal institution, a military establishment, a teaching or educational institution, a hospital or care institution, a social service facility or in other places to which school children or students resort for educational, sports or social activities, or in the immediate vicinity of such establishment and premises;
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18	(3) The drug was delivered or offered to a minor, a mentally handicapped person or a person undergoing treatment, or when use by such a person was facilitated;
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21	(4) A minor or mentally handicapped person participated in the offense;
22	
23	(5) The drugs delivered caused death or seriously impaired the health of a person.
24	
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1 Subchapter VII

2 Standards and Schedules

3 Section 1180. Schedule 1 - Prohibited Drugs of
4 Dependence.

5 (1) The drugs of dependence listed in this section
6 are included in Schedule I which shall include:

7 (a) The following substances, designated by
8 their international non-proprietary names or the names used in
9 the international conventions in force;

10 (b) Their isomers, unless specifically
11 excepted, whenever the existence/of/such isomers is possible
12 within the specific chemical/designation;

13 (c) Their esters and ethers, unless
14 specifically excepted, whenever/the/existence of such esters
15 and ethers is possible;

16 (d) Their salts, including the salts of
17 esters, ethers and isomers/whenever the existence of such salts
18 is possible; and

19 (e) Preparations of these substances, unless
20 exempted by law.

21 (2) From Schedule IV of the Convention on Narcotic
22 Drugs, 1961.

23	Trafficable	Commercial
24	quantity	quantity
25	(grams)	(kilograms)
26		

1	(a)	Acetorphine	2.00	2.00	100.00
2	(b)	Cannabis	100.00	2.00	2.00
3	(c)	Cannabis Oil	2.00	2.00	50.00
4	(d)	Cannabis Resin	20.00	2.00	2.00
5	(e)	Desomorphine	2.00	2.00	2.00
6	(f)	Etorphine	5.00	2.00	2.00
7	(g)	Heroin	2.00	1.50	2.00
8	(h)	Ketobemidone	2.00	2.00	2.00
9	(i)	Acetyl-alpha-			
10		methylfentanyl	0.005	0.005	0.005
11	(j)	Alphamethylfentanyl	0.005	0.005	0.005
12	(k)	Alphamethylthiofentanyl	0.005	0.005	0.005
13	(l)	Betahydroxyfentanyl	0.005	0.005	0.005
14	(m)	Betahydroxy-3-			
15		methylfentanyl	0.005	0.005	0.005
16	(n)	3-Methylfentanyl	0.005	0.005	0.005
17	(o)	3-Methylthiofentanyl	0.005	0.005	0.005
18	(p)	1-Methyl-4-phenyl-4-			
19		propionoxypiperidine (MPP)	2.00	2.00	2.00
20	(q)	Para-fluorofentanyl	0.005	0.005	0.005
21	(r)	1-phenylethyl-4-phenyl-4-			
22		acetoxypiperidine (PEAP)	2.00	2.00	2.00
23	(s)	Thiofentanyl	0.005	0.50	
24	(3)	From Schedule I of the Convention on Psychotropic			
25		Substances, 1971.			
26					

1	(a) Brolamfetamine (2,5-Dimethoxy-		
2	4-bromoamfetamine (DOB)	0.50	0.50
3	(b) Cathinone	2.00	2.00
4	(c) DET (N,N-		
5	Diethyltryptamine)	2.00	2.00
6	(d) 2,5-Dimethoxyamfetamine		
7	(DMA)	0.50	0.50
8	(e) DMHP (3-(1,2-Dimethylheptyl)		
9	7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-		
10	dibenzo[b,d]pyran)	2.00	2.00
11	(f) DMT (N,N-		
12	Dimethyltryptamine)	2.00	2.00
13	(g) 2,5-Dimethoxy-4-		
14	ethylamfetamine (DOET)	0.50	0.50
15	(h) Eticyclidine(PCE)	2.00	2.00
16	(i) Etryptamine	2.00	2.00
17	(j) Lysergide (LSD,LSD-25)	0.002	0.002
18	(k) Tenamfetamine (MDA)	0.50	0.50
19	(l) Mescaline (3,4,5-		
20	Trimethoxy-phenethylamine) and other substances		
21	structurally derived from methoxyphenylethylamine,		
22	except-		
23	(i) methoxyphenamine; or		
24	(ii) where separately		
25	specified in this Schedule	7.50	7.50
26			

1	(m)	Methcathinone	2.00	2.00
2	(n)	4-Methylaminorex	2.00	2.00
3	(o)	5-Methoxy-3,4-methylenedioxyam-		
4		fetamine (MMDA)	0.50	0.50
5	(p)	3,4-Methylenedioxymethamfine		
6		(MDMA)	0.50	0.50
7	(q)	N-ethyltenamfetamine		
8		(MDE)	0.50	0.50
9	(r)	N-hydroxytenamefetamine		
10		(N-OHMDA)	0.50	0.50
11	(s)	Parahexyl (3-Hexyl-1-hydroxy-		
12		7,8,9,10-tetrahydro-6,6,9-trimethyl		
13		6H-dibenzo [b,d,]pyran)	2.00	2.00
14	(t)	Paramethoxyamfetamine		
15		(PMA)	0.50	0.50
16	(u)	Psilocine, Psilotsin (3,(2-		
17		Dimethylaminoethyl)-4-hydroxyindole)	2.00	2.00
18	(v)	Psilocybine	2.00	2.00
19	(w)	Rolicyclidine		
20		(PHP,PCPY)	2.00	2.00
21	(x)	2,5-Dimethoxy-4-methylamfetamine		
22		(STP,DOM)	0.50	0.50
23	(y)	Tenocyclidine (TCP)	2.00	2.00
24	(z)	Tetrahydrocannabinols (THC)		
25		and their alkyl homologues, except where		
26				

1	separately specified in this Schedule	2.00	5.00
2	(aa) 3,4,5-Trimethoxyfetamine		
3	(TMA)	0.50	0.50
4	(4) A substance which is, in relation to a drug of		
5	dependence specified elsewhere in this Schedule:		
6	(a) An active principal of that drug;		
7	(b) A preparation of admixture of that drug; or		
8	(c) A salt of that drug or active principal;		
9	except where the substance is separately specified in this		
10	Schedule.		
11	(5) A substance ("drug analogue") which is, in		
12	relation to another substance (being a drug of dependence or a		
13	substance specified elsewhere in this Schedule, or a		
14	stereoisomer, or a structural isomer (with the same constituent		
15	groups):		
16	(a) A stereoisomer;		
17	(b) A structural isomer having the same		
18	constituent group;		
19	(c) A structural modification notionally		
20	obtained in 1 or more of the following ways:		
21	(i) by the replacement of up to 2		
22	carbocyclic or heterocyclic ring structures;		
23	(ii) by the addition of hydrogen atoms to		
24	1 or more unsaturated bonds;		
25	(iii) by the addition of 1 or more of the		

1 following groups, namely alkoxy, cyclic diether, acyl, acyloxy,
2 monoalkyl-amino and dialkylamino groups with up to 6 carbon
3 atoms in any alkyl residue; alkyl, alkenyl and alkynyl groups
4 with up to 6 carbon atoms in the group is attached to oxygen,
5 nitrogen, sulphur or carbon groups; and halogen, hydroxy, nitro
6 and amino groups;
7 (iv) by the replacement of 1 or more of
8 the groups specified in subparagraph (iii) with another such
9 group or groups;
10 (v) by the conversion of a carboxyl or an
11 ester group into an amide group; or
12 (e) Otherwise a homologue, analogue,
13 chemical derivative or substance substantially similar in chemical
14 structure; however manufactured or actually obtained, except
15 where the drug analogue:
16 (i) Is a drug of dependence; or
17 (ii) Is separately specified in this
18 Schedule.
19 (6) For purposes of subsection 4 the minimum
20 trafficable quantity and the minimum commercial quantity
21 respectively, of:
22 (a) The drug of dependence in relation to which
23 the substance is specified in this item; or
24 (b) If there is more than one such drug-the drug
25 referred to in paragraph (a) in relation to which the

1 minimum trafficable quantity and the minimum commercial
2 quantity are respectively the least.

3 (7) For purposes of subsection 5 the minimum
4 trafficable quantity and the minimum commercial quantity,
5 respectively, or:

6 (a) The drug of dependence or prohibited
7 substance in relation to which the substance is a drug analogue;
8 or

9 (b) If there is more than one such drug-the drug
10 referred to in paragraph (a) in relation to which the minimum
11 trafficable quantity and the minimum commercial quantity are
12 respectively the least.

13 Section 1181. Schedule II - High risk drugs of
14 dependence.

15 (1) From Schedule I of the Convention on Narcotic
16 Drugs, 1961.

		Trafficable quantity (grams)	Commercial quantity (kilograms)
20	(a) Acetylmethadol	2.00	2.00
21	(b) Alfentanil	0.005	0.005
22	(c) Allylprodine	2.00	2.00
23	(d) Alphacetylmethadol	10.00	10.00
24	(e) Alphameprodine	0.20	0.20
25	(f) Alphamethadol	0.20	0.20

1	(g)	Alphaprodine	25.00	25.00
2	(h)	Anilerdine	25.00	25.00
3	(i)	Benzethidine	10.00	10.00
4	(j)	Benzylmorphine	5.00	5.00
5	(k)	Betacetylmethadol	5.00	5.00
6	(l)	Betameprodine	5.00	5.00
7	(m)	Betamethadol	5.00	5.00
8	(n)	Betaprodine	5.00	5.00
9	(o)	Bezitramide	5.00	5.00
10	(p)	Clonitazene	5.00	5.00
11	(q)	Cocaine	2.00	2.00
12	(r)	Coca Leaf	250.00	80.00
13	(s)	Codoxime	10.00	10.00
14	(t)	Concentrate of Poppy Straw (the material arising when poppy straw has entered into a process for concentration of its alkaloids)	250.00	250.00
17	(u)	Dextromoramide	2.00	2.00
18	(v)	Diampromide	5.00	5.00
19	(w)	Diethylthiambutene	5.00	5.00
20	(x)	Difenoxin, except in preparations containing, per dosage unit, 0.5 mg or less of difenoxin and a quantity of atropine sulphate equivalent to at least 5% of the dose of difenoxin	2.00	2.00
25	(y)	Dihydromorphine	10.00	10.00

1	(z)	Dimenoxadol	10.00	10.00
2	(aa)	Dimpheptanol	10.00	10.00
3	(bb)	Dimethylthiambutene	20.00	20.00
4	(cc)	Dioxaphetyl/Butyrate	2.00	2.00
5	(dd)	Diphenoxylate, except in preparations		
6		containing, per dosage unit, 2.5 mg or less		
7		of diphenoxylate and a quantity of atropine		
8		sulphate equivalent to at least 1% of the dose		
9		of diphenoxylate	2.00	2.00
10	(ee)	Dipipanone	10.00	10.00
11	(ff)	Protebanol	2.00	2.00
12	(gg)	Ecgonine, its esters and		
13		derivatives	10.00	10.00
14	(hh)	Ethylmethylthiambutene	10.00	10.00
15	(ii)	Etonitazene	5.00	5.00
16	(jj)	Etoxeridine	5.00	5.00
17	(kk)	Fentanyl	0.005	0.005
18	(ll)	Furethidine	1.00	1.00
19	(mm)	Hydrocodone	2.00	2.00
20	(nn)	Hydromorphanol	2.00	2.00
21	(oo)	Hydromorphone	2.00	2.00
22	(pp)	Hydroxypethidine	5.00	5.00
23	(qq)	Isomethadone	2.00	2.00
24	(rr)	Levomethorphan	2.00	2.00
25	(ss)	Levomoramide	2.00	2.00

1	(tt)	Levophenacylmorphan	2.00	2.00
2	(uu)	Levorphanol	1.00	1.00
3	(vv)	Metazocine	7.00	7.00
4	(ww)	Methadone	2.00	2.00
5	(xx)	Methadone intermediate		
6		(4-Cyano-2-dimethylamino-4,4-diphenylbutane	2.00	2.00
7	(yy)	Methyldesorphine	2.00	2.00
8	(zz)	Methyldihydromorphine	2.00	2.00
9	(aaa)	Moramide intermediate		
10		(2-Methyl-3-morpholino-1,1-diphenylpropane		
11		carboxylic acid)	8.00	8.00
12	(bbb)	Metopon	2.00	2.00
13	(ccc)	Morpheridine	2.00	2.00
14	(ddd)	Morphine	2.00	2.00
15	(eee)	Morphine Methobromide (and		
16		other pentavalent nitrogen equivalents)	2.00	2.00
17	(fff)	Morphine-N-oxide	2.00	2.00
18	(ggg)	Myrophine	20.00	20.00
19	(hhh)	Nicomorphine	2.00	2.00
20	(iii)	Noracymethadol	2.00	2.00
21	(jjj)	Norlevorphanol	2.00	2.00
22	(kkk)	Normethadone	5.00	5.00
23	(lll)	Normorphine	20.00	20.00
24	(mmm)	Norpipanone	10.00	10.00
25	(nnn)	Opium in any form, except		

1	the alkaloids noscapine and papaverine	20.00	20.00
2	(ooo) Oxycodone	5.00	5.00
3	(ppp) Oxymorphone	2.00	2.00
4	(qqq) Pethidine	10.00	10.00
5	(rrr) Pethidine intermediate A		
6	(4-Cyano-1-methyl-4-phenylpiperidine)	10.00	10.00
7	(sss) Pethidine intermediate B		
8	(4-Phenylpiperidine-4-carboxylic acid		
9	ethyl ester)	10.00	10.00
10	(ttt) Pethidine intermediate C		
11	(1-Methyl-4-phenylpiperidine-4-carboxylic		
12	acid)	10.00	10.00
13	(uuu) Phenadoxone	10.00	10.00
14	(vvv) Phenampromide	10.00	10.00
15	(www) Phenazocine	1.00	1.00
16	(xxx) Phenomorphan	5.00	5.00
17	(yyy) Phenoperidine	1.00	1.00
18	(zzz) Piminodine	10.00	10.00
19	(aaaa) Piritramide	1.00	1.00
20	(bbbb) Proheptazine	1.00	1.00
21	(cccc) Properidine	25.00	25.00
22	(dddd) Racemethorphan	2.00	2.00
23	(eeee) Racemoramide	2.00	2.00
24	(ffff) Racemorphan	2.00	2.00
25	(gggg) Sufentanil	0.005	0.005

1	(hhhh) Thebacon	2.00	2.00
2	(iiii) Thebaine	2.00	2.00
3	(jjjj) Tilidine	20.00	20.00
4	(kkkk) Trimeperidine	10.00	10.00
5	(2) From Schedule II of the Convention on Narcotic		
6	Drugs, 1961.		
7	(a) Acetyldihydrocodeine, except when compounded		
8	with one or more other medicaments:		
9	(i) in individed preparations		
10	containing not more than 100 mg of acetyldihydrocodeine		
11	per dosage unit; or		
12	(ii) in undivided preparations with		
13	a concentration of not more than 2.5% of		
14	acetyldihydrocodeine	2.00	2.00
15	(b) Codeine, except when compounded with one or		
16	more other medicaments:		
17	(i) in divided preparations		
18	containing 30 mg or less of codeine per dosage unit; or		
19	(ii) in undivided		
20	preparations containing 1% or less		
21	codeine	10.00	10.00
22	(c) Codeine-N-oxide	10.00	10.00
23	(d) Dextropropoxyphene, except when:		
24	(i) in divided preparations		
25	containing 135 mg or less of dextropropoxyphene		

1 per dosage unit; or

2 (ii) in liquid preparations

3 containing 2.5% or less of dextropropoxyphene 27.00 27.00

4 (e) Dihydrocodeine, except when

5 compounded with one or more other medicaments:

6 (i) in divided preparations

7 containing not more than 100 mg of

8 dihydrocodeine per dosage unit; or

9 (ii) in undivided preparations

10 with a concentration of not more than 2.5% of

11 dihydrocodeine 10.00 10.00

12 (f) Ethylmorphine, except when

13 compounded with one or more than medicaments:

14 (i) in divided preparations

15 containing not more than 100 mg of

16 ethylmorphine per dosage unit; or

17 (ii) in undivided preparations

18 with a concentration of not more than 2.5% of

19 ethylmorphine 2.00 2.00

20 (g) Nicocodine, except when compounded

21 with one or more other medicaments:

22 (i) in divided preparations

23 containing not more than 100 mg of

24 nicocodine per dosage unit; or

25 (ii) in undivided preparations

1 with a concentration of not more than 2.5% of
2 nicocodine 2.00 2.00
3 (h) Nicodicodine, except when compounded
4 with one or more other medicaments:
5 (i) in divided preparations
6 containing not more than 100 mg of nicodicodine per dosage unit;
7 or
8 (ii) in undivided preparations
9 with a concentration of not more than 2.5% of
10 nicodicodine 2.00 2.00
11 (i) Norcodeine, except when compounded
12 with one or more other medicaments:
13 (i) in divided preparations
14 containing not more than 100 mg of
15 norcodeine per dosage unit; or
16 (ii) in undivided preparations
17 with a concentration of not more than 2.5% of
18 norcodeine 2.00 2.00
19 (j) Pholcodine, except when compounded
20 with one or more other medicaments:
21 (i) in divided preparations
22 containing not more than 100 mg of pholcodine per dosage unit; or
23 (ii) in undivided preparations
24 with a concentration of not more than 2.5% of
25 pholcodine 5.00 5.00

1	(k) Propiram	10.00	10.00
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2 (3) From Schedule I of the Convention on Narcotic

3 Drugs, 1961.

4	(a) Amfetamine	2.00	2.00
5	(b) Dexametamine	2.00	2.00
6	(c) Dronabinol	2.00	2.00
7	(d) Fenetyliline	2.00	2.00
8	(e) Levametamine	2.00	2.00
9	(f) Levometametamine	2.00	2.00
10	(g) Mecloqualone	60.00	60.00
11	(h) Metametamine	2.00	2.00
12	(i) Metametamine racemate	2.00	2.00
13	(j) Methaqualone	50.00	50.00
14	(k) Methylphenidate	2.00	2.00
15	(l) Phencyclidine (PCP)	2.00	2.00
16	(m) Phenmetrazine	5.00	5.00
17	(n) Secobarbital	20.00	20.00
18	(o) Zipeprol		

19 (4) A substance which is, in relation to a drug of

20 dependence specified elsewhere in this Schedule:

21 (a) An active principal of that drug;

22 (b) A preparation of admixture of that drug; or

23 (c) A salt of that drug or active principal;

24 except where the substance is separately specified in this

25 Schedule.

-
- 1 (5) A substance ("drug analogue") which is, in
2 relation to another substance (being a drug of dependence or a
3 substance specified elsewhere in this Schedule, or a
4 stereoisomer, a structural isomer (with the same constituent
5 groups):
- 6 (a) A stereoisomer;
- 7 (b) A structural isomer having the same
8 constituent group;
- 9 (c) A structural modification notionally
10 obtained in 1 or more of the following ways:
- 11 (i) by the replacement of up to 2
12 carbocyclic or heterocyclic ring structures with different
13 carbocyclic or heterocyclic ring structures;
- 14 (ii) by the addition of hydrogen atoms to
15 1 or more unsaturated bonds;
- 16 (iii) by the addition of 1 or more of the
17 following groups, namely alkoxy, cyclic diether, acyl, acyloxy,
18 monoalkylamino and dialkylamino groups with up to 6 carbon
19 atoms in any alkyl residue; alkyl, alkenyl and alkynyl groups
20 with up to 6 carbon atoms in the group is attached to oxygen,
21 nitrogen, sulphur or carbon; and halogen, hydroxy, nitro and
22 amino groups;
- 23 (iv) by the replacement of 1 or more of
24 the groups specified in subparagraph (iii) with another such
25 group or groups;

1 (v) by the conversion of a carboxyl or
2 an ester group into an amide group; or

3 (e) Otherwise a homologue, analogue, chemical
4 derivative or substance substantially similar in chemical
5 structure;
6 however manufactured or actually obtained, except where the
7 drug analogue:

8 (A) is a drug of dependence; or

9 (B) is separately specified in this
10 Schedule.

11 (6) For the purposes of subsection 4 the minimum
12 trafficable quantity and the minimum commercial quantity
13 respectively, of:

14 (a) The drug of dependence in relation to which
15 the substance is specified in this item; or

16 (b) If there is more than one such drug-the
17 drug referred to in paragraph (a) in relation to which the
18 minimum trafficable quantity and the minimum commercial
19 quantity are respectively the least.

20 (7) For the purposes of subsection 5 the minimum
21 trafficable quantity and the minimum commercial quantity,
22 respectively, of:

23 (a) The drug of dependence or prohibited
24 substance in relation to which the substance is a drug
25 analogue; or

1 (b) If there is more than one such drug or
2 prohibited substance - the drug or prohibited substance
3 referred to in paragraph (a) in relation to which the minimum
4 trafficable quantity and the minimum commercial quantity are
5 respectively the least.

6 Section 1182. Schedule III - Risk Drugs of Dependence.

7 (1) Schedule III of the Convention of Psychotropic
8 Substances, 1971.

		Trafficable	Commercial
		quantity	quantity
		(grams)	(kilograms)
12	(a) Amobarbital	20.00	20.00
13	(b) Buprenorphine	1.00	1.00
14	(c) Butalbital	20.00	20.00
15	(d) Cathine	2.00	2.00
16	(e) Cyclobarbital	20.00	20.00
17	(f) Glutethimide	20.00	20.00
18	(g) Pentazocine	20.00	20.00
19	(h) Pentobarbital	20.00	20.00
20	(i) Flunitrazepam	20.00	20.00

21 (2) From Schedule IV of the Convention on Psychotropic
22 Substances, 1971.

23	(a) Allobarbital	20.00	20.00
24	(b) Alprazolam	2.00	2.00
25	(c) Aminorex	2.00	2.00

1	(d)	Amfepramone	2.00	2.00
2	(e)	Barbital	20.00	20.00
3	(f)	Benzfetamine	20.00	20.00
4	(g)	Bromazepam	20.00	20.00
5	(h)	Brotizolam	20.00	20.00
6	(i)	Butobarbital	20.00	20.00
7	(j)	Camazepam	20.00	20.00
8	(k)	Chlordiazepoxide	20.00	20.00
9	(l)	Clobazam	20.00	20.00
10	(m)	Clonazepam	20.00	20.00
11	(n)	Clorazepate	20.00	20.00
12	(o)	Clotiazepam	20.00	20.00
13	(p)	Cloxazolam	20.00	20.00
14	(q)	Delorazepam	10.00	10.00
15	(r)	Diazepam	20.00	20.00
16	(s)	Estazolam	20.00	20.00
17	(t)	Ethchlorvynol	20.00	20.00
18	(u)	Ethinamate	20.00	20.00
19	(v)	Ethyl loflazepate	20.00	20.00
20	(w)	Etilamfetamine	20.00	20.00
21	(x)	Fencamfamin	2.00	2.00
22	(y)	Fenproporex	2.00	2.00
23	(z)	Fludiazepam	2.00	2.00
24	(aa)	Flurazepam	20.00	20.00
25	(bb)	Halazepam	20.00	20.00

1	(cc)	Haloxazolam	20.00	20.00	20.00
2	(dd)	Ketazolam	20.00	20.00	20.00
3	(ee)	Lefetamine	20.00	20.00	20.00
4	(ff)	Loprazolam	20.00	20.00	20.00
5	(gg)	Lorazepam	10.00	10.00	10.00
6	(hh)	Lormetazepam	10.00	10.00	10.00
7	(ii)	Mazindol	20.00	20.00	20.00
8	(jj)	Medazepam	20.00	20.00	20.00
9	(kk)	Mefenorex	2.00	2.00	2.00
10	(ll)	Meprobamate	20.00	20.00	20.00
11	(mm)	Mesocarb	2.00	2.00	2.00
12	(nn)	Methylphenobarbital	20.00	20.00	20.00
13	(oo)	Methypylon	20.00	20.00	20.00
14	(pp)	Midazolam	20.00	20.00	20.00
15	(qq)	Nimetazepam	20.00	20.00	20.00
16	(rr)	Nitrazepam	20.00	20.00	20.00
17	(ss)	Nordazepam	20.00	20.00	20.00
18	(tt)	Oxazepam	20.00	20.00	20.00
19	(uu)	Oxazolam	20.00	20.00	20.00
20	(vv)	Pemoline	2.00	2.00	2.00
21	(ww)	Phendimetrazine	20.00	20.00	20.00
22	(xx)	Phenobarbital	20.00	20.00	20.00
23	(yy)	Phentermine	20.00	20.00	20.00
24	(zz)	Pinzepam	20.00	20.00	20.00
25	(aaa)	Pipradrol	1.00	1.00	1.00

1	(bbb) Prazepam	20.00	20.00
2	(ccc) Pyrovalerone	?	?
3	(ddd) Secbutabarbital	20.00	20.00
4	(eee) Temazepam	20.00	20.00
5	(fff) Tetrazepam	20.00	20.00
6	(ggg) Triazolam	20.00	20.00
7	(hhh) Vinylbital	2.00	2.00

8 (3) A substance which is, in relation to a drug of
9 dependence specified elsewhere in this Schedule:

- 10 (a) An active principal of that drug;
11 (b) A preparation of admixture of that drug; or
12 (c) A salt of that drug or active principal;
13 except where the substance is separately specified in this
14 Schedule.

15 (4) A substance ("drug analogue") which is, in
16 relation to another substance (being a drug of dependence or a
17 substance specified elsewhere in this Schedule, or a
18 stereoisomer, a structural isomer (with the same constituent
19 groups):

- 20 (a) A stereoisomer;
21 (b) A structural isomer having the same
22 constituent group;

23 (c) A structural modification notionally
24 obtained in 1 or more of the following ways:

- 25 (i) by the replacement of up to 2

-
- 1 carbocyclic or heterocyclic ring structures with different
2 carbocyclic or heterocyclic ring structures;
- 3 (ii) by the addition of hydrogen atoms to
4 1 or more unsaturated bonds;
- 5 (iii) by the addition of 1 or more of the
6 following groups, namely alkoxy, cyclic diether, acyl, acyloxy,
7 monoalkylamino and dialkylamino groups with up to 6 carbon
8 atoms in any alkyl residue; alkyl, alkenyl and alkynyl groups
9 with up to 6 carbon atoms in the group attached to oxygen,
10 nitrogen, sulphur or carbon; and halogen, hydroxy, nitro and
11 amino groups;
- 12 (iv) by the replacement of 1 or more of
13 the groups specified in subparagraph (iii) with another such
14 group or groups;
- 15 (v) by the conversion of a carboxyl or an
16 ester group into an amide group; or
- 17 (e) Otherwise a homologue, analogue, chemical
18 derivative or substance substantially similar in chemical
19 structure;
20 however manufactured or actually obtained, except where the
21 drug analogue:
- 22 (A) is a drug of dependence; or
23 (B) is separately specified in this
24 Schedule.
- 25 (5) For purposes of subsection 3 the minimum

1 trafficable quantity and the minimum commercial quantity
2 respectively, of:

3 (a) The drug of dependence in relation to which
4 the substance is specified in this item; or

5 (b) If there is more than one such drug - the
6 drug referred to in paragraph (a) in relation to which the
7 minimum trafficable quantity and the minimum commercial
8 quantity are respectively the least.

9 (6) For the purposes of subsection 4 the minimum
10 trafficable quantity and the minimum commercial quantity,
11 respectively, of:

12 (a) The drug of dependence or prohibited
13 substance in relation to which the substance is a drug
14 analogue; or

15 (b) If there is more than one such drug or
16 prohibited substance - the drug or prohibited substance
17 referred to in paragraph (a) in relation to which the minimum
18 trafficable quantity and the minimum commercial quantity are
19 respectively the least.

20 Section 1183. Schedule IV - Controlled Chemicals.

21 (1) This schedule includes:

22 (a) The following substances, designated by
23 their international non-proprietary names or the names used in
24 the international conventions in force;

25 (b) The salts of these substances, whenever the

1	existence of such salts is possible, with the exception of sulphuric acid and hydrochloric acid.
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(2) Table 1 of the 1988 Convention.

4	(a) Ephedrine
5	(b) Ergometrine
6	(c) Ergotamine
7	(d) Lysergic acid
8	(e) 1-phenyl-2-propanone
9	(f) Pseudoephedrine
10	(g) N-acetylanthranilic acid
11	(h) Isosafrole
12	(i) 3,4-methylenedioxyphenyl-2-propanone
13	(j) Piperonal
14	(k) Safrole

(3) Table II of the 1988 Convention.

16	(a) Acetic anhydride
17	(b) Acetone
18	(c) Anthranilic acid
19	(d) Ethyl ether
20	(e) Phenylacetic acid
21	(f) Piperidine
22	(g) Hydrochloric acid
23	(h) Methyl ethyl ketone
24	(i) Potassium permanganate
25	(j) Sulphuric acid

1 (k) Toluene

2 Section 1184. Schedule V - Controlled Equipment

3 (1) This schedule shall include the following
4 equipment:

5 (a) Encapsulating machines.

6 (b) Tabletting machines.

7 Subchapter VII

8 Forfeiture

9 Section 1190. Criminal forfeitures.

10 (1) Property subject to criminal forfeiture. Any
11 person convicted of a violation under Chapter 11, Chapter 13 or
12 subchapter III of Chapter 5 of this Title shall forfeit to the
13 Federated States of Micronesia irrespective of any provision of
14 State law:

15 (a) Any property constituting, or derived
16 from, any proceeds the person obtained, directly or indirectly,
17 as the result of such violation;

18 (b) Any of the person's property used, or
19 intended to be used, in any manner or part, to commit, or to
20 facilitate the commission of, such violation. The court, in
21 imposing sentence on such person, shall order, in addition to
22 any other sentence imposed pursuant to this chapter, that the
23 person forfeit to the Federated States of Micronesia all
24 property described in this subsection. In lieu of a fine

1 otherwise authorized by this part, a defendant who derives
2 profits or other proceeds from an offense may be fined not more
3 than twice the gross profits or other proceeds.

4 (2) Meaning of term "property". Property subject to
5 criminal forfeiture under this section includes:

6 (a) Real property, including things growing
7 on, affixed to, and found in land; and

8 (b) Tangible and intangible personal property,
9 including rights, privileges, interests, claims, and
10 securities.

11 (3) Third party transfers. All rights, title, and
12 interest in property described in subsection (1) of this
13 section vests in the Federated States of Micronesia upon the
14 commission of the act giving rise to forfeiture under this
15 section. Any such property that is subsequently transferred to
16 a person other than the defendant may be the subject of a
17 special verdict of forfeiture and thereafter shall be ordered
18 forfeited to the Federated States of Micronesia, unless the
19 transferee establishes in a hearing pursuant to subsection (14)
20 of this section that he is a bona fide purchaser for value of
21 such property who at the time of purchase was reasonably
22 without cause to believe that the property was subject to
23 forfeiture under this section.

24 (4) Rebuttable presumption. There is rebuttable
25 presumption at trial that any property of a person convicted of

1 those crimes listed in subsection 1 is subject to forfeiture
2 under this section if the Federated States of Micronesia
3 establishes by a preponderance of the evidence that:

4 (a) Such property was acquired by such person
5 during the period of the violation of this chapter or within a
6 reasonable time after such period; and

7 (b) There is no likely source for such
8 property other than the violation of this chapter.

9 (5) Protective orders.

10 (a) Upon application of the Federated States
11 of Micronesia, the court may enter a restraining order or
12 injunction, require the execution of a satisfactory performance
13 bond, or take any other action to preserve the availability of
14 property described in subsection (1) of this section for
15 forfeiture under this section.

16 (i) upon the filing of a complaint,
17 indictment or information charging a violation of this chapter
18 for which criminal forfeiture may be ordered under this section
19 and alleging that the property with respect to which the order
20 is sought would, in the event of conviction, be subject to
21 forfeiture under this section;

22 (ii) prior to the filing of such a
23 complaint, indictment or information, if, after notice to
24 persons appearing to have an interest in the property and
25 opportunity for a hearing, the court determines that:

1 (1) there is a substantial
2 probability that the Federated States of Micronesia will
3 prevail on the issue of forfeiture and that failure to enter
4 the order will result in the property being destroyed, removed
5 from the jurisdiction of the court, or otherwise made
6 unavailable for forfeiture; and

7 (2) the need to preserve the
8 availability of the property through the entry of the requested
9 order outweighs the hardship on any party against whom the
10 order is to be entered.

11 Provided, however, that an order entered pursuant to subsection
12 (ii) shall be effective for not more than 90 days, unless
13 extended by the court for good cause shown or unless a
14 complaint, indictment or information described in subparagraph
15 (i) has been filed.

16 (b) A temporary restraining order under this
17 subsection may be entered upon application of the Federated
18 States of Micronesia without notice or opportunity for a
19 hearing when a complaint, information or indictment has not yet
20 been filed with respect to the property, if the Federated
21 States of Micronesia demonstrates that there is probable cause
22 to believe that the property with respect to which the order is
23 sought would, in the event of conviction, be subject to
24 forfeiture under this section and that provision of notice will
25 jeopardize the availability of the property for forfeiture.

1 Such a temporary order shall expire not more than 10 days after
2 the date on which it is entered, unless extended for good cause
3 shown or unless the party against whom it is entered consents
4 to an extension for a longer period. A hearing requested
5 concerning an order entered under this paragraph shall be held
6 at the earliest possible time and prior to the expiration of
7 the temporary order.

8 (c) The court may receive and consider, at a
9 hearing held pursuant to this subsection, evidence and
10 information that would be inadmissible under the Rules of
11 Evidence.

12 (6) Warrant of seizure. The Government may request
13 the issuance of a warrant authorizing the seizure of property
14 subject to forfeiture under this section in the same manner as
15 provided for a search warrant. If the court determines that
16 there is probable cause to believe that the property to be
17 seized would, in the event of conviction, be subject to
18 forfeiture and that an order pursuant to subsection (5) of this
19 section may not be sufficient to assure the availability of the
20 property for forfeiture, the court shall issue a warrant
21 authorizing the seizure of such property.

22 (7) Execution. Upon entry of an order of forfeiture
23 under this section, the court shall authorize the Attorney
24 General to seize all property ordered forfeited upon such terms
25 and conditions as the court shall deem proper. Following entry

1 of an order declaring the property forfeited, the court may,
2 upon application of the Federated States of Micronesia, enter
3 such appropriate restraining orders or injunctions, require the
4 execution of satisfactory performance bonds, appoint receivers,
5 conservators, appraisers, accountants, or trustees, or take any
6 other action to protect the interests of the Federated States
7 of Micronesia in the property ordered forfeited. Any income
8 accruing to or derived from property ordered forfeited under
9 this section may be used to offset ordinary and necessary
10 expenses to the property which are required by law, or which
11 are necessary to protect the interests of the Federated States
12 of Micronesia or third parties.

13 (8) Disposition of property. Following the seizure
14 of property ordered forfeited under this section, the Attorney
15 General shall direct the disposition of the property by sale or
16 any other commercially feasible means, making due provision for
17 the rights of any innocent persons. Any property right or
18 interest not exercisable by, or transferable for value to, the
19 Federated States of Micronesia shall expire and shall not
20 revert to the defendant, nor shall the defendant or any person
21 acting in concert with him or on his behalf be eligible to
22 purchase forfeited property at any sale held by the Federated
23 States of Micronesia. Upon application of a person, other than
24 the defendant or a person acting in concert with him or his
25 behalf, the court may restrain or stay the sale or disposition

1 of the property pending the conclusion of any appeal of the
2 criminal case giving rise to the forfeiture, if the applicant
3 demonstrates that proceeding with the sale or disposition of
4 the property will result in irreparable injury, harm, or loss
5 to him.

6 (9) Authority of the Attorney General. With respect
7 to property ordered forfeited under this section, the Attorney
8 General is authorized to:

9 (a) Grant petitions for mitigation or
10 remission of forfeiture, restore forfeited property to victims
11 of violations of this chapter or take any other action to
12 protect the rights of innocent persons which is in the interest
13 of justice and which is not inconsistent with the provisions of
14 this section;

15 (b) Compromise claims arising under this
16 section;

17 (c) Award compensation to persons providing
18 information resulting in a forfeiture under this section;

19 (d) Direct the disposition by the Federated
20 States of Micronesia, in accordance with the provisions of
21 section (8) of this title, of all property ordered forfeited
22 under this section by public sale or any other commercially
23 feasible means, making due provision for the rights of innocent
24 persons; and

25 (e) Take appropriate measures necessary to

1 safeguard and maintain property ordered forfeited under this
2 section pending its disposition.

3 (10) Bar on intervention. Except as provided in
4 subsection (14) of this section, no party claiming an interest
5 in property subject to forfeiture under this section may:

6 (a) Intervene in a trial or appeal of a
7 criminal case involving the forfeiture of such property under
8 this subchapter; or

9 (b) Commence an action at law or equity
10 against the Federated States of Micronesia concerning the
11 validity of his alleged interest in the property subsequent to
12 the filing of a complaint, indictment or information alleging
13 that the property is subject to forfeiture under this section.

14 (11) Jurisdiction to enter orders. The courts of the
15 Federated States of Micronesia shall have jurisdiction to enter
16 orders as provided in this section without regard to the
17 location of any property which may be subject to forfeiture
18 under this section or which has been ordered forfeited under
19 this section.

20 (12) Depositions. In order to facilitate the
21 identification and location of property declared forfeited and
22 to facilitate the disposition of petitions for remission or
23 mitigation of forfeiture, after the entry of an order declaring
24 property forfeited to the Federated States of Micronesia, the
25 court may, upon application of the Federated States of

1 Micronesia order that the testimony of any witness relating to
2 the property forfeited be taken by deposition and that any
3 designated book, paper, document, record, recording, or other
4 material not privileged be produced at the same time and place,
5 in the same manner as provided for the taking of depositions
6 under Rule 15 of the National Rules of Criminal Procedure.

7 (13) Third party interests. Following the entry of an
8 order of forfeiture under this section, the Federated States of
9 Micronesia shall publish notice of the order and of its intent
10 to dispose of the property in such manner as the Attorney
11 General may direct. The Government may also, to the extent
12 practicable, provide direct written notice to any person known
13 to have alleged an interest in the property that is the subject
14 of the order of forfeiture as a substitute for published notice
15 as to those persons so notified.

16 (a) Any person, other than the defendant,
17 asserting a legal interest in property which has been ordered
18 forfeited to the Federated States of Micronesia pursuant to
19 this section may, within 30 days of the final publication of
20 notice or his receipt of notice under paragraph (1), whichever
21 is earlier, petition the court for a hearing to adjudicate the
22 validity of his alleged interest in the property.

23 (b) The petition shall be signed by the
24 petitioner under penalty of perjury and shall set forth the
25 nature and extent of the petitioner's right, title, or interest

1 in the property, the time and circumstances of the petitioner's
2 acquisition of the right, title, or interest in the property,
3 any additional facts supporting the petitioner's claim, and the
4 relief sought.

5 (c) The hearing on the petition shall, to the
6 extent practicable and consistent with the interests of
7 justice, be held within 30 days of the filing of the petition.
8 The court may consolidate the hearing on the petition with a
9 hearing on any other petition filed by a person other than the
10 defendant under this subsection.

11 (d) At the hearing, the petitioner may testify
12 and present evidence and witnesses on his own behalf, and
13 cross-examine witnesses who appear at the hearing. The
14 Federated States of Micronesia may present evidence and
15 witnesses in rebuttal and in defense of its claim to the
16 property and cross-examine witnesses who appear at the hearing.
17 In addition to testimony and evidence presented at the hearing,
18 the court shall consider the relevant portions of the record of
19 the criminal case which resulted in the order of forfeiture.

20 (e) If, after the hearing, the court
21 determines that the petitioner has established by a
22 preponderance of the
23 evidence that:

24 (i) the petitioner has a legal right,
25 title, or interest in the property, and such right, title, or

1 interest renders the order of forfeiture invalid in whole or in
2 part because the right, title, or interest was vested in the
3 petitioner rather than the defendant or was superior to any
4 right, title, or interest of the defendant at the time of the
5 commission of the acts which gave rise to the forfeiture of the
6 property under this section; or

7 (ii) the petitioner is a bona fide
8 purchaser for value of the right, title, or interest in the
9 property and was at the time of purchase reasonably without
10 cause to believe that the property was subject to forfeiture
11 under this section; the court shall amend the order of
12 forfeiture in accordance with its determination.

13 (f) Following the court's disposition of all
14 petitions filed under this subsection, or if no such petitions
15 are filed following the expiration of the period provided in
16 paragraph (2) for the filing of such petitions, the Federated
17 States of Micronesia shall have clear title to property that is
18 the subject of the order of forfeiture and may warrant good
19 title to any subsequent purchaser or transferee.

20 (14) Construction. The provisions of this section
21 shall be liberally construed to effectuate its remedial
22 purposes.

23 (15) Forfeiture of substitute property. If any of the
24 property described in subsection (1) of this section, as a
25 result of any act or omission of the defendant:

1 (a) Cannot be located upon the exercise of due
2 diligence;

3 (b) Has been transferred or sold to, or
4 deposited with, a third party;

5 (c) Has been placed beyond the jurisdiction of
6 the court;

7 (d) Has been substantially diminished in
8 value; or

9 (e) Has been commingled with other property
10 which cannot be divided without difficulty; the court shall
11 order the forfeiture of any other property of the defendant up
12 to the value of any property described in paragraphs (a)
13 through (e) of this subsection.

14 CHAPTER 12

15 Weapons Control

16 Section 1201. Short title. This act is known and may be
17 cited as the "National Weapons Control Act."

18 Section 1202. General prohibition. No person shall
19 manufacture, purchase, sell, possess or carry any firearm,
20 dangerous device or ammunition other than as hereinafter
21 provided.

22 Section 1203. Exemptions from provisions of act. This
23 act shall not apply to:

(1) Law enforcement officers while engaged on
official duty except to the extent that particular provisions

1 of this chapter are expressly made applicable to them.

2 (2) Firearms which are in unserviceable condition
3 and which are incapable of being fired or discharged and which
4 are kept as ornaments, curios, or for their historical
5 significance or value.

6 (3) Weapons or other dangerous devices which are not
7 firearms and which are kept as ornaments, curios, or objects of
8 historical or archeological interest; PROVIDED, that the
9 article or articles referred to herein are kept or displayed
10 only in private homes, museums, or in connection with public
11 exhibitions.

12 (4) Persons in the armed forces of the United
13 States, whenever such person are engaged on official duty
14 except to the extent that particular provisions of this chapter
15 are expressly made applicable to them.

16 (5) Persons designated by the Attorney General as
17 crocodile hunters; PROVIDED, however, that not more than one
18 person shall be so designated at any one time; and PROVIDED
19 FURTHER that the Attorney General shall by regulation limit the
20 size and type of weapons which may be used by such crocodile
21 hunter.

22 Section 1204. Definitions.

23 (1) "Automatic weapon" means a weapon of any
24 description irrespective of size, by whatever name designated
25 or known, loaded or unloaded, from which may be repeatedly or

1 automatically discharged a number of bullets contained in a
2 magazine, ribbon or other receptacle, by one continued movement
3 of the trigger or firing mechanism.

4 (2) "Carry" means having on one's person or in a
5 motor vehicle or other conveyance.

6 (3) "Dangerous device" means any explosive,
7 incendiary or poison gas bomb, grenade, mine or similar device,
8 switch or gravity blade knife, blackjack, sandbag, metal,
9 wooden or shark's tooth knuckles, dagger, any instrument
10 designed or redesigned for use as a weapon, or any other
11 instrument which can be used for the purpose of inflicting
12 bodily harm and which under the circumstances of its possession
13 serves no lawful purpose.

14 (4) "Firearm" means any device, by whatever name
15 known, which is designed or may be converted to expel or hurl a
16 projectile or projectiles by the action of an explosion, a
17 release, or an expansion of gas, including but not limited to
18 guns, except a device designed or redesigned for use solely as
19 a signaling, linethrowing, spearfishing, or industrial device,
20 or a device which hurls a projectile by means of the release or
21 expansion of carbon dioxide or air.

22 (5) "Gun" means a handgun or long gun.

23 (6) "Handgun" means a pistol or revolver with an
24 overall length of less than 26 inches.

25 (7) "Long gun" means a rifle with one or more

1 barrels more than 18 inches in length.

2 (8) "Person" means any natural person, corporation,
3 partnership, or other business entity.

4 (9) "Semi-automatic weapon" means a weapon of any
5 description irrespective of size, by whatever name designated
6 or known, loaded or unloaded, from which may be repeatedly or
7 automatically discharged a number of bullets contained in a
8 magazine, ribbon or other receptacle by a like number of
9 movements of the trigger or firing mechanism without recocking
10 or resting the trigger or firing mechanism.

11 (10) "Transfer" means sale, gift, purchase or any
12 other means by which ownership or temporary rights of use and
13 control are conveyed or shifted from one person to another.

14 Section 1205. Identification cards required; Issuance.

15 (1) No person shall acquire or possess any firearm,
16 dangerous device, or ammunition unless he holds an
17 identification card issued pursuant to this chapter. The
18 identification card is evidence of the holder's eligibility to
19 possess and use or carry firearms, dangerous devices, or
20 ammunition.

21 (2) Identification cards shall be issued only by the
22 Office of the Attorney General pursuant to regulations made by
23 the Office of the Attorney General in the manner which is or
24 may be provided by law. The identification card shall have on
25 its face all of the following:

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- 1 (a) the name and address of the holder;
2 (b) the sex, height, and weight of the holder;
3 (c) the birth date of the holder;
4 (d) the date of expiration for the card, which
5 shall be two years from the date of issue;
6 (e) a photograph of the holder taken within
7 ten days prior to issuance;
8 (f) an endorsement setting forth the extent of
9 the holder's eligibility to possess, use, and carry firearms,
10 dangerous devices, or ammunition; and
11 (g) the number of the identification card.

12 (3) An applicant for the issuance or renewal of an
13 identification card shall make application therefor on a form
14 approved by the Office of the Attorney General and shall supply
15 such information as may be necessary to afford the issuing
16 agency reasonable opportunity to ascertain the facts required
17 to appear on the face of the identification card, and to
18 determine whether the applicant complies with all requirements
19 of this chapter to possess and use, or carry, firearms,
20 dangerous devices, or ammunition, as the case may be. Such
21 information shall include a complete description and serial
22 number, if any, of any firearm or dangerous device the
23 applicant owns or possesses.

24 (4) No identification card shall be issued until
25 fifteen days after application therefor, and unless the issuing

1 agency is satisfied that the applicant may lawfully possess
2 and use, or carry, firearms, dangerous devices, or ammunition
3 of the type or types enumerated on the identification card.
4 Unless the application for use and possession is denied, the
5 identification card shall be issued within sixty days from the
6 date of application. An identification card issued pursuant to
7 this section shall be valid for two years from the date of its
8 issuance unless it has been revoked. A valid identification
9 card issued pursuant to this section may be renewed bi-annually
10 upon application by the holder made on the form approved by the
11 Office of the Attorney General.

12 (5) No person shall be issued an identification card
13 if he has been:

14 (a) acquitted of any criminal charge by reason
15 of insanity;

16 (b) adjudicated mentally incompetent;

17 (c) treated in a hospital for mental illness,
18 drug addiction, or alcoholism;

19 (d) convicted of a crime of which actual or
20 attempted personal injury or death is an element;

21 (e) convicted of a crime in connection with
22 which firearms or dangerous devices were used or found in his
23 possession; or

24 (f) convicted of a crime of which the use,
25 possession, or sale of narcotics or dangerous drugs is an

1 element.

2 (6) No person shall be issued an identification card
3 if he has a physical condition or impairment which makes him
4 unable to use a firearm or dangerous device with proper
5 control.

6 (7) Any person suffering from a physical or mental
7 defect, condition, illness, or impairment which would make him
8 ineligible for an identification card pursuant to this section
9 may submit the certificate of a physician licensed to practice
10 in the Federated States of Micronesia to the issuing agency or
11 officer. If the certificate states that it is the
12 subscribing physician's best opinion that the defect,
13 condition, illness, or impairment does not make the applicant
14 incapable of possessing and using a firearm or dangerous device
15 without danger to the public safety, the identification card
16 may be issued. But no such card shall be valid for a period
17 longer than six months.

18 (8) Any person who is ineligible for an
19 identification card by reason of conviction of crime may be
20 issued such a card if his most recent discharge from probation
21 or parole or the termination of his most recent sentence,
22 whichever is later, is more than ten years prior to the time of
23 application for the identification card and if the issuing
24 agency finds that his record, taken as a whole, does not
25 indicate that his possessing and using, or carrying, a firearm

1 or dangerous device, as the case may be, are no likely to
2 constitute a special danger to the public safety; PROVIDED,
3 that if the crime which renders him ineligible for an
4 identification card is solely the failure to have an
5 identification card issued to him, then the reinstatement to
6 eligibility pursuant to this subsection shall occur five years
7 after the date of his sentencing.

8 (9) A duplicate identification card may be issued to
9 the holder of a lost, destroyed, or defaced identification card
10 upon proof of such loss, destruction, or defacement as the
11 Office of the Attorney General may require, upon payment of the
12 fee required by section 1230 of this chapter, and upon
13 surrender of any remaining portion of the original card.
14 Notice shall be given to the Office of the Attorney General by
15 the holder within forty-eight hours of his discovery of such
16 loss, defacement, or destruction. The holder shall notify the
17 Office of the Attorney General of any change of name or address
18 from those appearing upon the identification card within forty-
19 eight hours of such change.

20 (10) A person who is neither a citizen nor resident of
21 the Federated States of Micronesia shall not be eligible for an
22 identification card, except upon receiving special permission
23 from the Attorney General.

24 Section 1206. Identification cards required; Prima facie
25 evidence of possession.

1 (1) No person shall purchase, possess or use a
2 firearm, dangerous device, or ammunition unless he is the
3 holder of an identification card issued pursuant to this
4 chapter evidencing the eligibility of such person to purchase,
5 possess and use a firearm, dangerous device or ammunition.
6 Such person shall be at least 21 years of age.

7 (2) Where a firearm, dangerous device, or ammunition
8 is found in a vehicle or vessel, it shall be prima facie
9 evidence that such firearm, dangerous device, or ammunition is
10 in the possession of the occupant if there is but one. If
11 there is more than one occupant, it shall be prima facie
12 evidence that it is in the possession of all, except under the
13 following circumstances:

14 (a) Where it is found upon the person of one
15 of the occupants;

16 (b) Where the vehicle or vessel is not a
17 stolen one and the firearm, dangerous device, or ammunition is
18 out of view in a glove compartment, automobile trunk, or other
19 enclosed customary depository, in which case it is prima facie
20 evidence that such firearm, dangerous device, or ammunition is
21 in the possession of the occupant or occupants who own or have
22 authority to operate the vehicle or vessel;

23 (c) Where, in the case of a taxicab, the
24 firearm, dangerous device, or ammunition is found in the
25 passenger's portion of the vehicle, it shall be prima facie

1 evidence that it is in the possession of all the passengers, if
2 there are any, and, if not, that it is in the possession of the
3 driver.

4 Section 1207. Carrying firearms. No person shall carry a
5 firearm unless he has a valid identification card and is
6 carrying the firearm unloaded in a closed case or other
7 securely wrapped or closed package or container, or locked in
8 the trunk of his vehicle while on route to or from a target
9 range or area where he hunts or takes part in other sports
10 involving firearms, or carries the firearm in plain sight on
11 his person while actively engaged in hunting or sports
12 involving the use of firearms.

13 Section 1208. New residents, temporary residents and
14 visitors of the Federated States of Micronesia. Visitors, new
15 residents, and temporary residents in the Federated States of
16 Micronesia shall not import, transport, purchase, use or
17 possess any firearm, dangerous device or ammunition in the
18 Federated States of Micronesia without an identification card
19 issued pursuant to this subchapter. Any person who possesses
20 any firearms, dangerous device, or ammunition shall, before or
21 immediately upon his entrance into the Federated States of
22 Micronesia, turn it in to the Attorney General's Office or the
23 Chief of Police of any State of the Federated States of
24 Micronesia. Such firearm, dangerous device or ammunition shall
25 be returned to such person upon his or her being issued an

1 identification card pursuant to the provisions of this
2 subchapter or upon his or her departure from the Federated
3 States of Micronesia.

4 Section 1209. Law enforcement officers.

5 (1) Possession, use and carriage of firearms,
6 ammunition and dangerous devices by law enforcement officers
7 derives from the laws governing the powers, functions and
8 organization of the police and other organized forces of peace
9 officers. Eligibility of law enforcement officers to possess,
10 use and carry firearms, ammunition or dangerous devices while
11 on duty is not subject to the holding of identification cards
12 or any other qualifications prescribed in this subchapter or in
13 regulations pursuant thereto.

14 (2) Transfer of any firearm from or to a law
15 enforcement officer or agency shall, except as provided in
16 subsection (1) of this section, be subject to the provisions of
17 this subchapter and regulations made pursuant thereto.

18 (3) The head of a law enforcement agency of the
19 Federated States of Micronesia or any subdivision thereof shall
20 furnish to the Office of the Attorney General the names,
21 addresses, ranks and badge numbers or similar identification of
22 each person on his force who is authorized to possess, use and
23 carry firearms in the course of his official duties. Upon the
24 occurrence of any changes in personnel to whom this subsection
25 applies, the head of the law enforcement agency shall inform

1 the Office of the Attorney General promptly of the
2 change.

3 (4) Whenever a law enforcement officer is not
4 engaged in official duties, this subchapter shall be applicable
5 to him the same manner and to the same extent as to any other
6 person.

7 Section 1210. Licenses for transfer - Requirements.

8 (1) No dealer, manufacturer or wholesaler shall
9 transfer firearms, dangerous devices or ammunition except
10 pursuant to a license therefor as provided in this section.

11 (2) Any person, firm, corporation, association or
12 other entity proposing to engage in the business of selling
13 firearms, ammunition, and dangerous devices at retail shall
14 apply for a dealer's license. The application shall be on a
15 form approved by the Office of the Attorney General and shall
16 contain the following information:

17 (a) The name and address of the applicant,
18 including the address of each separate location within the
19 Federated States of Micronesia at which the applicant proposes
20 to do business pursuant to the license; and

21 (b) If the applicant is a partnership or
22 association, the names and addresses of the partners or
23 associates, or if the applicant is a corporation, the names and
24 addresses of the officers and directors; and

25 (c) Such other information bearing on the

1 applicant's ability to operate the business in a manner
2 consonant with the public safety as the Office of the Attorney
3 General may require.

4 Section 1211. Dealer's license - Issuance and renewal.

5 (1) Upon receipt of a proper application and payment
6 of the prescribed fee, the Office of the Attorney General shall
7 within 60 days issue a dealer's license to an applicant, if he
8 is found to be eligible therefore pursuant to this chapter and
9 any applicable regulations of the Attorney General. Such
10 regulations shall place a reasonable limit on number of
11 dealers. The license shall list the types of firearms,
12 ammunition, and dangerous devices which the dealer has been
13 authorized to offer for sale.

14 (2) A license issued pursuant to this section shall
15 be valid for one year from the date of its issuance, unless
16 sooner canceled, suspended or revoked. A license shall bear
17 the expiration date thereof on its face.

18 (3) A license issued pursuant to this section may be
19 renewed annually upon application by the holder made on a form
20 approved by the Office of the Attorney General. Eligibility
21 for renewal shall be on the same terms and conditions as for an
22 original license, except that renewal also may be denied on
23 account of violation of this chapter or regulations of the
24 Office of the Attorney General made pursuant thereto or for any
25 conduct in the operation of the applicant's business which give

1 the Office of the Attorney General grounds to believe that the
2 applicant will no longer operate in a manner consonant with the
3 public safety.

4 Section 1212. Dealer's license - Conduct of dealer's
5 business. The holder of a dealer's license shall:

6 (1) Display his license in a conspicuous place
7 at all times at the establishment described in the license. If
8 a dealer has more than one place of business at which he sell
9 firearms, dangerous devices and ammunition or any of them,
10 he shall display in the same manner a certified copy of his
11 license at each such additional place of business.

12 (2) Keep the records and file the reports required
13 by this chapter and regulations made pursuant thereto.

14 (3) Display no firearms, dangerous devices or
15 ammunition in any place where they can be seen from outside the
16 premises.

17 (4) Keep all firearms, dangerous devices and
18 ammunition in a securely locked place at all times except when
19 they are actually being shown to a customer or prospective
20 customer or when actually being repaired or otherwise worked
21 on.

22 (5) Permit only employees who are holders of
23 identification cards making them eligible to purchase, possess
24 and use firearms, ammunition or dangerous devices, to have
25 access to firearms, dangerous devices or ammunition.

1 Section 1213. Records and reports by dealers.

2 (1) Every licensed dealer shall maintain records
3 containing an inventory of firearms, dangerous devices, and
4 ammunition or any of them received together with the name and
5 address of the person from whom received, and the manufacturer,
6 type and serial number of each firearm and dangerous device,
7 the name and address of the person to whom transferred, the
8 identification card number of such person, the manufacturer,
9 type and serial number of the gun or dangerous device
10 transferred and the date of transfer. Such records shall be
11 available for inspection at all reasonable times by the Office
12 of the Attorney General and his duly designated
13 representatives. Such records shall be retained at least five
14 years.

15 (2) Every dealer, at the time of any transfer of any
16 firearm or dangerous device to any person other than a licensed
17 dealer shall, within twenty-four hours of the transfer, supply
18 the following information to the Office of the Attorney General
19 on a form approved by it:

20 (a) The name, address and license number of
21 the dealer.

22 (b) The manufacturer, type and serial number
23 of firearm or dangerous device transferred. No firearm shall
24 be transferred which does not have a serial number or from
25 which the serial number has been removed, defaced, or altered.

1 (c) The name, address and identification card
2 number of the transferee.

3 Section 1214. Repair of firearms.

4 (1) No person, other than a dealer or manufacturer
5 licensed pursuant to this chapter shall repair firearms or
6 accept the same for repair.

7 (2) No person shall accept any firearms for repair
8 unless he is shown an identification card evidencing
9 eligibility of the holder to possess and use a firearm of the
10 type offered for repair. Prior to returning any such firearm,
11 the manufacturer or dealer shall make and keep a record
12 identical with that required for the purchase of a firearm
13 pursuant to section 1205 of this act, and shall maintain such
14 record for at least one year.

15 (3) Nothing in this section shall be construed to
16 prohibit the repair or maintenance of a firearm by the owner
17 thereof.

18 Section 1215. Transfer of ammunition.

19 (1) No person may transfer ammunition, unless he is
20 a manufacturer, wholesaler or dealer licensed pursuant to this
21 chapter. If the transfer is other than to another
22 manufacturer, wholesaler or dealer, the transfer shall not be
23 made until the transferor has ascertained that the transferee
24 is the holder of an identification card evidencing eligibility
25 to possess and use a firearm of the type for which the

1 ammunition is suited. Upon transfer the transferor shall
2 record the quantity, type and caliber or gauge transferred, the
3 name and address of the transferee and the number of the
4 transferee's identification card.

5 (2) No transferee of ammunition shall transfer it to
6 any person other than a dealer licensed pursuant to this
7 chapter. Upon receipt of ammunition, the dealer shall make
8 and keep all records with respect to the ammunition in the
9 manner required by this section for ammunition sold by him.

10 Section 1216. Transfer of firearms and dangerous devices.

11 No person other than a manufacturer, wholesaler or dealer
12 licensed pursuant to this chapter shall transfer a firearm or
13 dangerous device to any person other than a manufacturer,
14 wholesaler or dealer without first ascertaining that the
15 transferee is the holder of an identification card issued
16 pursuant to this chapter. Prior to any such transfer, the
17 transferor shall furnish to the Office of the Attorney General
18 in person or by registered or certified mail, return receipt
19 requested, a properly completed form approved by the Office of
20 the Attorney General providing information equivalent to that
21 required to be furnished by a dealer upon the transfer by him
22 of a firearm or dangerous device.

23 Section 1217. Secured transactions in firearms.

24 (1) No person, other than a licensed dealer, shall
25 receive a firearm as a pledge or pawn, or in any other manner

1 as security.

2 (2) A dealer receiving a firearm as a pledge, pawn
3 or otherwise, as security, shall record promptly:

4 (a) the date of receipt,

5 (b) the full description of the item or items
6 received, including the manufacturer, type and serial number or
7 numbers, if any,

8 (c) the name and address of the person making
9 the pledge, pawn, or other deposit as security, and

10 (d) the number of identification card.

11 No dealer shall accept the pledge, pawn, or said person's other
12 deposit as security unless the person making the same exhibits
13 an identification card evidencing his entitlement to possess
14 and use a gun of the type involved.

15 (3) Upon the return or other disposition of the
16 firearm in his possession pursuant to this section, the dealer
17 shall make a record of the return or other disposition,
18 including the date thereof and the name and address of the
19 person to whom the firearm was returned or disposed. No
20 firearm shall be returned or disposed of to any person who,
21 does not exhibit a valid identification card issued in his own
22 name and entitling him to possess and use the firearm involved.

23 Section 1218. Manufacturer's and wholesaler's license.

24 (1) No person shall manufacture or deal in firearms,
25 dangerous devices or ammunition at wholesale unless:

1 (a) He is the holder of a dealer's license
2 issued pursuant to section 1211 of this act; or

3 (b) He is the holder of a license issued
4 pursuant to this section.

5 (2) Any person proposing to manufacture or deal at
6 wholesale in firearms, dangerous devices or ammunition, which
7 person is not the holder of a dealer's license, shall make
8 application for a manufacturer's or wholesaler's license. Such
9 application shall contain the same information required for a
10 dealer's license and any additional information required by the
11 Attorney General as may be appropriate to administer this
12 subchapter. No manufacturer's license or wholesaler's license
13 shall authorize transfer or delivery within the Federated
14 States of Micronesia except to a licensed dealer, manufacturer
15 or wholesale or to a political subdivision of the Federated
16 States of Micronesia or, subject to applicable laws of the
17 Federated States of Micronesia, for export.

18 (3) The Office of the Attorney General shall issue,
19 renew, cancel, deny, suspend or revoke manufacturers' and
20 wholesalers' licenses on the same terms and subject to the same
21 conditions as provided for dealers' licenses.

22 (4) Every manufacturer shall assign a unique serial
23 number to each firearm manufactured by him or her and shall
24 inscribe such number in or on the firearm in such manner as
25 will resist removal, alteration, defacement or obliteration.

1 The Office of the Attorney General may make regulations for the
2 style of such serial numbers and for the manner of their
3 inscription.

4 Section 1219. Registry of firearms and ammunition.

5 (1) The Office of the Attorney General shall
6 maintain a registry of firearms. The records in the registry
7 shall be kept permanently unless there is a record of the
8 destruction of the gun.

9 (2) Records kept in the registry shall include all
10 records required to be filed with the Office of the Attorney
11 General pursuant to this chapter, copies of all records filed
12 with an agency or officer of local government pursuant to this
13 act, and any records deposited with the Office of the Attorney
14 General pursuant to subsection (3) of this section.

15 (3) Any dealer, manufacturer or wholesaler licensed
16 pursuant to this act, upon his discontinuance of the licensed
17 business or activity, shall transmit all records kept by him
18 pursuant to this chapter to the Office of the Attorney General.

19 (4) Records relating to the repair of firearms shall
20 be kept by the Office of the Attorney General for a period of
21 at least five years after transmittal.

22 (5) Records in the registry shall not be public
23 records. They shall be made available only to law enforcement
24 officers of the Federated States of Micronesia or its
25 subdivisions, or at the discretion of the Office of the

1 Attorney General, to law enforcement officers and agencies of
2 foreign governments.

3 Section 1220. Cancellation, denial, suspension and
4 revocation of licenses.

5 (1) Any license issued pursuant to this chapter
6 shall be surrendered for cancellation immediately on the
7 discontinuance or termination of business or upon the holder's
8 discontinuing the manufacturing, selling, acquisition for sale
9 or repair of firearms, and the sale of ammunition.

10 (2) The issuing officer or agency may deny, suspend,
11 or revoke an identification card or a license issued pursuant
12 to this chapter for failure of the applicant or holder to meet
13 or continue to meet any of the requirements for eligibility
14 therefore, or for any violation of this chapter or regulations
15 in force pursuant thereto.

16 (3) The Office of the Attorney General by regulation
17 shall make classifications of offenses and other violations of
18 this chapter or regulations in force thereunder. Regulations
19 made pursuant to this subsection shall set forth those offenses
20 and violations for which identification cards and licenses may
21 be suspended or revoked, and those for which the penalty must
22 be revocation. Such regulations shall be of general
23 application.

24 (4) Any person who, by reason of the suspension or
25 revocation of his identification card, is no longer eligible to

1 continue in possession of a firearm, dangerous device or
2 ammunition shall surrender any and all firearms,
3 dangerous devices and ammunition to a state chief of police, or
4 shall dispose of the firearms, dangerous devices and ammunition
5 forthwith under the direction and supervision of a state chief
6 of police. In the case of suspension of an identification
7 card, the owner of the firearm, dangerous device or ammunition
8 may request that the constabulary keep the same during the
9 period of suspension and, except as herein provided, the
10 firearm, dangerous device or ammunition shall be restored to
11 the owner when he again becomes eligible to possess same and
12 requests return. Any firearm, dangerous device or ammunition
13 in the possession of a state chief of police pursuant to this
14 subsection may be disposed of, without compensation to the
15 owner, upon revocation of the suspended identification card or
16 at the end of 60 days after receipt or the date of termination
17 of the suspension, whichever is later. However, if proceedings
18 in connection with the suspension or revocation are not yet
19 finally determined, disposal shall not be until such final
20 determination has been made.

21 (5) Any denial, suspension or revocation of an
22 identification card or a license shall be subject to review by
23 the President upon request by the aggrieved person, and
24 thereafter to the Supreme Court, Trial Division.

25 Section 1221. Shipment and delivery of firearms,

1 dangerous devices and ammunition.

2 (1) No person shall ship, transport or deliver any
3 firearm, dangerous device or ammunition to anyone other than a
4 licensed manufacturer, wholesaler, dealer or person who
5 possesses a valid identification card.

6 (2) Any person who ships, transports or delivers
7 firearms or dangerous devices to a manufacturer, wholesaler,
8 dealer or person possessing an identification card in the
9 Federated States of Micronesia shall, before delivery, furnish
10 to the Office of the Attorney General an invoice listing his
11 name and address, the name and address of the manufacturer,
12 wholesaler, dealer or person possessing the identification card
13 to whom such firearms or dangerous devices are to be delivered,
14 the place of origin of the shipment, the number of firearms and
15 dangerous devices of each type and the manufacturer and serial
16 number of each firearm and dangerous device in the shipment.

17 (3) Any person who ships, transports or delivers
18 ammunition to a manufacturer, wholesaler, or dealer or person
19 possessing an identification card in the Federated States of
20 Micronesia shall, before delivery, furnish to the Office of the
21 Attorney General an invoice listing his name and address,
22 the name and address of the manufacturer, wholesaler, dealer or
23 person possessing an identification card to whom the ammunition
24 is to be delivered, the place of origin of the shipment and the
25 quantity of ammunition of each type in the shipment.

(4) If shipment is by common carrier, a copy of the invoice required by subsections (2) and (3) of this section shall also be delivered to the common carrier. The common carrier shall deliver the invoice and any said shipment to the state chief of police who will verify the accuracy of the shipment, and compliance with this chapter, before delivery to the manufacturer, wholesaler, dealer or person possessing an identification card. A copy of the invoice shall be left with the manufacturer, wholesaler, dealer or person possessing an identification card at the time of delivery.

(5) If shipment is by other than common carrier, a copy of the invoice shall be furnished to the manufacturer, wholesaler, dealer or person possessing an identification card at the time of delivery.

(6) No person shall ship, transport, or deliver firearms, dangerous devices or ammunition via air without first complying with international regulations pertaining to air shipment of firearms, dangerous devices or ammunition.

Section 1222. Loss, destruction or theft of firearms or dangerous devices. Whoever owns or possesses a firearm or dangerous device shall, within twenty-four hours of discovery, notify the Office of the Attorney General of the loss, theft or destruction of any such firearm or dangerous device and, after such notice, of recovery thereof.

Section 1223. Prohibited acts. No person shall:

1 (1) Knowingly remove, obliterate or alter the
2 importer's or manufacturer's serial number of any firearm.

3 (2) Knowingly deface, alter or destroy an
4 identification card.

5 (3) Acquire, possess or use any firearm silencer or
6 muffler.

7 (4) Carry any gun or dangerous device while under
8 the influence of alcohol or narcotic or other disabling drug.

9 (5) Import, sell, transfer, give away, purchase,
10 possess or use any handgun, automatic weapon, rifle larger than
11 .22 caliber, shotgun larger than .410 gauge, or any other
12 firearm.

13 (6) Board or attempt to board any commercial
14 aircraft while carrying any firearm, dangerous device or
15 ammunition, either on his person or in his luggage. Such
16 firearm, dangerous device or ammunition shall be turned in
17 prior to departure to an appropriate official or to the pilot
18 of the airline or aircraft concerned, who shall keep a record
19 of the name of the person turning in such firearm, dangerous
20 device, or ammunition, and the type and quantity turned in.
21 Upon completion of such person's travel, the official of the
22 airline or pilot of the aircraft shall personally deliver the
23 article or articles turned in to the police chief of the state
24 in which such completion took place, or to his delegate. Such
25 person may reobtain the article or articles turned in upon

1 either:

2 (a) Presentation of a valid identification card
3 or license for such article or articles to the police officer
4 having custody thereof, or

5 (b) Departure from the state.

6 (7) Use or attempt to use any firearm, dangerous
7 device, or ammunition in connection with or in aid of the
8 commission of any crime against the laws of the Federated
9 States of Micronesia, except those set forth under other
10 provisions of this chapter.

11 Section 1224. Forfeiture. All firearms, dangerous
12 devices or ammunition unlawfully possessed, carried, used,
13 shipped, transported or delivered into the Federated States of
14 Micronesia are declared to be inimical to the public safety and
15 are forfeited to the Federated States of Micronesia. When such
16 forfeited articles are taken from any person, they shall be
17 surrendered to the Office of the Attorney General.

18 Section 1225. Closing of establishments during
19 emergencies. In case of emergency concerning the public safety
20 declared by the President or State Governor, all establishments
21 dealing in guns, dangerous devices or ammunition may be ordered
22 closed by such official and required to remain closed during
23 the continuance of the emergency. During any such closure, any
24 and all guns, dangerous devices and ammunition belonging to or
25 in the keeping of a closed establishment may be impounded.

1 Section 1226. Registration of weapons possessed on
2 effective date of act.

3 (1) Any person having in his possession a firearm
4 and dangerous device on the effective date of this subchapter
5 shall, within 90 days of such effective date, furnish on a form
6 approved by the Office of the Attorney General to the agency or
7 officer authorized to receive information concerning the
8 transfer of firearms or dangerous devices pursuant to this
9 chapter, equivalent information concerning any firearm or
10 dangerous device in his possession.

11 (2) If, prior to the expiration of the 90-day period
12 provided in subsection (1), the firearm is transferred, the
13 transferor shall comply with the provisions of this chapter for
14 furnishing of information on transfer and need not comply
15 with subsection (1) of this section.

16 Section 1227. Surrender of and compensation for weapons
17 held on effective date by ineligible persons. Any person who
18 possessed any firearm or dangerous device in the Federated
19 States of Micronesia prior to the effective date of this
20 chapter, and who is determined to be ineligible to possess or
21 is prohibited from possessing such firearm or dangerous device
22 under this chapter, shall tender such firearm or dangerous
23 device to the Office of the Attorney General or his delegate
24 within 90 days of the effective date of this chapter and be
25 reasonably compensated therefore.

1 Section 1228. Local laws. Nothing in this chapter shall
2 be deemed to prevent any state or municipality from further
3 restricting, by local law or ordinance, the transfer,
4 possession, use or carriage of firearms, ammunition or
5 dangerous devices. This chapter shall supersede all State laws
6 and municipal ordinances in conflict with this chapter.

7 Section 1229. Regulations. The Office of the Attorney
8 General shall have power to issue, amend and repeal regulations
9 implementing this chapter in the manner which is or may be
10 provided by law, as may be required by the public interest,
11 safety and welfare.

12 Section 1230. Fees for licenses and identification cards.

13 (1) The fees for issuance and renewal of licenses
14 and identification cards as required by this chapter shall be
15 as follows:

- 16 (a) for an identification card, \$5;
17 (b) for a dealer's license, \$150;
18 (c) for a manufacturer's license, \$500;
19 (d) for a wholesaler's license, \$500;
20 (e) for replacement of lost, destroyed, or
21 defaced identification card, \$5;

22 (2) Fees collected pursuant to the provisions of
23 this act shall be paid to the General Fund of the Federated
24 States of Micronesia.

25 Section 1231. Penalties for violation of chapter.

1 (1) Any person who fails to comply with section
2 section 1207 or section 1232 of this chapter is guilty of a
3 misdemeanor, and upon conviction thereof shall be fined not
4 more than \$100, or imprisoned not more than three months, or
5 both.

6 (2) Any person who violates any other provisions of
7 this chapter or any regulations issued pursuant thereto is
8 guilty of a felony, and upon conviction thereof shall be fined
9 not more than \$2,000, or imprisoned not more than five years,
10 or both, and shall be subject to confiscation of any firearm,
11 dangerous device, or ammunition, without compensation, involved
12 in a violation of this chapter. The holder or any dealer's
13 license, or the manager or supervisor of employees of any
14 establishment so licensed, or both, shall be liable for any
15 violation of this chapter by his employee or agent committed in
16 the course of the dealer's business, to the same extent as such
17 employee or agent.

18 (3) It shall be an affirmative defense under
19 subsection (1) of this section that the defendant was issued a
20 valid identification card at the time of his arrest, but
21 neglected to have it upon his person.

22 Section 1232. Reporting of loss of Firearm, Dangerous
23 Device, or Ammunition. Any person other than a dealer or
24 wholesaler who owns or possesses any dangerous device, firearm,
25 or ammunition shall report its loss to the Office of the

1 Attorney General, National Police within five days of
2 discovering its loss.

3 CHAPTER 13

4 Conflict of Interest

5 Section 1301. Definitions.

6 (1) "Official act" means any decision or action on
7 any matter which may at any time be pending or which may by law
8 be brought before any public official in his or her official
9 capacity or position of trust.

10 (2) "Public official" means a Member of Congress of
11 the Federated States of Micronesia, either before or after he
12 or she has qualified, or an officer or any other employee or
13 person acting for or on behalf of the National Government of
14 the Federated States of Micronesia, or any department, agency,
15 or branch of Government thereof, in any official function under
16 or by authority of any such department, agency or branch of
17 Government.

18 Section 1302. Offerings to influence members of National
19 Government. Whoever promises, offers, or gives any money or
20 other thing of value to any national public servant, official,
21 officer, or employee of the National Government with the intent
22 to influence decision or action on any official matter which
23 may at any time be pending, or which may by law be brought
24 before him in his official capacity; or with the intent to
25 influence him or her to commit or aid in committing, or to

1 collude in or allow any fraud, or provide opportunity for the
2 commission of any fraud on the National Government, or to
3 induce him to do or omit to do any act in violation of his
4 lawful duty, shall be fined not more than \$10,000 or imprisoned
5 for not more than ten years, or both, and shall be disqualified
6 from holding any office of honor or trust in the National
7 Government.

8 Section 1303. Compensation to the Members of Congress,
9 officers, and others in matters affecting the Government.

10 (1) Whenever a national public servant, or national
11 official, otherwise than as provided by law for the proper
12 discharge of official duties, directly or indirectly receives
13 or agrees to receive, or asks, demands, solicits, or seeks any
14 compensation for any services rendered or to be rendered either
15 by himself or herself or another, in relation to any matter in
16 which the National Government of the Federated States of
17 Micronesia is a party or has a direct and substantial interest;
18 or

19 (2) Whoever knowingly, otherwise than as provided by
20 law for the proper discharge of official duties, directly or
21 indirectly gives, promises, or offers any compensation for any
22 such services rendered or to be rendered at a time when the
23 intended recipient is or was such a public official, shall be
24 in violation of the law.

25 (3) Any such violators of subsections (1) or (2) of

1 this section shall not be fined more than \$5,000, or imprisoned
2 for not more than two years, or both; and shall be disqualified
3 from holding any office honor or trust in the National
4 Government of the Federated States of Micronesia.

5 Section 1304. Disqualification of former officers and
6 employees in matters connected with former duties or official
7 responsibilities - Disqualification of partners.

8 (1) Whoever, having been a public official, an
9 officer, or employee of any branch of the National Government
10 of the Federated States of Micronesia or any entity created by
11 said Government, within one year after his or her employment or
12 term has ceased, knowingly acts as agent or attorney for anyone
13 other than the branch of the National Government or its entity
14 in connection with any judicial or other matter involving a
15 specific party or parties in which the branch of the National
16 Government or its entity is a party or has a direct and
17 substantial interest, and in which he or she participated
18 personally and substantially as an officer or employee, shall
19 be fined not more than \$10,000, or imprisoned for not more than
20 two years, or both.

21 (2) Whoever, being a partner or officer or employee
22 of any branch of the National Government or its entity, acts as
23 agent or attorney of anyone other than the branch of National
24 Government or its entity in connection with any judicial or
25 other matter in which the branch of the National Government or

1 its entity is a party or has a direct and substantial interest
2 and in which such officer or employee participates or has
3 participated personally and substantially as a Government
4 employee, shall be fined not more than \$5,000, or imprisoned
5 for not more than one year, or both.

6 Section 1305. Acts affecting a personal financial
7 interest. Whoever, being an officer, employee, or public
8 official of any branch of the National Government, or of any
9 independent Government entity, or an allottee as contemplated
10 by the Financial Management Act of 1979, and who in any of
11 these capacities participates personally and substantially in a
12 judicial proceeding or other matter in which, to his or her
13 knowledge, he or she, his or her spouse, minor child, close
14 relatives, partner, organization in which he or she is serving
15 as officer, director, trustee, partner, or employee, or any
16 person or organization with whom he or she is negotiating or
17 has any arrangement concerning prospective employment, has a
18 financial interest, shall be fined not more than \$10,000, or
19 imprisoned for not more than two years, or both. For the
20 purposes of this section, "substantial participation" includes,
21 but is not limited to, the following: decision, approval,
22 disapproval, recommendation, rendering of advice, and
23 investigation. "Other matters" includes, but is not limited
24 to, the following: application or request for a ruling or other
25 determination, contract, claim, controversy, charge,

1 accusation, or arrest.

2 Section 1306. Offer to procure appointive public office.

3 Whoever pays or offers or promises any money or thing in value,
4 to any person, firm, or corporation in consideration of the use
5 or promise to use any influence to procure any appointive
6 office or place under the National Government, for any person,
7 shall be fined not more than \$1,000, or imprisoned for not more
8 than 1 year, or both.

9 Section 1307. Acceptance or solicitation to obtain

10 appointive public office. Whoever solicits or receives, either
11 as a political contribution or for personal gain, any money or
12 thing of value, in consideration of the promise of support or
13 use of influence in obtaining for any person, any appointive
14 officer or place under the National Government shall be fined
15 not more than \$1,000, or imprisoned not more than one year, or
16 both.

17 CHAPTER 14

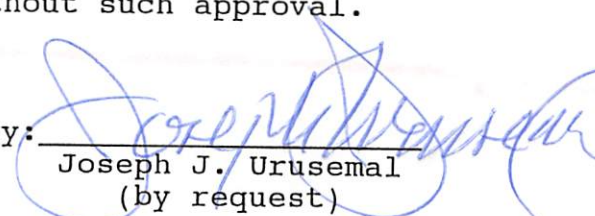
18 Parole

19 Section 1401. Authorization. Any trial justice of the
20 National Courts, or any duly appointed temporary justice
21 thereof, is hereby authorized to review a sentence he imposed
22 on a prisoner, after the prisoner has served one-third of his
23 or her sentence, and, in the case of any prisoner serving
24 a life sentence or a sentence of 30 or more years, after said
25 prisoner has served 10 years of his or her sentence, for the

1 purpose of determining eligibility for parole of said prisoner.
2 If the justice who sentenced a prisoner is not available to
3 review the sentence, the Chief Justice may designate another
4 justice for the review. The justice, in doing so, shall
5 request and consider the views of the prosecution, the prisoner
6 and his or her counsel, the victim or head of the victim's
7 family, and, when requested by the prosecution or the prisoner,
8 such community leaders as clergy and municipal and village
9 leaders. The justice shall base his determination upon the
10 prisoner's behavior in prison and any factors indicative of the
11 prisoner's chances for successful adaptation to community life
12 after release. The determination of the justice may be
13 appealed only on the grounds of abuse of discretion resulting
14 from the justice exceeding constraints imposed by this statute,
15 rules and pursuant thereto, or the Constitution of the
16 Federated States of Micronesia. The Chief Justice may make
17 rules to implement this section, and in these rules may provide
18 for a reasonable minimum waiting period between successive
19 reviews of the same sentence.

20 Section 1402. Effective date. This act shall become law
21 upon approval by the President of the Federated States of
22 Micronesia or upon its becoming law without such approval.

23
24 Date: 5/27/97

Introduced by: 

Joseph J. Urusemal
(by request)