



The President
Palikir, Pohnpei
Federated States of Micronesia

PRESIDENTIAL COMM. NO. 18-31
FSM CONGRESS

June 4, 2013

The Honorable Dohsis Halbert
Speaker
18th Congress Federated States of Micronesia
Palikir, Pohnpei FM 96941



Dear Speaker Halbert:

I transmit the following Congressional Act, which I have signed to become **Public Law No. 18-02:**

Congressional Act No. 18-03, "AN ACT TO FURTHER AMEND TITLE 11 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY CREATING A NEW CHAPTER 13 TO IMPLEMENT THE PROVISIONS OF THE CHEMICAL WEAPONS CONVENTION AT THE NATIONAL LEVEL, AND FOR OTHER PURPOSES."

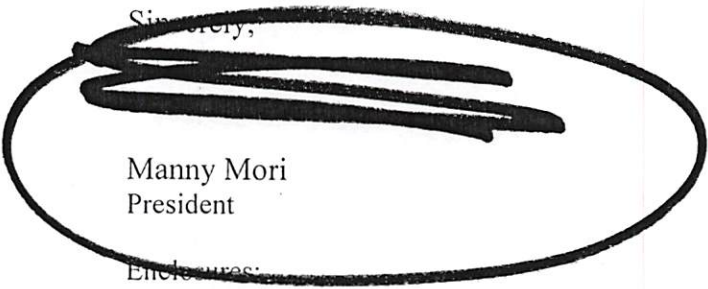
This Act constitutes a first attempt to comprehensively enact a national law that implements the legal obligations of the Federated States of Micronesia under the Chemical Weapons Convention.

The Act defines several acts constituting offenses relating to chemical weapons. It also provides for the mechanisms in which the various provisions in the Chemical Weapons Convention are implemented and carried out through among other steps the designation of a National Authority – the FSM Department of Justice.

I commend Congress for its initiative in passing this Act.

With warm personal regards, I remain,

Sincerely,


Manny Mori
President

Enclosures:

Xc: Chief Justice, FSM Supreme Court
Secretary, Department of Justice
Director, SBOC
Legislative Counsel, CFSM
Library, CFSM
FSM PIO



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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Office of the Chief Clerk

PRESIDENTIAL COMM. NO. 18-31
FSM CONGRESS

May 29, 2013

His Excellency Manny Mori
President
Federated States of Micronesia
Palikir, Pohnpei FM 96941



Dear President Mori:

I have the honor to transmit herewith Congressional Act No. 18-03, "AN ACT TO FURTHER AMEND TITLE 11 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY CREATING A NEW CHAPTER 13 TO IMPLEMENT THE PROVISIONS OF THE CHEMICAL WEAPONS CONVENTION AT THE NATIONAL LEVEL, AND FOR OTHER PURPOSES.", which was passed by the Eighteenth Congress of the Federated States of Micronesia, First Regular Session, 2013, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

A handwritten signature in black ink, which appears to read "Liwiana Ramon Ioanis", is written over a horizontal line.

Liwiana Ramon Ioanis
Chief Clerk, Congress of the
Federated States of Micronesia

Enclosures



PRESIDENTIAL COMM. NO. 18-31
FSM CONGRESS

EIGHTEENTH CONGRESS OF THE
FEDERATED STATES OF MICRONESIA
FIRST REGULAR SESSION
MAY 11 - 30, 2013

PUBLIC LAW No. 18-02

An Act

TO FURTHER AMEND TITLE 11 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY CREATING A NEW CHAPTER 13 TO IMPLEMENT THE PROVISIONS OF THE CHEMICAL WEAPONS CONVENTION AT THE NATIONAL LEVEL, AND FOR OTHER PURPOSES.

INTRODUCED BY SENATOR: WESLEY W. SIMINA

DATE: MAY 15, 2013

REFERRED TO: COMMITTEES ON JUDICIARY & GOVERNMENTAL OPERATIONS & EXTERNAL AFFAIRS

S.C.R. NO. 18-03 – MAY 23, 2013

S.C.R. NO. 18-04 – MAY 23, 2013

FIRST READING: MAY 24, 2013

SECOND READING: MAY 28, 2013

A handwritten signature in dark ink, appearing to read "Liwiana Ramon Ioanis", is written over a horizontal line.

Liwiana Ramon Ioanis
Chief Clerk, FSM Congress



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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Office of the Speaker

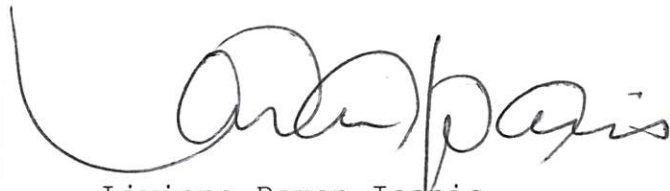
PRESIDENTIAL COMM. NO. 18-31
FSM CONGRESS

ACT NO. 18-03

(CONGRESSIONAL BILL NO. 18-01, C.D.1)

We hereby certify that on May 28 the foregoing act passed
Second and Final Reading of the Eighteenth Congress of the
Federated States of Micronesia, First Regular Session, 2013,
by a two-thirds vote of all the State delegations as
required under article IX, section 20, of the Constitution
of the Federated States of Micronesia.


Donsis Halbert
Speaker
Congress of the
Federated States of Micronesia


Liwiana Ramon Ioanis
Chief Clerk
Congress of the
Federated States of Micronesia

EIGHTEENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST REGULAR SESSION, 2013

CONGRESSIONAL BILL NO. 18-01, C.D.1

PUBLIC LAW No. 18-02

AN ACT

To further amend title 11 of the Code of the Federated States of Micronesia, as amended, by creating a new chapter 13 to implement the provisions of the Chemical Weapons Convention at the National level, and for other purposes.

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

1 Section 1. Title 11 of the Code of the Federated
2 States of Micronesia, as amended, is hereby further
3 amended by creating a new chapter 13 of title 11 to be
4 entitled "Chemical Weapons".

5 Section 2. Title 11 of the Code of the Federated
6 States of Micronesia, as amended, is hereby further
7 amended by inserting a new section 1301 under chapter 13
8 to read as follows:

9 "Section 1301. Short Title. This chapter is known
10 and may be cited as the "Federated States of
11 Micronesia Chemical Weapons Act".

12 Section 3. Title 11 of the Code of the Federated States of
13 Micronesia, as amended, is hereby further amended by inserting a
14 new section 1302 under chapter 13 to read as follows:

15 "Section 1302. Definitions. The following terms
16 shall have the following meanings for the purposes
17 of this chapter:

18 (1) 'Chemical Weapon' means the following,

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1 together or separately:

2 (a) Toxic chemicals and their precursors,
3 except where intended for non-prohibited purposes
4 and of types and in quantities consistent with such
5 purposes; and

6 (b) Munitions and devices specifically
7 designed to cause death or other harm through the
8 toxic properties of such toxic chemicals;

9 (c) Any equipment specifically designed
10 for use directly in connection with the employment of
11 such munitions and devices.

12 (2) 'Compliance Purpose' means:

13 (a) the purpose of determining whether the
14 provisions of this chapter and any regulations
15 promulgated thereunder have been or are being
16 complied with; and

17 (b) the purpose of determining whether the
18 conditions applicable to a license have been or are
19 being complied with by the holder of a license.

20 (3) 'Convention' means the Convention on the
21 Prohibition of the Development, Production,
22 Stockpiling and Use of Chemical Weapons and on Their
23 Destruction;

24 (4) 'Discrete organic chemical' means any
25 chemical belonging to the class of chemical compounds

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1 consisting of all compounds of carbon except for its
2 oxides, sulfides, and metal carbonates unless:

3 (a) it is an oligomer or polymer, whether
4 or not it contains phosphorus, sulphur, or fluorine;
5 or

6 (b) it contains only carbon and metal.

7 (5) 'Foreign state' means:

8 (a) any country other than the Federated
9 States of Micronesia; and

10 (b) every constituent part of such a
11 country, including a territory, dependency, or
12 protectorate, or political subdivision that
13 administers its own laws relating to international
14 cooperation.

15 (6) 'Illegally' means in breach of the
16 applicable national legislation adopted to enforce
17 the Convention.

18 (7) 'International inspection team' means an
19 inspector, inspection assistant, or group of
20 inspectors and inspection assistants, designated by
21 OPCW according to the procedures set out in the
22 Verification Annex. It also includes any
23 international observer permitted to observe an
24 inspection pursuant to the Convention.

25 (8) 'National Authority' means the national

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1 authority for the implementation of the Convention
2 mandated and established under section 1313 of this
3 chapter.

4 (9) 'National inspector' means any officer of
5 the National Police of the Federated States of
6 Micronesia, designated by the National Authority in
7 writing to be an inspector under this chapter.

8 (10) 'Non-prohibited purpose' means:

9 (a) industrial, agricultural, research,
10 medical, pharmaceutical, or other peaceful purposes;

11 (b) protective purposes, namely those
12 purposes directly related to protection against toxic
13 chemicals and chemical weapons;

14 (c) military purposes not connected with
15 the use of chemical weapons and not dependent on the
16 use of the toxic properties of chemicals as a method
17 of warfare; and

18 (d) law enforcement including domestic
19 riot control purposes.

20 (11) 'OPCW' means the Organization for the
21 Prohibition of Chemical Weapons.

22 (12) 'Person' means any natural or legal person.

23 (13) 'Precursor' means any chemical reactant that
24 takes part at any stage in the production by whatever
25 method of a toxic chemical, including any key

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2 mandated and established under section 1313 of this
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5 the National Police of the Federated States of
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7 writing to be an inspector under this chapter.

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12 purposes directly related to protection against toxic
13 chemicals and chemical weapons;

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15 the use of chemical weapons and not dependent on the
16 use of the toxic properties of chemicals as a method
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19 riot control purposes.

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21 Prohibition of Chemical Weapons.

22 (12) 'Person' means any natural or legal person.

23 (13) 'Precursor' means any chemical reactant that
24 takes part at any stage in the production by whatever
25 method of a toxic chemical, including any key

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1 component of a binary or multi-component chemical
2 system. Precursors that have been identified for the
3 application of verification measures by OPCW are
4 listed in the Schedules.

5 (14) 'Riot control agent' means any chemical not
6 listed in a schedule and that can produce rapidly in
7 human beings sensory irritation or disabling physical
8 effects that disappear within a short time following
9 termination of exposure.

10 (15) 'Schedule' means one of the three Schedules
11 of Chemicals annexed to the Convention.

12 (16) 'Secretary' means the Secretary of the
13 Department of Justice of the Federated States of
14 Micronesia.

15 (17) 'State Party' means any state for which the
16 Convention has entered into force.

17 (18) 'Toxic chemical' means any chemical,
18 regardless of its origin, method of production, or
19 place of production, which through its chemical
20 action on life processes can cause death, temporary
21 incapacitation, or permanent harm to human beings or
22 animals. Toxic chemicals which have been identified
23 for the application of verification measures by OPCW
24 are listed in the Schedules.

25 (19) 'Verification Annex' means the Annex on

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1 Implementation and Verification to the Convention.

2 (20) Terms and expressions used and not defined
3 in this Act shall, unless the context otherwise
4 requires, have the same meaning as in the
5 Convention."

6 Section 4. Title 11 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by inserting a
8 new section 1303 under chapter 13 to read as follows:

9 "Section 1303. Chemical weapon prohibitions.

10 (1) A person commits an offense who:

11 (a) develops, produces, otherwise acquires,
12 stockpiles, or retains a chemical weapon;

13 (b) transfers, directly or indirectly, a
14 chemical weapon to any other person;

15 (c) uses a chemical weapon; and

16 (d) engages in any military preparations to
17 use a chemical weapon.

18 (2) Any person who violates subsection (1) of
19 this section shall be punished upon conviction by
20 imprisonment for a term of not more than 20 years, or
21 a fine not more than \$100,000, or both.

22 (3) Any chemical weapon discovered in any place
23 under the jurisdiction of the Federated States of
24 Micronesia:

25 (a) shall be forfeited to the Federated

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1 States of Micronesia;

2 (b) may be seized by any law enforcement
3 officer of the Federated States of Micronesia; and

4 (c) shall be stored pending disposal, and
5 disposed of, in a manner determined by the National
6 Authority in accordance with the Convention."

7 Section 5. Title 11 of the Code of the Federated States of
8 Micronesia, as amended, is hereby further amended by inserting a
9 new section 1304 under chapter 13 to read as follows:

10 "Section 1304. Schedule 1 chemical prohibitions.

11 (1) A person commits an offense who knowingly:

12 (a) produces, acquires, retains, or uses
13 Schedule 1 chemicals outside the territory of the
14 Federated States of Micronesia, unless such
15 production, acquisition, retention, or use takes
16 place within the territory of another State Party;

17 (b) illegally produces, acquires, retains,
18 transfers, or uses Schedule 1 chemicals;

19 (c) transfers Schedule 1 chemicals outside
20 the territory of the Federated States of Micronesia
21 to a foreign state other than a State Party;

22 (d) illegally transfers Schedule 1
23 chemicals to another State Party; or

24 (e) re-transfers to a foreign state
25 Schedule 1 chemicals transferred to the Federated

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1 States of Micronesia.

2 (2) Any person who violates subsection (1) of
3 this section shall be punished upon conviction by
4 imprisonment for a term of not more than five years,
5 or with a fine not exceeding \$50,000, or both."

6 Section 6. Title 11 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by inserting a
8 new section 1305 under chapter 13 to read as follows:

9 "Section 1305. Schedule 2 chemical prohibitions.

10 (1) A person commits an offense who knowingly:

11 (a) illegally transfers to or receives
12 Schedule 2 chemicals from a foreign state other than
13 a State Party; or

14 (b) illegally produces, processes,
15 consumes, imports, or exports Schedule 2 chemicals.

16 (2) Any person who violates subsection (1) of
17 this section shall be punished upon conviction by
18 imprisonment for a term of not more than three
19 years, or with a fine not more than \$25,000, or
20 both."

21 Section 7. Title 11 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by inserting a
23 new section 1306 under chapter 13 to read as follows:

24 "Section 1306. Schedule 3 chemical prohibitions.

25 (1) A person commits an offense who knowingly:

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1 (a) illegally transfers Schedule 3
2 chemicals to a foreign state, other than a State
3 Party; or

4 (b) produces more than 30 tonnes of a
5 Schedule 3 chemical, or imports or exports a
6 Schedule 3 chemical, unless under and in accordance
7 with the conditions of a license granted pursuant to
8 section 1310 of this chapter.

9 (2) Any person who violates this section shall
10 be punished upon conviction by imprisonment for a
11 term of not more than three years, or with a fine
12 not exceeding \$25,000, or both."

13 Section 8. Title 11 of the Code of the Federated States of
14 Micronesia, as amended, is hereby further amended by inserting a
15 new section 1307 under chapter 13 to read as follows:

16 "Section 1307. Extraterritorial application. This
17 chapter shall extend:

18 (a) to acts or omissions prohibited under this
19 chapter that are committed by a citizen or national
20 of the Federated States of Micronesia outside the
21 Federated States of Micronesia; and

22 (b) to acts or omissions prohibited by this
23 chapter that are committed on board sea vessels or
24 aircraft registered in, belonging to, or in the
25 possession of the Federated States of Micronesia."

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1 Section 9. Title 11 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by inserting a
3 new section 1308 under chapter 13 to read as follows:

4 "Section 1308. Legal assistance.

5 (1) The Secretary may collaborate with the
6 authorities of foreign states and international
7 organizations and entities, and coordinate with such
8 authorities to the extent required for the
9 implementation of this chapter or of equivalent
10 foreign laws, subject to the authorities of foreign
11 states or international organizations or entities
12 being bound to official secrecy. The Secretary
13 shall provide notice of such collaboration to the
14 Secretary of Foreign Affairs of the Federated States
15 of Micronesia.

16 (2) The Secretary may request the authorities
17 of foreign states and international organizations or
18 entities to provide relevant data or information
19 pursuant to subsection (1). The Secretary is
20 authorized to receive data as shall be specified in
21 regulations.

22 (3) If a foreign state has entered into an
23 appropriate reciprocity agreement with the Federated
24 States of Micronesia, the Secretary may provide, on
25 his or her own initiative or on request, the data or

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1 information described in subsection (2) to that
2 foreign state, provided that the authorities of that
3 state provide assurances that such data or
4 information shall:

5 (a) only be used for purposes consistent
6 with this chapter; and

7 (b) only be used in criminal proceedings
8 on the condition that they are obtained in accordance
9 with those provisions governing international
10 judicial cooperation.

11 (4) The Secretary may provide the data or
12 information described in subsection (2) to
13 international organizations or entities if the
14 conditions set forth in subsection (3) are fulfilled,
15 in which case the requirement for a reciprocity
16 agreement is waived."

17 Section 10. Title 11 of the Code of the Federated States
18 of Micronesia, as amended, is hereby further amended by inserting
19 a new section 1309 under chapter 13 to read as follows:

20 "Section 1309. Mandatory reporting.

21 (1) Any powers under this section may be
22 exercised only to ensure that:

23 (a) toxic chemicals and their precursors
24 are only developed, produced, otherwise acquired,
25 retained, transferred, or used for non-prohibited

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1 purposes;

2 (b) the National Authority has knowledge of
3 dealings with scheduled chemicals that facilitates
4 the making of the Federated States of Micronesia's
5 annual declarations to OCPW under the Convention; and

6 (c) the Federated States of Micronesia is
7 otherwise able to fulfill its obligations under the
8 Convention.

9 (2) Any person who produces, otherwise
10 acquires, processes, consumes, retains, transfers, or
11 uses any discrete organic chemical or any chemical
12 listed in the Schedules, shall submit declarations
13 and keep records in accordance with regulations
14 pursuant to this chapter.

15 (3) Any person reasonably believed by the
16 National Authority to possess documents or other
17 information relevant to the implementation of the
18 Convention or enforcement of this chapter, shall on
19 written notice provide such information he or she
20 possesses to the National Authority within a
21 reasonable period.

22 (4) A person commits an offense who
23 intentionally refuses or fails to comply with
24 subsection (2) or (3) of this section or who, in any
25 document prepared pursuant thereto, knowingly makes a

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1 false or misleading statement or omission regarding
2 any material matter, and shall be punished upon
3 conviction by imprisonment for a term of not more
4 than three years, or with a fine not exceeding
5 \$25,000, or both."

6 Section 11. Title 11 of the Code of the Federated States
7 of Micronesia, as amended, is hereby further amended by inserting
8 a new section 1310 under chapter 13 to read as follows:

9 "Section 1310. Licensing of scheduled chemicals.

10 (1) No person shall produce, process, acquire,
11 import, export, retain, transfer, or use a Schedule 1
12 chemical except under, and in accordance with the
13 conditions of, a license granted by the National
14 Authority pursuant to the regulations under this
15 chapter.

16 (2) No person shall export a Schedule 2 or
17 Schedule 3 chemical to a foreign state, other than a
18 State Party, except under and in accordance with the
19 conditions of a license granted by the National
20 Authority pursuant to the regulations under this
21 chapter."

22 Section 12. Title 11 of the Code of the Federated States
23 of Micronesia, as amended, is hereby further amended by inserting
24 a new section 1311 under chapter 13 to read as follows:

25 "Section 1311. Inspections.

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1 (1) The purpose of this section is to
2 facilitate inspections by national inspectors for a
3 compliance purpose and inspections by an
4 international inspection team in accordance with the
5 Convention.

6 (2) Either with the consent of the person in
7 control of any premises, or under a warrant issued
8 pursuant to chapter 3 of title 12 of the Code of the
9 Federated States of Micronesia, a national inspector
10 may enter the premises and exercise, inter alia, the
11 following inspection powers for a compliance
12 purpose:

13 (a) search any premises;

14 (b) take samples of a matter or thing;

15 (c) examine relevant documents and make
16 copies thereof;

17 (d) interview any person working on the
18 premises, including making recordings of such
19 interviews;

20 (e) have operated any equipment, including
21 electronic equipment, located at the premises; and

22 (f) do anything necessary or expedient for
23 the carrying out of any of the acts referred to in
24 this subsection, including restricting or
25 prohibiting the access of persons and vehicles to or

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1 from the premises.

2 (3) International inspections.

3 (a) Either with the consent of the person
4 in control of any premises, or under a warrant
5 issued pursuant to chapter 3 of title 12 of the Code
6 of the Federated States of Micronesia, an
7 international inspection team may enter the premises
8 in order to carry out an international inspection;

9 (b) An international inspection team shall
10 have all powers as laid down in the Convention; and

11 (c) The point of entry for an international
12 inspection team shall be Pohnpei International
13 Airport unless otherwise designated by the National
14 Authority.

15 (4) Inspected persons and their personnel have
16 the duty to facilitate national and international
17 inspections and cooperate during such inspections.

18 (5) The National Authority may promulgate
19 regulations regarding the conduct of inspections by
20 national inspectors and international inspection
21 teams, provided that any regulations with respect to
22 international inspection teams are not inconsistent
23 with the Convention or Verification Annex.

24 (6) Obstruction of verification measures. A
25 person commits an offense who intentionally

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1 obstructs any measure of verification of compliance
2 with this chapter and the Convention, that is taken
3 in accordance with this section and regulations
4 thereunder, and shall be punished upon conviction by
5 imprisonment for a term of not more than three
6 years, or with a fine not exceeding \$25,000, or
7 both."

8 Section 13. Title 11 of the Code of the Federated States
9 of Micronesia, as amended, is hereby further amended by inserting
10 a new section 1312 under chapter 13 to read as follows:

11 "Section 1312. Protection of confidential
12 information.

13 (1) Any information obtained pursuant to this
14 chapter or the Convention shall be kept
15 confidential.

16 (2) Such proprietary information may be
17 disclosed only with the consent of the person whose
18 affairs it relates, or for the purpose of:

19 (a) enabling the Federated States of
20 Micronesia to fulfill its obligations under the
21 Convention;

22 (b) enforcing this chapter; or

23 (c) resolving an emergency involving public
24 safety.

25 (3) Any person who fails to comply with this

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1 section shall be fined not more than \$10,000."

2 Section 14. Title 11 of the Code of the Federated States
3 of Micronesia, as amended, is hereby further amended by inserting
4 a new section 1313 under chapter 13 to read as follows:

5 "Section 1313. National Authority.

6 (1) The Department of Justice of the Federated
7 States of Micronesia shall be the National Authority
8 for the purposes of implementing the provisions of
9 the Convention and this chapter.

10 (2) The President and the Congress shall direct
11 or assign to the National Authority such powers and
12 budget as may be necessary to implement and enforce
13 the Convention and the national implementing
14 legislation. Inter alia, the National Authority
15 shall have regulatory power as required for
16 effective implementation of this chapter and the
17 Convention."

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PUBLIC LAW No. 18-02

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

June 14, 2013

Manny Mori
President
Federated States of Micronesia