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A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by further amending section 222, as amended by Public Laws Nos. 9-139 and 10-10, by amending section 227, as established by Public Law No. 9-139, by amending section 235, as established by Public Law No. 9-139, to change the exemptions for imports, and for other purposes.

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

1 Section 1. Section 222 of title 54 of the Code of the Federated States
2 of Micronesia, as amended by Public Laws Nos. 9-139 and 10-10, is hereby
3 further amended to read as follows:

4 "Section 222. Exemptions.

5 (1) Damaged, pillaged or faulty goods. Upon receipt of a
6 written request within 28 days of the goods' release from
7 Customs control, the Secretary may authorize a refund of the
8 whole or part of the duty paid, where any of the following
9 conditions exists:

10 (a) Goods have been damaged, pillaged, lost or
11 destroyed during the voyage;

12 (b) Goods have, while subject to the control of
13 Customs, been damaged, pillaged, lost or destroyed; or

14 (c) The Commissioner is satisfied that, owing to a
15 fault or defect in any goods, the importer has received a
16 reduction or a refund, in whole or part, of the price paid or to be
17 paid for the goods.

18 (2) Imported goods subsequently exported. Any person
19 who imports goods into the FSM, and then exports them to a
20 buyer who is outside both the exclusive economic zone and the
21 territorial limits of the FSM, is entitled to a refund of any import
22 duty actually paid on such goods, upon application to and
23 approval by the Secretary. For purposes of this subsection, raw
24 materials or ingredients which are worked into or otherwise
25 become part of a different or more finished product are deemed

1 exported when that product is exported.

2 (3) Per trip abroad. Each time an individual person enters
3 or returns to the FSM from a foreign jurisdiction, he or she is
4 entitled to bring into the FSM the following goods, duty free,
5 provided that such goods are for that person's own personal use
6 or consumption and not for resale or exchange, and provided
7 further that such person is permitted by applicable State law to
8 possess, use, and consume such goods:

- 9 (a) up to 200 cigarettes;
- 10 (b) up to one pound of tobacco or twenty cigars;
- 11 (c) up to 52 fluid ounces or 1,500 milliliters of distilled
12 alcoholic beverages; and
- 13 (d) up to ~~two~~ five hundred dollars ~~(\$200)~~ (\$500)
14 worth of goods other than tobacco products, beer and malt
15 beverages, distilled alcoholic beverages, and wine.

16 (4) Visitors' personal effects. A visitor to the FSM may
17 import bona fide personal effects into the FSM duty free, provided
18 the goods are for the visitor's own personal use and will be taken
19 with the visitor when he or she leaves the country.

20 (5) Returning goods. Goods produced or properly
21 entered in the FSM which are subsequently removed from the FSM
22 may be returned to the FSM duty free. ~~The burden shall be on~~
23 ~~the owner of the goods to establish that the goods~~
24 ~~were either produced in the FSM or previously and~~
25 ~~properly entered.~~

1 (6) Foreign aid projects. An international organization,
 2 foreign contractor, or other foreign entity may import goods into
 3 the FSM duty free in connection with the performance of services
 4 or other conduct of business in furtherance of a foreign aid
 5 agreement entered into by the FSM, the terms of which require
 6 that such imports shall not be subject to taxation by the FSM;
 7 provided that if and when such goods are subsequently sold in the
 8 FSM, import duty shall be due based on the sale amount. The
 9 duty, together with penalties and interest, shall be the joint and
 10 several personal liability of the importer and the purchaser and
 11 shall be secured by first liens on the goods and on the importer's
 12 property as hereinafter provided.

13 (7) Personal Gifts and effects. Goods claimed as gifts, or
 14 personal effects valued at ~~one hundred dollars (\$100)~~ five
 15 hundred (\$500) or less, and received by persons within the FSM
 16 from sources outside the FSM shall not be subject to import duty
 17 provided the goods are for the recipient's own personal use or
 18 consumption and not for resale or exchange. ~~There shall be a~~
 19 ~~reputable presumption that goods received from~~
 20 ~~outside the FSM are not gifts,~~

21 (8) Fishing vessels basing in the Federated States of
 22 Micronesia under a valid permit or license issued pursuant to title
 23 24 of the Code of the Federated States of Micronesia shall not be
 24 subject to the import duty on either the vessel or equipment
 25 installed in the vessel.

1 (9) Government Imports. Goods imported by the
2 National, State or local levels of government of the Federated
3 States of Micronesia, other than for resale, shall be exempt from
4 the import duty. For purposes of this exemption, the term
5 'government' shall not include public corporations, authorities or
6 other entities established by law to operate as independent
7 enterprises. The exemption by law to operate as independent
8 enterprises. The exemption created by this subsection shall expire
9 on September 30, 1998, unless extended by law."

10 Section 2. Section 227 of title 54 of the Code of the Federated States
11 of Micronesia, as established by Public Law No. 9-139, is hereby amended to
12 read as follows:

13 "Section 227. Civil penalties and interest. The following penalties
14 and interest shall be separate from and in addition to the criminal
15 penalties imposed elsewhere in this chapter. It is the duty of a
16 commercial importer ~~an importer~~ to know and declare, fully and
17 accurately, the types, quantities, and values of all dutiable goods
18 which he or she imports, ~~and civil penalties and interest~~
19 ~~may not be avoided through lack of knowledge, however~~
20 ~~innocent such lack of knowledge may be.~~

21 (1) Understatement. If the amount of duty due on goods
22 is understated when reasonably calculated on the basis of the
23 documentary and other information provided to Customs officers,
24 there shall be added to the amount of the understatement a
25 penalty equal to the following percentage of the amount of the

1 understatement:

2 (a) 100% if the understatement is discovered by
3 Customs officials before release of the goods;

4 (b) 100% if the understatement is discovered and
5 reported to Customs by an importer or owner and the full and
6 correct duty, including penalties and interest, is paid within 10
7 days after release of the goods; or

8 (c) 200% otherwise.

9 (d) For goods of a personal nature, there shall be no
10 penalty for understatement unless it can be shown that the
11 recipient of said goods knew or should have known that the
12 sender had understated the value of the goods.

13 (2) Late payment. Unless goods are entered and the duty
14 thereon is paid within the time limit for entry established in section
15 238 of this chapter, there shall be added to the amount of duty
16 due 5% of the duty if the failure is for not more than one month,
17 with an additional 5% for each additional month or fraction
18 thereof during which such failure continues, not to exceed 100% in
19 the aggregate.

20 (3) Interest. Any duty which is not paid before the earlier
21 of the time limit for entry or release of the goods shall thereafter
22 bear interest at the rate of 18% per annum until paid."

23 Section 3. Section 235 of title 54 of the Code of the Federated States
24 of Micronesia, as established by Public Law No. 9-139, is hereby amended to
25 read as follows:

1 "Section 235. Right of examination. A Customs officer shall have
2 the right to examine all goods subject to Customs control.

3 (1) Examination of goods. In carrying out the examination
4 of goods:

5 (a) Any Customs officer may open packages and
6 examine, weigh, mark and seal any goods. If a package to be
7 examined to determine the duty to be applied thereto arrives in
8 the FSM as mail, then the recipient of said package shall be
9 afforded the opportunity to be present during the examination.

10 (b) Where, shipment has been removed to the
11 owner's premises for examination, Customs officers shall be
12 granted access to the shipment for the purposes of this section.
13 The expenses of the examination, including the cost of removal to
14 the place of examination, shall be borne by the owner.

15 (2) Search of residences, buildings and premises. Any
16 officer, with legally sufficient grounds to believe goods that may
17 be forfeited pursuant to section 253 of this chapter are present
18 and, pursuant to a search warrant when required by law, may
19 enter any residence, building or premise to search for and seize
20 such goods.

21 (3) Search of persons.

22 (a) Where a Customs officer on reasonable grounds
23 believes a person who has just landed from or is about to board
24 a vessel or aircraft has dutiable or prohibited goods on or about
25 his or her person, the officer may, subject to the following

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1 conditions, search and detain that person and may use
2 reasonable force to carry out the search.


3 (b) No search shall be undertaken unless another
4 officer or person is present as a witness.

5 (c) Searches shall be undertaken by an officer or
6 person of the same gender unless there are reasonable grounds
7 for believing the person being searched may resist the search or,
8 despite diligent efforts to procure an officer or person of the
9 same gender, no such person is available to undertake the search.

10 (d) Body cavity searches shall be carried out by a
11 qualified medical officer."

12 Section 4. This act shall become law upon approval by the President of
13 the Federated States of Micronesia or upon its becoming law without such
14 approval.

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16 Date: 2-10-98

Introduced by: 
Resio S. Moses

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