A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by amending sections 233, 238 and 264 to change and clarify certain customs procedures and penalties, and for other purposes.

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

Section 1. Section 233 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 233. Cooperation with other National and State authorities. The Secretary is authorized to enter into Memorandums of Understanding with other National and State authorities to allow the Division of Customs to provide assistance in the enforcement of any National or State law.

(1) Taxation. The Division of Customs is authorized to exchange information with other National or State authorities to ensure the proper and correct collection of taxes.

(2) Statistics.

(a) The Division of Customs is responsible for the collection of statistical data on the importation and exportation of goods and providing this information to the Division of Statistics."
(b) The Secretary is authorized to introduce classification schedules and associated computer software for use by Customs officers to assist with this function.

(3) Quarantine. The Secretary may accept an appointment made by the Secretary of the FSM Department of Resources and Development, regarding the empowering of Customs officers to perform agriculture quarantine inspections, pursuant to section 407 of title 22 of this Code or any successor provision.

(4) Food safety. The Secretary may accept an appointment by the Secretary of the FSM Department of Health Services regarding the empowering of Customs officers to perform food safety inspections pursuant to [section 13 of Public Law No. 7-116, the National Food Safety Act] section 1013 of title 41 of this Code or any successor provision.

(5) Immigration. The Secretary may accept an appointment made by the FSM Office of the Attorney General regarding the empowering of Customs officers to perform immigration inspections pursuant to section 108 of title 50 of this Code or any successor provision.

(6) Community, social, environmental and antiquities protection. The Division of Customs will monitor imports and exports on behalf of other National and
State agencies to ensure compliance with legislation and international agreements, ratified by the FSM, dealing with community, social, environmental and antiquities protection."

Section 2. Section 238 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 238. Importation of goods.

(1) Arrival procedures. On arrival of a vessel or an aircraft at any port in the FSM the master or pilot of such vessel or aircraft shall deliver to the Customs officer:

(a) Copies of the manifest; and

(b) All bills of lading and air waybills for cargo to be discharged at that particular port.

(2) Time limit for entry. Each consignee of imported goods shall make entry of those goods at the local Customs office within 15 days after departure of the importing vessel or aircraft, exclusive of Sundays and FSM national holidays. To enter goods means to notify Customs officials of the arrival of those goods and to comply with all Customs requirements in connection therewith.

(3) Verification of entry:

(a) Entry shall be verified by the presentation
to Customs by the consignee, or authorized agent of the consignee, of a completed and signed entry form together with a non-negotiable bill of lading or an air waybill and vendor’s invoices for the imported goods.

(b) The consignee shall answer any questions relating to the goods and, upon request of a Customs officer, furnish any other documentation deemed necessary for:

(i) a proper assessment of the duties on the merchandise;

(ii) the proper collection of accurate statistics, including any required classification of imported items, by Customs officers with respect to the merchandise being imported; and

(iii) a determination of whether any other applicable legal requirements have been met.

(c) The approved entry form shall set forth such facts in regard to the importation as the Secretary may reasonably require for inspection, appraisement, and payment of import taxes [and for the collection of statistics] but shall not require the consignee to classify imported items.

(4) Releasing of goods. Customs personnel shall, on satisfactory examination of the above documents, and payment of the correct duty, stamp and release the
imported goods.

(5) Personal Baggage. Goods that are the personal baggage of passengers in a vessel or aircraft and are not taxable goods may be released without entry.

(6) Importation defined:

(a) Goods shall, except where otherwise expressly provided, be deemed to be imported into the FSM as soon as and in any manner, whether lawfully or unlawfully, they are brought or come within the territorial limits of the FSM from any country outside those limits. For purposes of this chapter, the territorial limits of the FSM include the territorial sea, as defined in chapter 1 of title 18 of this Code.

(b) Goods whose destination is outside the territorial limits of the FSM, including ship’s stores and aircraft stores, shall not be deemed to be imported unless, while they are within those limits, they are removed from the vessel or aircraft in which they arrived there.

(c) Imported goods intended for use, sale, or other disposition within the territorial sea or internal waters of the FSM must first be brought to a port of call and cleared through Customs.

(d) Vessels or aircraft entering into the territorial limits of the FSM solely in transit or for
loading, unloading, transshipping, provisioning, refueling, other resupply, equipping, maintenance, repair, overhaul, and other like purposes shall not be deemed to be goods imported into the FSM unless such vessels or aircraft thereafter become based in the FSM.

(7) Import tax rate. Dutiable goods shall be liable to the duty rates in force at the time when the aircraft or vessel first arrives at a designated port of entry within the FSM.

(8) Clearing goods prior to arrival. Each consignee of imported goods, may, provided he or she has the required documentation, clear those goods prior to arrival of the vessel or aircraft. This does not waive or limit the authority of Customs to examine those goods on arrival.

(9) Exempt goods. All tax exempt goods shall be identified and cleared on the official clearance form.

(10) Abandoned goods:

(a) Goods remaining unentered three months after the departure of the importing vessel or aircraft shall be treated as goods abandoned to the National Government and may be sold by public auction.

(b) Proceeds of such sale shall be deposited in the General Fund and used first to pay expenses of sale, duties, storage charges, and any lien for freight
changes, in said order. Surplus proceeds may be paid to
the owner upon proof of his or her interest therein."

Section 3. Section 264 of title 54 of the Code of the
Federated States of Micronesia is hereby amended to read as
follows:

"Section 264. Miscellaneous offenses.

(1) A person commits a National offense if that
person:

(a) Evades any duty that is payable;

(b) Willfully prepares, passes, alters or
presents a document purporting to be a genuine invoice
that is not in fact a genuine invoice;

(c) Willfully makes, in a declaration or document
produced to a Customs officer, a statement that is
untrue in any particular;

(d) Willfully produces or delivers to a Customs
officer a declaration or document \textit{known to contain a
material omission or to contain[ing]} a statement that is
\textit{known to be} untrue in any particular;

(e) Willfully misleads any Customs officer in any
particular likely to affect the discharge of the
officer’s duty; or

(f) Refuses or fails to answer questions to the
best of that person’s knowledge and belief, or to
produce all documents relating to the concerned subject.
(2) **Penalty.** A person convicted under this section shall be subject to a fine not exceeding $1,000, or imprisonment of not more than 1 year, or both."

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

Date: 5/27/03

Introduced by: /s/ Isaac V. Figir

Isaac V. Figir