A BILL FOR AN ACT

To further amend title 24 of the Code of the Federated States of Micronesia, as amended, by repealing Subsection 801(7) and renumbering Subsections 801(8) and 801(9), by amending Sections 901 and 902 thereof for the purpose of ceasing the distribution of 50% of the proceeds from fishing penalties to a State involved and by depositing 50% of the proceeds assessed and collected from fishing penalties under this chapter into the Fisheries Observer Revolving Fund; and for other purposes.

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

1. Section 1. Subsection 801(7) of Chapter 9 of Title 24 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-34, is hereby repealed in its entirety.

2. Section 2. Subsection 801(8) of Chapter 9 of Title 24 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-34, is hereby amended, by renumbering it as Subsection 801(7).

3. Section 3. Subsection 801(9) of Chapter of Title 24 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-34, is hereby amended, by renumbering it as Subsection 801(8).

4. Section 4. Section 901 of Chapter 9 of Title 24 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-34, is hereby amended to read as follows:

"Section 901. Civil Penalties.

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

(2) Each day of a continuing violation shall constitute a separate offense, for which a separate penalty shall be assessed.

(3) In determining the amount of the penalty, the Supreme Court of the Federated States of Micronesia shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, whether there are multiple violations which together constitute a serious disregard of conservation and management measures and such other matters as justice may require.

(4) The Secretary is authorized to initiate all proceedings under this section and to recover the amount assessed as a civil penalty.

(5) The proceeds of civil penalties shall be deposited into the General Fund of the Federated States of Micronesia; PROVIDED THAT fifty percent of the proceeds from civil penalties shall be deposited into the Fisheries Observer Revolving Fund [then be distributed to any FSM State which may be affected by the situation which has given rise to this action]."
of the Federated States of Micronesia, as enacted by Public Law No. 12-34, is hereby amended to read as follows:

"Section 902. Criminal penalties."

(1) Any person who commits an act prohibited by this subtitle is subject to criminal prosecution.

(2) The Captain and any crew member of a fishing vessel, who is subject to criminal charges solely for violations of this subtitle occurring outside the territorial waters but within the exclusive economic zone of the Federated States of Micronesia shall be released upon posting of reasonable bond or other surety.

(3) Unless otherwise provided, all maximum penalties described in this subtitle shall be applicable in both civil and criminal proceedings in respect to the same prohibited acts. In addition to any fine, any criminal violation shall also be punishable by imprisonment for not more than ten (10) years, if in the commission of any such offense the person:

(a) uses a dangerous weapon;

(b) engages in conduct that causes bodily injury to any authorized officer or authorized observer or other officer authorized to enforce the provisions of this subtitle; or

(c) threatens any such person with bodily injury.
(4) Each day of a continuing violation shall be considered a separate offense, for which a separate penalty shall be assessed.

(5) Fines shall be deposited into the General Fund of the Federated States of Micronesia; PROVIDED THAT [\( \frac{1}{2} \) fifty percent of the proceeds from criminal fines shall be deposited into the Fisheries Observer Revolving Fund [distributed to any FSM State(s) which may be affected by the situation which has given rise to the action].

(6) Criminal penalties shall be imposed without regard to whether the person committing the prohibited act is also subject to civil proceedings for the same violation, and without regard to the amount of any civil penalty imposed or which may be imposed in such civil proceedings.

(7) Nothing in this subtitle shall be interpreted to allow the abatement of a criminal prosecution upon the late satisfaction of a civil judgment or payment of a fine or other determination pursuant to administrative proceedings under this subtitle."

Section 6. 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: 8/26/09

Introduced by: /s/ Peter Sitan

Peter Sitan