A BILL FOR AN ACT


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

Section 1. Section 301 of title 38 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 301. Definitions. For the purpose of this chapter:

(1) 'Person' means any individual, company, corporation, association, or other business activity, which, except as provided in section 303 of this chapter, must be wholly owned by citizens of the Trust Territory of the Federated States of Micronesia.

(2) 'Ports of entry' means the official ports specified under title 18, sections 202 and 203 of this code.

(3) 'Taxes' means excise, tariff, and other taxes levied on the import, export, and sale of merchandise pursuant to the laws of the Trust Territory of the Federated States of Micronesia, but does not include gross revenue taxes."

Section 2. Section 302 of title 38 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 302. Establishment; Operation and maintenance; Transfer; Fees generally. The President is hereby authorized, subject to the conditions and restrictions of this chapter, to grant to any person the privilege of establishing, operating, and maintaining a duty-free retail concession in or adjacent to any port of entry under the jurisdiction of the Trust Territory of the Federated States of Micronesia. He may lease, rent, or let
any public land or building or any part thereof or any
interest therein, to any person to establish a duty-free
retail concession under terms and conditions which, among
others determined by him to be reasonable and proper, shall
include the following:

(1) Only one duty-free retail concession shall be
permitted at each port of entry.

(2) Each duty-free retail concession shall be
advertised for public auction or public bidding and be
granted to that financially responsible person of good
moral character and reputable experience who, in the sole
opinion of the High Commander, makes the best
offer or bid. A noncitizen who wishes to bid for a
duty-free retail concession pursuant to section 303 of this
chapter shall comply with all applicable foreign-investment laws.

(3) Bids or offers shall be accepted only in
conformance with precise terms and conditions uniform in
all States, which terms and
conditions, among others, shall include hours of business,
standards of operation, reasonableness of prices charged,
and appropriate record keeping, cash handling, and audit
procedures all in accordance with sound accounting
principles.

(4) The term of any duty-free concession shall not
exceed five years except as provided in section 303 hereof, and regardless of term shall not be extended without public auction or bids.

(5) The concession privilege granted hereunder may not be sold or assigned without the prior written approval of the High President of the financial responsibility, moral character, and reputable experience of the proposed purchaser or assignee. Any such approval if given shall be without charge or levy upon the seller, purchaser, or assignee as a condition to such approval. A concession privilege may not be sold or assigned to a noncitizen who has not first obtained a foreign investor's business permit in the State in which the duty-free retail concession is located.

(6) The minimum concession fee shall be seven percent (7%) of gross sales of each duty-free retail concession. The percentage fee shall be paid within fifteen (15) days after the last day of each calendar month. In addition to the concession fee, there shall be a business privilege fee of three percent (3%) of the gross sales of each duty-free retail concession which shall be paid within fifteen (15) days after the last day of each calendar month and be deposited in and be a part of the General Fund of the Congress of the Federated States of Micronesia. The business privilege fee may not be increased during the
term of a concession privilege granted by the [High

President]."

Section 3. Section 303 of title 38 of the Code of the Federated
States of Micronesia is hereby amended to read as follows:

"Section 303. Grant on prepaid concession-fee basis.

At any port of entry where the [High President
determines prepayment of the duty-free concession fee to be
desirable or necessary to supplement available public funds
for purposes of constructing port of entry facilities,
including space for said concession, he may require offers
or bids on the basis of a prepaid minimum concession fee.
In such instances noncitizens may bid for the concession
privilege, and the [High President may, with
respect to that person who submits the best offer or bid of
a prepaid concession fee in excess of $1,000,000.00:

(1) grant a concession term not in excess of fifteen

years; and

(2) waive the imposition of gross revenue taxes and
district and municipal license and permit fees."

Section 4. Section 304 of title 38 of the Code of the Federated
States of Micronesia is hereby amended to read as follows:

"Section 304. Disposition of concession fees. All
concession fees paid by each duty-free retail
concession shall, upon receipt, be deposited into and be a
part of the General Fund of that administrative district in which the concession is located; provided, that in those States in which separate authorities or agencies operate port of entry facilities said concession fees may by determination of the President be deposited into and become a part of the funds of such authority or agency operating said port of entry facilities."

Section 5. Section 305 of title 38 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 305. License fee. There shall be paid to the Federated States of Micronesia Government the sum of $100.00 each year by any person who shall be granted a privilege to establish, operate, and maintain a duty-free retail concession in any port of entry of the Federated States of Micronesia. Such license fee shall be in addition to any other sums of money which shall be payable to the Government for concession fees, lease of land, or other facilities or privileges."

Section 6. Section 306 of title 38 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 306. Importation of goods for resale at duty-free stores. All foreign merchandise of every description, except such as is prohibited by law, may be imported into the Federated States of Micronesia for
resale at and from the duty-free retail concessions."

Section 7. Section 307 of title 38 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 307. Tax exemptions and refunds. Any person who operates a duty-free retail concession shall be eligible for refunds of all taxes paid by him upon merchandise sold at and from the duty-free retail concession and such merchandise shall be exempt from all sales taxes."

Section 8. Section 308 of title 38 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 308. Consumer purchases from duty-free shops -

Limitations,

(1) Except as hereinafter provided, all sales of merchandise from such duty-free retail concessions shall be restricted to the crew and passengers of any common carrier engaged in foreign commerce, whether ocean-going or air, for consumption or use outside the limits of the Federated States of Micronesia by said crew or passengers.

(2) Persons traveling between ports of entry within the Federated States of Micronesia may reimport not more than two-fifths of a wine gallon of distilled alcoholic beverages and three cartons of cigarettes into a Federated States of Micronesia port of entry which were purchased at a
duty-free retail concession at a different Federated States of Micronesia port of entry."

Section 9. Section 309 of title 38 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 309. Manner of delivery of goods. Any and all merchandise sold pursuant to this chapter shall be delivered to the purchaser at a point or points and in a manner whereby said merchandise may not reenter the Federated States of Micronesia without customs examination and control."

Section 10. Section 310 of title 38 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 310. Regulations. The President shall promulgate such rules and regulations as he shall deem necessary to carry out the provisions and intent of this chapter."

Section 11. 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: 5-16-90

Introduced by: Dohsis Halbert