AN ACT

To further amend title 21 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-7, 5-104, and 7-37, by adding a new section 109 for the purpose of authorizing the Department of Transportation and Communication to regulate radio communications in the Federated States of Micronesia by authorizing the impoundment of equipment not in compliance with the law, and for other purposes.

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

Section 1. Title 21 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 109 to read as follows:

"Section 109. Impoundment of unauthorized equipment.

(1) No person shall possess or use any radio transmission equipment which is not in compliance with this chapter or the regulations promulgated thereto.

(2) The Secretary of the Department of Transportation and Communication or his designee, on reasonable belief, may declare any radio transmission equipment as not in compliance with this chapter or the regulations promulgated thereto. Upon declaring radio equipment as not in compliance, the Secretary or his designee shall give a written notice to the owner or possessor of the noncomplying equipment and therein state the factors regarding why the equipment is not in compliance. The notice shall also include the provisions of this section.

(3) In the notice the Secretary or his designee may prohibit further use of the noncomplying equipment, may state conditions regarding continued use of the noncomplying equipment, and may direct the owner or possessor to have the equipment brought into compliance within 30 or more days.
The owner or possessor of radio equipment designated by the Secretary or his designee as not in compliance may, pursuant to section 108 of title 17 of this code, petition the Secretary for a hearing on and reconsideration of the finding of noncompliance.

(4) Noncomplying equipment used when prohibited, used in violation of the conditions stated in the notice, or not brought into compliance within the time frame stated in the notice, may be taken and impounded by the Secretary, his designee, or any duly authorized officer of the law. At the time of removal, the impounding authority shall leave a notice of impoundment with the possessor or owner of the noncomplying equipment or, if unavailable, at the place from which the equipment was taken. The notice of impoundment shall include information about the custodian, the location and identification of the equipment, and the basis for the impoundment of the noncomplying equipment.

(5) An impoundment made pursuant to this section may continue until the Secretary or his designee is given reasonable assurances by the owner or possessor that the equipment will be brought into compliance. The Secretary or his designee may send noncomplying equipment directly to a repair shop; PROVIDED, however, that the owner or possessor has executed a written agreement to pay for the cost of bringing the equipment into compliance.
(6) Impoundments made pursuant to this section shall in no way be deemed a seizure.

(7) Copies of the notices required by this section shall be retained by the Secretary or his designee for at least 5 years. Noncomplying equipment must be returned within 10 days after a complaint, if proper notice was not given. Nothing herein, however, shall prevent the equipment from again being taken and impounded upon proper notice.

(8) The owner or possessor of impounded radio equipment may petition the Secretary for an administrative hearing and reconsideration of the decision to impound. Upon a negative result from the administrative hearing, the owner or possessor may appeal by bringing an action in the Trial Division of the Supreme Court of the Federated States of Micronesia.

(9) An owner or possessor of radio equipment regulated under this chapter shall be deemed to have consented to the inspection at reasonable hours of his or her equipment for compliance with this chapter or the regulations promulgated thereto. The Secretary or his designee, upon a reasonable belief that radio equipment is not in compliance, shall be permitted access to inspect the equipment during reasonable hours. Refusal to permit reasonable entry for inspection of the equipment shall constitute adequate probable cause.
for a search warrant.

(10) The impoundments permitted by this section shall not preclude any other penalties provided in this chapter."

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

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Bailey Olter
President
Federated States of Micronesia