A BILL FOR AN ACT

To further amend title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, by renumbering sections 1201 through 1209 of chapter 12 to sections 1301 through 1309 of chapter 13; by enacting new sections 1201 through 1221 of a new chapter 12 relating to pilotage of vessels; and for other purposes.

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

Section 1. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by renumbering sections 1201 through 1209 of chapter 12 to sections 1301 through 1309 of chapter 13.

Section 2. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1201 of chapter 12 to read as follows:

"Section 1201. Definition. As used in this chapter:

"Authorized Pilot" means a person who has a current, valid Pilotage Certificate issued by the Principal Shipping Officer certifying that the person is competent to provide pilotage services for a specified pilotage area."

Section 3. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1202 of chapter 12 to read as follows:

"Section 1202. State Port Authority is pilotage authority. The Port Authority of each of the States shall be the pilotage authority for that State, responsible for the provision of pilotage services within that State, and except as otherwise provided herein, shall regulate all pilotage services."

Section 4. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1203 of chapter 12 to read as follows:
"Section 1203. Pilotage areas. The Secretary may by regulation declare an area within or adjacent to a port to be a pilotage area."

Section 5. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1204 of chapter 12 to read as follows:

"Section 1204. Compulsory pilotage areas.

(1) The Port Authority may determine that pilotage is compulsory in the whole or in a specified part of its pilotage area(s).

(2) The Secretary shall by regulation declare and define compulsory pilotage areas as determined in subsection (1)."

Section 6. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1205 of chapter 12 to read as follows:

"Section 1205. Pilotage services. The Port Authority shall, where pilotage is compulsory, and may, where pilotage is not compulsory, provide pilotage services."

Section 7. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1206 of chapter 12 to read as follows:

"Section 1206. Vessels required to take Authorized Pilots on board.

(1) Before a vessel enters, leaves, or moves
through a compulsory pilotage area, the master of the vessel shall take on board an Authorized Pilot.

(2) The Secretary may by regulation, in consultation with the Port Authority of each State, exempt any vessel from the requirements of subsection (1) of this section.

(3) A vessel piloted by a holder of a Pilotage Exemption Certificate valid for that vessel and pilotage area, shall be exempt from the requirements of subsection (1) of this section.

(4) Where there is a special risk or danger within a pilotage area the Port Authority may require the master of the vessel, including vessels exempted under subsection (2) and (3) of this section, to take an Authorized Pilot on board."

Section 8. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1207 of chapter 12 to read as follows:

"Section 1207. Authorized Pilot not required in certain circumstances. Where a vessel or a person on board is in grave danger and it is necessary in the circumstances that the vessel be immediately brought into, moved within, or taken out of a compulsory pilotage area, an Authorized Pilot is not required to be on board the vessel."
Section 9. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1208 of chapter 12 to read as follows:

"Section 1208. Pilotage Certificates and Pilotage Exemption Certificates.

(1) The Secretary may by regulation, after consultation with the Port Authority, determine the number of Authorized Pilots for each of the ports and the qualifications and experience required for the issuance of:

(a) A Pilotage Certificate declaring that a person is competent to act as an Authorized Pilot for particular class of vessels within a specified pilotage area; or

(b) A Pilotage Exemption Certificate declaring that a person is competent to pilot a particular vessel or class of vessels within a specified pilotage area.

(2) The Principal Shipping Officer is authorized to issue and renew Pilotage Certificates and Pilotage Exemption Certificates to qualified persons.

(3) The issuance or renewal of Pilotage Certificates and Pilotage Exemption Certificates shall be subject to such conditions as the Principal Shipping Officer endorses on the certificate.

(4) A Pilotage Certificate or Pilotage Exemption
Certificate is valid only for the particular vessel or class of vessels within the pilotage area for which it is issued."

Section 10. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1209 of chapter 12 to read as follows:

"Section 1209. Investigations; Pilotage Certificates and Pilotage Exemption Certificates.

(1) The Secretary shall cause an investigation to be conducted where there is reasonable cause to believe that the holder of a Pilotage Certificate or Pilotage Exemption Certificate:

(a) is unfit to discharge his duties;

(b) has been negligent in the discharge of his duties;

(c) has engaged in misconduct or committed any violation of this title or regulations promulgated thereto.

(2) The Principal Shipping Officer may designate an investigating officer to conduct the investigation.

(3) The investigating officer may:

(a) go on board any vessel relevant to the case;

(b) enter upon any wharf or installation adjacent to a pilotage area;
(c) Make any and all inquiries;
(d) Require the production of any relevant documents or certificates.

(4) The investigating officer shall report the results of the investigation to the Principal Shipping Officer within fourteen days after the investigation is completed."

Section 11. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1210 of chapter 12 to read as follows:

"Section 1210. Suspension of Pilotage Certificates or Pilotage Exemption Certificate pending investigation. Where public safety so requires, the Principal Shipping Officer may suspend a Pilotage Certificate or Pilotage Exemption Certificate pending the outcome of an investigation conducted under section 1209."

Section 12. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1211 of chapter 12 to read as follows:

"Section 1211. Suspension, Cancellation and Revocation of Pilotage Certificates and Pilotage Exemption Certificates.

(1) The Principal Shipping Officer may suspend, cancel or revoke a Pilotage Certificate or Pilotage Exemption Certificate where the holder:
(a) in unfit to discharge his duties;
(b) has been negligent in the discharge of his
duties;
(c) has engaged in misconduct or committed any
violation of this title or regulations promulgated
pursuant thereto.

(2) Proceedings for suspension, cancellation or
revocation of a certificate under subsection (1) shall
be conducted in accordance with the procedure set forth
in title 17 section 109 of the Code of the Federated
States of Micronesia.

(3) Where a Pilotage Certificate or Pilotage
Exemption Certificate is suspended, cancelled or
revoked, the holder of the Pilotage Certificate or
Pilotage Exemption Certificate shall immediately
surrender the certificate to the Principal Shipping
Officer.

(4) Where a Pilotage Certificate or Pilotage
Exemption Certificate is suspended, cancelled or
revoked, the holder may seek judicial review as set
forth in Title 17 Section 111 of the Code of the
Federated States of Micronesia, provided however, the
decision of the hearing officer shall remain in effect
until all avenues of appeal have been exhausted."
Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1212 of chapter 12 to read as follows:

"Section 1212. Production of Authorized Pilot identification.

(1) An Authorized Pilot shall produce proper identification issued by the Port Authority or his Pilotage Certificate for inspection when requested by the master of the vessel.

(2) It shall be a violation of this chapter for any Authorized Pilot to fail to produce identification as set forth in subsection (1)."

Section 14. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1213 of chapter 12 to read as follows:

"Section 1213. Unqualified persons not to act as Authorized Pilot. It shall be a criminal offense for a person who is not an Authorized Pilot to hold himself out to be an Authorized Pilot, or pilot a vessel for which an Authorized Pilot is required to be on board."

Section 15. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1214 of chapter 12 to read as follows:

"Section 1214. Pilot Misconduct. It shall be a criminal offense for a holder of a Pilotage Certificate or a Pilotage Exemption Certificate to intentionally or
willfully, or while under the influence of alcohol or
drugs, do any act which causes, or is likely to cause
the loss or destruction of or serious damage to a vessel
or death of or serious injury to a person on board a
vessel, or fail to do anything required to be done by
him to preserve a vessel from loss, destruction or
serious damage or any person on board a vessel from
death or serious injury."

Section 16. Title 19 of the Code of the Federated States of
Micronesia, as amended by Public Law No. 8-49, is hereby amended
by enacting a new section 1215 of chapter 12 to read as follows:

"Section 1215. Port Authority and Authorized Pilot not
civilly liable. The Port Authority and Authorized Pilot
shall not be personally liable in any civil proceeding
for any damage or loss suffered as a result of any act
done by the Port Authority or the Authorized Pilot or
for any failure to do anything required to be done by
either while acting within the scope of their duties
unless such act or omission arises from intentional or
willful misconduct, or from gross negligence."

Section 17. Title 19 of the Code of the Federated States of
Micronesia, as amended by Public Law No. 8-49, is hereby amended
by enacting a new section 1216 of chapter 12 to read as follows:

"Section 1216. Presence of Authorized Pilot does not
diminish responsibility of the master."
(1) Subject to the authority of the master of a vessel, the duty of an Authorized Pilot is to pilot the vessel in pilotage areas.

(2) The master of a vessel is not relieved of responsibility for the proper conduct and safe navigation of the vessel by reason of the vessel being in pilotage charge of an Authorized Pilot.

Section 18. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1217 of chapter 12 to read as follows:

"Section 1217. Owner and master liable for damage in compulsory pilotage areas. The owner and the master of a vessel are jointly and severally liable for any loss or damage caused by the vessel in a compulsory pilotage area as a result of any fault in the navigation of the vessel, whether or not an Authorized Pilot was on board the vessel at the time that the loss or damage was caused."

Section 19. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1218 of chapter 12 to read as follows:

"Section 1218. Government and government officials not liable for loss or damage caused by pilot. The Government and government officials are not liable for any damage or loss suffered as a result of any act or
failure to act by an Authorized Pilot while providing pilotage services to a vessel.

(1) The Port Authority shall determine pilotage charges which shall then be published in a schedule set forth in regulations promulgated by the Secretary.

(2) Pilotage charges for a vessel shall be payable by the owner, master or agent of the vessel to the Port Authority."

Section 20. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1219 of chapter 12 to read as follows:

"Section 1219. Authorized Pilot not to be taken to sea.

(1) Except in circumstances of unavoidable necessity, an Authorized Pilot shall not be taken to sea or taken beyond the limits of the pilotage area without the pilot's consent.

(2) If an Authorized Pilot is taken to sea in circumstances of unavoidable necessity, the vessel owner and master shall be liable for all expenses of the Authorized Pilot including repatriation, which shall take place at the earliest opportunity."

Section 21. Title 19 of the Code of the Federated States of Micronesia, as amended by Public Law No. 8-49, is hereby amended by enacting a new section 1220 of chapter 12 to read as follows:

"Section 1220. Transition. All persons holding a
pilotage license or Pilotage Certificate issued by the
Department on the date this chapter becomes effective
shall be deemed to be an Authorized Pilot for a period
of 12 months from that date, or until expiration of such
pilotage license or Pilotage Certificate, whichever is
earlier."

Section 22. Title 19 of the Code of the Federated States of
Micronesia, as amended by Public Law No. 8-49, is hereby amended
by enacting a new section 1221 of chapter 12 to read as follows:

"Section 1221. Regulations. The Secretary may
promulgate regulations to implement this chapter, which
regulations shall have the force and effect of law."

Section 23. 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: 11/06/95

Introduced by: Joseph J. Buss enam
(by request)