

---

A BIL FOR AN ACT

To amend title 19 of the Code of the Federated States of Micronesia (Annotated), by inserting a new chapter 13 entitled "Administrative and Legal Procedures" that was unintentionally omitted from the 2014 F.S.M.C. (Annotated), and for other purposes.

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

1           Section 1. Purpose. The amendment to title 19 of the 2014  
2 Code of the Federated States of Micronesia is done to reinsert  
3 chapter 13 that was unintentionally omitted from the 2014 F.S.M.C.  
4 (Annotated). This chapter 13 is identical to the omitted chapter  
5 originally enacted in Public Law No. 10-76 and no changes of any  
6 kind are included.

7           Section 2. Title 19 of the Code of the Federated States of  
8 Micronesia (Annotated), is hereby amended by inserting a new  
9 chapter 13 entitled: "Administrative and Legal Procedures".

10           Section 3. Title 19 of the Code of the Federated States of  
11 Micronesia (Annotated), is hereby amended by adding a new section  
12 1301 to chapter 13, to read as follows:

13                   "Section 1301. Administrative disposition.

14                           (1) Notwithstanding the provisions of sections  
15                           1303 and 1304, where the Secretary believes there has  
16                           been a violation of any provision of this title which is  
17                           not punishable by imprisonment, the Secretary may:

18                                   (a) order the accused to take mitigating or

---

1           remedial actions; and

2                           (b) sanction the accused, including levying  
3 fines.

4           (2) The order or the sanction shall constitute  
5 notice to the accused of the offense for purposes of  
6 administrative disposition under this section.

7           (3) Compliance with the order and payment of the  
8 fine shall constitute complete satisfaction of the  
9 charges. Payment of fines must be made within 7 days of  
10 the notice.

11           (4) Where those affected by the actions of the  
12 Secretary under subsection (1) wish to contest those  
13 actions, they may:

14                           (a) seek a hearing in accordance with the  
15 procedures of title 17 of the Code of the Federated  
16 States of Micronesia; or

17                           (b) seek a judicial hearing in the  
18 appropriate court without having to exhaust  
19 administrative remedies.

20           (5) All fines collected shall be deposited into  
21 the General Fund of the Federated States of Micronesia."

22           Section 4. Title 19 of the Code of the Federated States of  
23 Micronesia (Annotated), is hereby amended by adding a new section  
24 1302 to chapter 13, to read as follows:

25           "Section 1302. Mediation and arbitration.

---

1           (1) Where two or more parties seek resolution of a  
2           dispute arising under the provisions of this title, they  
3           may agree to mediation or arbitration conducted by the  
4           Secretary, or a mediator or arbitrator appointed by the  
5           Secretary.

6           (2) Any decision made in arbitration shall be  
7           binding upon the parties and final."

8           Section 5. Title 19 of the Code of the Federated States of  
9           Micronesia (Annotated), is hereby amended by adding a new section  
10          1303 to chapter 13, to read as follows:

11          "Section 1303. Jurisdiction of Supreme Court in rem.  
12          The Supreme Court shall have jurisdiction in rem over  
13          all vessels irrespective of their flag and all maritime  
14          claims wherever arising with respect to:

15               (1) disputes relating to the ownership of,  
16               possession of or title to a vessel or a share in a  
17               vessel;

18               (2) mortgages, including foreign mortgages and  
19               other charges in the nature of a mortgage;

20               (3) claims for towage;

21               (4) claims relating to salvage;

22               (5) claims for pilotage;

23               (6) claims for general average;

24               (7) claims for wages of masters and crew;

25               (8) claims for disbursements made by masters,

- 
- 
- 1           shippers, charterers or agents on behalf of a vessel;  
2                   (9) claims for damage done by a vessel;  
3                   (10) personal injury claims arising from the  
4           operation of a vessel for which the vessel's owner,  
5           operator or charterer is liable;  
6                   (11) claims for loss of or damage to goods carried  
7           by a vessel;  
8                   (12) claims arising from contracts for the  
9           carriage of goods by a vessel;  
10                  (13) claims arising from agreements for the use or  
11           hire of a vessel;  
12                  (14) claims for the construction, repair,  
13           alteration or equipping of a vessel;  
14                  (15) claims for goods, materials or services  
15           supplied to a vessel;  
16                  (16) claims for unpaid insurance premiums or calls  
17           from protection and indemnity associations;  
18                  (17) port, harbor, navigational aids dues and  
19           similar charges;  
20                  (18) claims for marine pollution damage;  
21                  (19) claims for damages arising from the operation  
22           of a vessel for which the owner, operator or charterer  
23           is liable;  
24                  (20) claims for the enforcement of arbitral awards  
25           in respect of maritime claims; and

---

1                   (21) claims for the enforcement of local and  
2                   foreign admiralty judgments in rem."

3           Section 6. Title 19 of the Code of the Federated States of  
4 Micronesia (Annotated), is hereby amended by adding a new section  
5 1304 to chapter 13, to read as follows:

6           "Section 1304. Jurisdiction of Supreme Court in  
7           personam. The Supreme Court shall have jurisdiction in  
8           personam with respect to:

9                   (1) claims for damage done to a vessel;

10                   (2) claims to limit liability under any  
11           international maritime convention to which the Federated  
12           States of Micronesia is a party allowing for limitation  
13           of liability in relation to vessels; and

14                   (3) ancillary matters of admiralty and maritime  
15           jurisdiction associated with matters in respect of which  
16           the Court's jurisdiction is invoked."

17           Section 7. Title 19 of the Code of the Federated States of  
18 Micronesia (Annotated), is hereby amended by adding a new section  
19 1305 to chapter 13, to read as follows:

20           "Section 1305. Nautical assessors.

21                   (1) The Court may appoint nautical assessors to  
22           advise it on all maritime matters.

23                   (2) Nautical assessors shall be appointed on the  
24           basis of their expert knowledge and experience and may  
25           be engaged prior to or during trial for as long as their

---

1           expertise is required.

2                   (3) Nautical assessors shall not be called by the  
3           parties to give evidence, shall not be sworn and shall  
4           not be cross-examined.

5                   (4) Nautical assessors may be paid compensation  
6           for their services.

7                   (5) The advice of nautical assessors shall be  
8           treated as highly persuasive, but it is for the Court to  
9           assess its worth and decide on all matters of fact and  
10           law."

11           Section 8. Title 19 of the Code of the Federated States of  
12    Micronesia (Annotated), is hereby amended by adding a new section  
13    1306 to chapter 13, to read as follows:

14                   "Section 1306. Investigation of violations.

15                           (1) Upon receipt of evidence that a violation has  
16           occurred, the Secretary shall cause an investigation to  
17           be conducted.

18                           (2) The Secretary may issue subpoenas requiring  
19           the attendance of witnesses and the production of  
20           documents.

21                           (3) The Secretary may inspect any vessel in any  
22           port under the jurisdiction of the Federated States of  
23           Micronesia.

24                           (4) If a foreign vessel is involved, the Secretary  
25           shall, through diplomatic channels, notify the maritime

---

1           authority of the vessel's flag state.

2                   (5) Upon completion of the investigation, the  
3           Secretary shall take appropriate action."

4           Section 9. Title 19 of the Code of the Federated States of  
5 Micronesia (Annotated), is hereby amended by adding a new section  
6 1307 to chapter 13, to read as follows:

7           "Section 1307. Procedure for prosecution of national  
8           offenses.

9                   (1) (a) All proceedings brought against a person  
10           for an offense under this title shall be commenced by  
11           filing an information, in writing, in the name of the  
12           Secretary with the Supreme Court.

13                   (2) (a) Subject to subsection (b) every  
14           information in respect of an offense shall be filed  
15           within 12 months from the date on which the offense is  
16           alleged to have been committed or when the alleged  
17           offense may reasonably have been discovered.

18                   (b) Where any vessel or any person has  
19           committed an offense under this title and departed from  
20           the jurisdiction before an information could be filed,  
21           the time period referred to in subsection (a) shall  
22           commence running on the date on which the vessel or  
23           person returns to the jurisdiction.

24                   (3) Every information shall contain such  
25           particulars as will fairly inform the defendant of the

---

1           substance of the offense with which he is charged.

2           (4) As soon as practicable after an information is  
3           sworn, it shall be filed with the Court.

4           (5) Where an information has been filed, the Clerk  
5           of the Court may issue a summons to the defendant.

6           (6) (a) Every summons to a defendant and any other  
7           document which is required to be served on a defendant  
8           shall be served on him by being delivered to him or her  
9           personally or by being brought to his notice if he or  
10          she refuses to accept it.

11          (b) Where a summons is to be served on the  
12          master of a vessel it may be served on the officer  
13          apparently in charge if the master is not on board the  
14          vessel.

15          (c) Where the summons is to be served on the  
16          owner of a vessel it may be served on the vessel's  
17          agent.

18          (d) Service on the persons referred to in  
19          subsections (b) or (c) shall be deemed to be service on  
20          the defendant master and owner of the vessel.

21          (7) Every summons to a defendant and every other  
22          document which is required to be served on a defendant  
23          may be served by an authorized officer or by the  
24          Principal Officer who shall be the Principal Surveyor,  
25          Principal Shipping Officer, or any other person so



---

1           designated by the Secretary.

2           (8) (a) The service of any document may be proved  
3           by affidavit made by the person who served the document  
4           showing the fact, as well as the time, place and mode of  
5           service.

6           (b) The affidavit of service made by the  
7           person who served the document shall be deemed to be  
8           correct unless or until the contrary is proved.

9           (9) When an information has been filed and a  
10          summons has been issued and served, a Principal Officer  
11          who has reasonable grounds to believe that the defendant  
12          will not appear before the Court on the date set out in  
13          the summons, may apply to the Court for a warrant to  
14          arrest the defendant if:

15                  (a) a warrant is necessary to compel the  
16                  attendance of the defendant; or

17                  (b) a warrant is desirable because of the  
18                  gravity of the alleged offense and the circumstances of  
19                  the case.

20          (10) A Principal Officer or his delegate for the  
21          purposes of enforcing this title may, without warrant:

22                  (a) stop, board and search any vessel, or the  
23                  owner, master or any crew member of any vessel that he  
24                  or she reasonably suspects to have committed any offense  
25                  under this title;

---

1                   (b) require the master or any crew member to  
2                   inform him or her about any incident occurring aboard or  
3                   involving the vessel;

4                                     (c) make any inspection or examination of  
5                   anything aboard the vessel;

6                                     (d) require to be produced, any certificate,  
7                   document, logbook or other record required to be kept by  
8                   this title or regulations, or that concern the operation  
9                   of the vessel or employment of the crew and examine and  
10                  take copies thereof;

11                                    (e) seize any logbooks, charts, documents,  
12                  equipment, material, and take or require to be taken any  
13                  samples which he or she has reasonable grounds to  
14                  believe show or tend to show, with or without other  
15                  evidence, the commission of an offense against this  
16                  title;

17                                    (f) seize anything which he or she has  
18                  reasonable grounds to believe might be used as evidence  
19                  in any proceedings under this title; or

20                                    (g) arrest any person whom he or she has  
21                  reasonable grounds to believe has committed an offense  
22                  against this title.

23                  (11) (a) Pending the date of the hearing set forth  
24                  in the summons, upon application, the Court may by order  
25                  detain the vessel until the final adjudication of the

---

1           matter contained in the information.

2                   (b) Notwithstanding subsection (a), the Court  
3           may by order release the vessel from such detention upon  
4           the posting of a bond with the Court in an amount not  
5           exceeding the value of the vessel or the maximum fine  
6           prescribed in relation to the offense or the total of  
7           all the offenses if more than one are contained in the  
8           information.

9                   (12) (a) Where the defendant does not speak or  
10          understand the English language, a crew member or other  
11          qualified person may be used as an interpreter.

12                   (b) Where an interpreter was used when the  
13          information was filed and the summons served, and the  
14          evidence collected from the vessel or persons on board  
15          the vessel, that same interpreter may be summoned to  
16          appear in Court at the trial of the named defendant.

17                   (c) Where certificates required to be carried  
18          on board the vessel are not in the English language, the  
19          defendant shall obtain English translations of those  
20          certificates from the authority or organization which  
21          issued them.

22                   (13) (a) Any number of informations for any  
23          offenses against a defendant may be tried together.

24                   (b) If the Court believes that it is  
25          desirable or expedient in the interest of justice to do

---

1           so, it may order that the defendant be tried on one or  
2           more of such informations separately.

3                   (c) The informations which are not then tried  
4           shall be proceeded upon in all respect as if they had  
5           been presented separately.

6                   (14) Any number of defendants may be tried  
7           together, provided that the Court may, at any time,  
8           order separate trials if satisfied that the interests of  
9           justice so require."

10           Section 10. Title 19 of the Code of the Federated States of  
11    Micronesia (Annotated), is hereby eamended by adding a new section  
12    1308 to chapter 13, to read as follows:

13                   "Section 1308. Detention of a vessel.

14                   (1) Where the Secretary finds that reasonable  
15           grounds exist under this title for the detention of a  
16           vessel, the Secretary shall issue a detention order and  
17           may detain the vessel without warrant, PROVIDED HOWEVER:

18                   (a) written notice shall be served to the  
19           person on board in charge of the vessel, together with a  
20           copy of the detention order; and

21                   (b) such written notice shall state with  
22           particularity the grounds for detention and the  
23           provision of the law under which the detention order has  
24           been issued, and that the vessel owner or master has the  
25           right to a prompt hearing before the Secretary regarding

---

1           probable cause for the detention.

2           (2) An owner or master whose vessel has been  
3           detained may petition the Secretary under title 17 of  
4           the Code of the Federated States of Micronesia for a  
5           hearing to review the detention order.

6           (3) Where a foreign vessel is detained, the  
7           Secretary, through diplomatic channels, shall notify the  
8           maritime authority of the vessel's flag state, including  
9           the reason for detention."

10          Section 11. Title 19 of the Code of the Federated States of  
11          Micronesia (Annotated), is hereby amended by adding a new section  
12          1309 to chapter 13, to read as follows:

13          "Section 1309. Forfeiture of a vessel.

14                 (1) Where a vessel is subject to forfeiture under  
15                 this title, upon the issuance of a warrant by the  
16                 Supreme Court, an authorized officer may seize and  
17                 detain the vessel.

18                 (2) Upon seizure or detention under this section,  
19                 civil proceedings for forfeiture shall be initiated  
20                 forthwith by the Office of the Attorney General, and  
21                 written notice shall be served on the owner or master,  
22                 PROVIDED HOWEVER, in the case of a foreign vessel or  
23                 foreign small craft, notice of the forfeiture  
24                 proceedings and the grounds therefor shall be given to  
25                 the maritime authority of the flag state through

---

1           diplomatic channels.

2           (3) After trial, if the Supreme Court finds by a  
3           preponderance of the evidence that proof has been made  
4           of a violation of this title for which forfeiture of a  
5           vessel or small craft is allowed, the Court may issue an  
6           order that the owner has forfeited all rights of  
7           ownership of the vessel or small craft, and all property  
8           rights in the vessel or small craft have vested in the  
9           Government together with all equipment, cargo and  
10          stores.

11          (4) Upon forfeiture of a vessel or small craft  
12          under subsection (3), the Government may register the  
13          vessel under this title by filing the order with the  
14          Registrar, and the Registrar shall enter in the Register  
15          the name and particulars of the vessel or small craft,  
16          listing the Government as the registered owner.

17          (5) An order issued by the Supreme Court under  
18          subsection (3) shall be deemed evidence of good title to  
19          the vessel or small craft free of all encumbrances, and  
20          the Government shall have the right to sell the vessel  
21          or small craft with clear title."

22          Section 12. Title 19 of the Code of the Federated States of  
23          Micronesia (Annotated), is hereby amended by adding a new section  
24          1310 to chapter 13, to read as follows:

25          "Section 1310. Foreign vessels. Notwithstanding any

---

1           other provision of law in this title, if a violation is  
2           committed by a foreign vessel or foreign small craft, or  
3           its owner or master, the Secretary, after consultation  
4           with the Attorney General and the Department of External  
5           Affairs, may refer the matter through diplomatic  
6           channels to the nation of registry for appropriate  
7           action."

8           Section 13. Title 19 of the Code of the Federated States of  
9           Micronesia (Annotated), is hereby amended by adding a new section  
10          1311 to chapter 13, to read as follows:

11           "Section 1311. Obstruction of persons. Every person  
12           who, without lawful excuse (proof of which is on him or  
13           her), hinders or obstructs a person in the performance,  
14           execution or carrying out of any duty conferred or  
15           imposed on that person by this title commits a national  
16           offense, and where no other penalty is provided for in  
17           this title, shall be punishable by a fine not exceeding  
18           \$200,000 or by imprisonment not exceeding 2 years, or  
19           both; PROVIDED that if in the commission of any such  
20           offense the person uses a dangerous weapon, engages in  
21           conduct that causes bodily injury to any officer  
22           authorized to enforce the provisions of this title, or  
23           threatens any such officer with bodily injury, the  
24           offense is punishable by a fine of not less than  
25           \$500,000 or imprisonment for not more than ten years, or

---

1           both."

2           Section 14. Title 19 of the Code of the Federated States of  
3 Micronesia (Annotated), is hereby amended by adding a new section  
4 1312 to chapter 13, to read as follows:

5           "Section 1312. Civil offenses.

6                   (1) Every person who does any act, or makes any  
7 omission, in contravention of any provision of this  
8 title or regulations hereunder commits a civil offense.

9                   (2) When any provision of this title is  
10 contravened and no specific violation is prescribed and  
11 no pecuniary penalty provided for, any person  
12 contravening any provision commits a civil offense and  
13 shall be liable to a fine not exceeding \$1,000."

14           Section 15. Title 19 of the Code of the Federated States of  
15 Micronesia (Annotated), is hereby amended by adding a new section  
16 1313 to chapter 13, to read as follows:

17           "Section 1313. Recovery of fines.

18                   (1) If an owner or master of a vessel has been  
19 convicted of any offense under this title and where the  
20 Court orders payment of a fine or if a vessel has been  
21 found liable in proceedings in rem, the vessel may be  
22 detained until the fine has been paid.

23                   (2) If a fine is not paid within the period of  
24 time stipulated by the Court, the Court may order that  
25 the vessel be sold and the proceeds of the sale be used



---

1           to pay the fine."

2           Section 16. Title 19 of the Code of the Federated States of  
3 Micronesia (Annotated), is hereby amended by adding a new section  
4 1314 to chapter 13, to read as follows:

5           "Section 1314. Time limits on commencement of  
6 proceedings.

7           (1) An action must be commenced within the time  
8 period specified or the right to bring such action is  
9 extinguished.

10          (2) An action is commenced by the filing of a  
11 complaint or information with the Supreme Court.

12          (3) The time limit within which claims shall be  
13 brought shall commence from the time when the right of  
14 action accrues or when it reasonably may have been  
15 discovered.

16          (4) The time limits set forth in this section  
17 shall not run during any time when:

18                 (a) the seaman is incapacitated, or  
19 is involuntarily outside the jurisdiction of the  
20 Federated States of Micronesia; or

21                 (b) the defendant vessel or vessel owner is  
22 outside the jurisdiction of the Federated States of  
23 Micronesia.

24          (5) Claims arising out of the Shipping Articles  
25 must be commenced within 12 months from the date of the

---

1           termination of the Shipping Articles or the date on  
2           which the seaman is discharged, whichever is earlier.

3           (6) (a) Claims arising out of the death or  
4           permanent disability of a seaman caused by wrongful act,  
5           neglect, or default on the high seas must be commenced  
6           within two years from the date the vessel returns to the  
7           seaman's proper return port or to the vessel's port of  
8           registry, whichever is later.

9           (b) Claims of owners against the master for  
10          acts committed during the performance of the master's  
11          duties must be commenced within 2 years from the date on  
12          which the last act giving rise to the claim occurred.

13          (c) Claims for the recovery of damages as a  
14          result of a collision between two or more vessels must  
15          be commenced within 2 years from the date of the  
16          collision.

17          (d) All other tort claims must be commenced  
18          within 2 years of the date on which the act giving rise  
19          to the claim occurred.

20          (7) All other claims must be commenced within 3  
21          years of the date on which the incident giving rise to  
22          the claim occurred."

23          Section 17. Title 19 of the Code of the Federated States of  
24          Micronesia (Annotated), is hereby amended by adding a new section  
25          1315 to chapter 13, to read as follows:

---

1           "Section 1315. Access to and inspection of adopted  
2           regulations.

3           (1) Where a convention or rule or regulation, or a  
4           provision thereof, has been adopted and incorporated by  
5           reference in regulations made under this title, the  
6           adopted convention, rule or regulation, or provision  
7           thereof, as the case may be, shall be available for  
8           inspection and copying at the Office of the Attorney  
9           General by any person likely to be affected by it.

10          (2) Subject to subsection (1), no person shall be  
11          prosecuted or convicted for contravening an adopted  
12          regulation if that regulation is not available for  
13          inspection or copying as required by subsection (1), and  
14          it is a defense to such a prosecution to show that the  
15          contravened regulation was not so available as required.

16          (3) The defense available under subsection (2) is  
17          not available to a person who has sufficient knowledge  
18          of the requirements of the contravened provision for  
19          which he or she is being prosecuted, or who possessed or  
20          who had reasonable access in any event, to the  
21          requirements of the contravened provision independently  
22          of the procedure required under subsection (1).

23          (4) When a person requests copies of an adopted  
24          regulation under subsection (1) the Attorney General may  
25          charge a reasonable fee for any copying services

