
A BILL FOR AN ACT

To repeal the administrative penalty sections for fishing violations, in particular, sections 703 and 704, of title 24 of the Code of the Federated States of Micronesia (Annotated), as amended, in order to avoid the oppressive and duplicative enforcement remedies that may be initiated against any fishing vessel for violation of title 24 of the FSM Code under the currently permitted parallel enforcement remedies of administrative penalties and judicial remedies arising from the same act of violation of the Marine Resources Act of 2002, and for other purposes.

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

1 Section 1. Statement of Policy. The intent of this act is to
2 address once and for all the situation resulting from the combined
3 application of the discretionary system of citations and
4 administrative penalties by the National Oceanic Resource Management
5 Authority (NORMA) and the enforcement of judicial remedies delegated
6 by law to the Department of Justice. The Supreme Court
7 interpretation of the present administrative penalties provisions in
8 title 24 in the case of FSM v. Koshin, 16 FSM R. 15 (Pon.2008),
9 confirmed that the establishment of administrative penalties did not
10 create any obligation on the part of NORMA or the Secretary of the
11 Department of Justice to issue a citation instead of pursuing other
12 legal remedies or to issue a citation prior to pursuing other legal
13 remedies. The Koshin ruling also confirmed that the citation process
14 to assess an administrative penalty and a civil penalties may proceed
15 on two separate tracks. In this context, permitting two separate
16 tracks of legal remedies arising from the same action of violation of

1 title 24 of the FSM Code is not conducive to law enforcement
2 efforts, and is likely oppressive on the part of fishing companies
3 operating in the FSM. Therefore, it is the intent of the Congress of
4 the Federated States of Micronesia to repeal the optional
5 administrative penalty process and put a stop to the dual process of
6 fisheries enforcement.

7 Section 2. Section 703 and 704 of title 24 of the Code of the
8 Federated States of Micronesia (Annotated), as amended, are hereby
9 repealed in their entirety.

10 Section 3. This act shall become law upon approval by the
11 President of the Federated States of Micronesia or upon its
12 becoming law without such approval.

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14 Date: 3/23/22

Introduced by: /s/ Florencio S. Harper
Florencio S. Harper
(by request)

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