

A BILL FOR AN ACT

To further amend title 24 of the Code of the Federated States of Micronesia, as amended, by repealing Subsection 801(7) and renumbering Subsections 801(8) and 801(9), by amending Sections 901 and 902 thereof for the purpose of ceasing the distribution of 50% of the proceeds from fishing penalties to a State involved and by depositing 50% of the proceeds assessed and collected from fishing penalties under this chapter into the Fisheries Observer Revolving Fund; and for other purposes.

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

1 Section 1. Subsection 801(7) of Chapter 9 of Title 24 of the
2 Code of the Federated States of Micronesia, as enacted by Public
3 Law No. 12-34, is hereby repealed in its entirety.

4 Section 2. Subsection 801(8) of Chapter 9 of Title 24 of the
5 Code of the Federated States of Micronesia, as enacted by Public
6 Law No. 12-34, is hereby amended, by renumbering it as Subsection
7 801(7).

8 Section 3. Subsection 801(9) of Chapter of Title 24 of the
9 Code of the Federated States of Micronesia, as enacted by Public
10 Law No. 12-34, is hereby amended, by renumbering it as Subsection
11 801(8).

12 Section 4. Section 901 of Chapter 9 of Title 24 of the Code
13 of the Federated States of Micronesia, as enacted by Public Law
14 No. 12-34, is hereby amended to read as follows:

15 "Section 901. Civil Penalties.

16 (1) Any person who is found by the Supreme Court of
17 the Federated States of Micronesia in a civil proceeding
18 to have committed an act prohibited by this subtitle

1 shall be liable to the Federated States of Micronesia
2 for a civil penalty.

3 (2) Each day of a continuing violation shall
4 constitute a separate offense, for which a separate
5 penalty shall be assessed.

6 (3) In determining the amount of the penalty, the
7 Supreme Court of the Federated States of Micronesia
8 shall take into account the nature, circumstances,
9 extent and gravity of the prohibited acts committed and,
10 with respect to the violator, the degree of culpability,
11 any history of prior offenses, whether there are
12 multiple violations which together constitute a serious
13 disregard of conservation and management measures and
14 such other matters as justice may require.

15 (4) The Secretary is authorized to initiate all
16 proceedings under this section and to recover the amount
17 assessed as a civil penalty.

18 (5) The proceeds of civil penalties shall be deposited
19 into the General Fund of the Federated States of
20 Micronesia; PROVIDED THAT [-] [F] fifty percent of the
21 proceeds from civil penalties shall be deposited into
22 the Fisheries Observer Revolving Fund [~~then be~~
23 ~~distributed to any FSM State which may be affected by~~
24 ~~the situation which has given rise to this action~~]."

25 Section 5. Section 902 of Chapter 9 of Title 24 of the Code

1 of the Federated States of Micronesia, as enacted by Public Law
2 No. 12-34, is hereby amended to read as follows:

3 "Section 902. Criminal penalties.

4 (1) Any person who commits an act prohibited by this
5 subtitle is subject to criminal prosecution.

6 (2) The Captain and any crew member of a fishing
7 vessel, who is subject to criminal charges solely for
8 violations of this subtitle occurring outside the
9 territorial waters but within the exclusive economic
10 zone of the Federated States of Micronesia shall be
11 released upon posting of reasonable bond or other
12 surety.

13 (3) Unless otherwise provided, all maximum penalties
14 described in this subtitle shall be applicable in both
15 civil and criminal proceedings in respect to the same
16 prohibited acts. In addition to any fine, any criminal
17 violation shall also be punishable by imprisonment for
18 not more than ten (10) years, if in the commission of
19 any such offense the person:

20 (a) uses a dangerous weapon;

21 (b) engages in conduct that causes bodily injury
22 to any authorized officer or authorized observer or
23 other officer authorized to enforce the provisions of
24 this subtitle; or

25 (c) threatens any such person with bodily injury.

1 (4) Each day of a continuing violation shall be
2 considered a separate offense, for which a separate
3 penalty shall be assessed.

4 (5) Fines shall be deposited into the General Fund of
5 the Federated States of Micronesia; PROVIDED THAT [↔]
6 [~~F~~] fifty percent of the proceeds from criminal fines
7 shall be deposited into the Fisheries Observer Revolving
8 Fund [~~distributed to any FSM State(s) which may be~~
9 ~~affected by the situation which has given rise to the~~
10 ~~action~~].

11 (6) Criminal penalties shall be imposed without regard
12 to whether the person committing the prohibited act is
13 also subject to civil proceedings for the same
14 violation, and without regard to the amount of any civil
15 penalty imposed or which may be imposed in such civil
16 proceedings.

17 (7) Nothing in this subtitle shall be interpreted to
18 allow the abatement of a criminal prosecution upon the
19 late satisfaction of a civil judgment or payment of a
20 fine or other determination pursuant to administrative
21 proceedings under this subtitle."

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24 Section 6. This act shall become law upon approval by the
25 President of the Federated States of Micronesia or upon its

1 becoming law without such approval.

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3 Date: 8/26/09

Introduced by: /s/ Peter Sitan
Peter Sitan

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