A BILL FOR AN ACT

To further amend chapter 2 of title 54 of the Code of the Federated States of Micronesian, as amended by Public Laws Nos. 9-139, 13-60, and 15-58, by amending sections 211, 212, 222, 231, 232, 233, 234, 235, 238, 242, 249, 250, 253, 254, 256, 258, 267 and 269 thereof; by repealing section 221 and inserting a new section 221 in lieu thereof; by repealing sections 241, 257, 261, 264, 265 and 270; and by adding a new section 271 thereto; for the purpose of establishing the Customs and Duty Standardization Act of 2011; and for other purposes.

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

Section 1. Section 211 of chapter 2 of title 54 of the Code of the Federated States of Micronesian, as amended by Public Law No. 9-139, is hereby further amended to read as follows:

"Section 211. Short title.

This chapter may be cited as the ["Customs Act of 1996] Customs and Duty Standardization Act of 2011".

Section 2. Section 212 of chapter 2 of title 54 of the Code of the Federated States of Micronesian, as amended by Public Law No. 9-139, is hereby further amended to read as follows:

"Section 212. Definitions.

In this chapter, except where otherwise specified, the following terms shall have the meanings stated below:

(1) 'Ad valorem' (Latin for "according to the value") means a tax imposed at a rate equal to a percentage of value.

(2) 'Aircraft' includes airplanes, seaplanes, airships, balloons or any other means of aerial
locomotion.

(3) 'Airport' means an official port of entry for aircraft as identified in or pursuant to title 18 of this code and amendments thereto.

(4) 'Approved form' means a form approved by the Secretary of the FSM Department of Finance and Administration.

(5) 'Arrival' means the first time goods or passengers become subject to Customs control within the FSM or any subsequent time before reaching their final destination.

(6) 'Authority' means the Federated States of Micronesia Unified Revenue Authority established by section 711 of this title.

([6]7) 'Cannabis' means a cannabis plant, whether living or dead, which includes, in any form, any flowering or fruiting tops, leaves, seeds, stalks or any other part of a cannabis plant and any mixture of parts of a cannabis plant.

(8) 'CEO' means the Chief Executive Officer appointed under section 731 of this title.

([7]9) 'CIF' means 'costs, insurance, and freight' incurred for imported goods, and includes all costs and charges associated with the goods up through the time they are delivered to and unloaded at an FSM port of entry or post office.
"Commissioner" means the Commissioner of Customs.

'Congress' means the Congress of the FSM.

'Container' means an article of transport equipment:

(a) of a permanent character and accordingly strong enough to be suitable for repeated use;

(b) specially designed to facilitate the transport of goods, by one or more modes of transport, without intermediate reloading; and

(c) designed to be secured and/or readily handled, having corner fittings for these purposes.

(d) in addition, the following shipping term used with containers has the following meaning:

(i) 'CY-CY' means all the goods packed in the container are for the one consignee and the container is consigned from container yard to another container yard and will not normally be unpacked at the wharf.

'Controlled substance' means those described in sections 1119, 1121, 1123, 1125, and 1127 of title 21 of this code or successor provision of law.

'Customs' means the FSM Department of Finance, the Unified Revenue Authority, Division of Customs.

'Customs Officer' means a person:

(a) a person employed by the [FSM Department of Finance]
Unified Revenue Authority, Division of Customs;
(b) a revenue officer appointed under section 732
of this title authorized in writing by the [Secretary]
CEO under this chapter to perform all of the functions
of a Customs officer; or
(c) a person deputized in accordance with the
provisions of section 268 of this chapter.

‘Duty’ means any tax payable on the importation
of goods, and “dutiable goods” means those goods subject
to tax on their importation.

‘FOB’ (‘free on board’) means the value of
goods when shipped for export, and includes all costs
and charges up to the time of delivery of the goods on
board the exporting vessel or aircraft.

‘Forfeiture’ means the surrender of ownership
of property to the FSM Government following a breach of
certain provisions of this chapter; it is independent of
and in addition to any penalty imposed by this chapter.

‘FSM’ means the Federated States of Micronesia.

‘Goods’ means any type of merchandise, product,
commodity, vehicle, moveable personal property, or
commercial wares.

‘Importer’ means, in relation to goods, the owner
of the goods, any person by or for whom any goods are
imported, and includes the consignee and any other
person who is beneficially interested in the goods.

(a) In relation to a vessel the person in charge or command of the vessel;

(b) In relation to an installation the person in charge of the installation.

‘Narcotic drug’ means those described in subsection (15) of section 1112 of title 11 of this code or successor provision of law.

‘On or about the body’ means on or within the body, clothing, footwear, purse, handbag, or similar article.

(a) In respect to goods, any person being or holding himself or herself out to be the owner, importer, exporter, consignee, agent or person possessed of, or having control of, or power of disposition over the goods;

(b) In respect of a vessel or aircraft, the owner of record, or a person acting as agent on behalf of the owner of record.

‘Package’ includes every means by which goods for transportation may be cased, covered, enclosed, contained, or packed.

‘Person’ means any individual, company,
corporation, partnership, unincorporated association, or other business entity.

(26) ‘Pilot’ means the person in charge or in command of an aircraft.

(27) ‘Place’ means any location, building or site, and includes moveable locations such as a vessel or aircraft.

(28) ‘Port’ or ‘Port of entry’ means an official port of entry identified in or pursuant to title 18 of this code and amendments thereto.

(29) ‘President’ means the President of the FSM.

(30) ‘Prohibited goods’ means any goods the importation or exportation of which is prohibited under FSM law.

(31) ‘Regulations’ means any regulations promulgated pursuant to this chapter.

(32) ‘Secretary’ means the Secretary of the FSM Department of Finance and Administration.

(33) ‘Smuggling’ means any importation or exportation, attempted importation or exportation, with the intent to defraud the FSM.

(34) ‘Stamp’ means device or instrument used by a Customs officer to make a distinctive impression or imprint, to identify and evidence the clearance of imported or exported goods and the clearance of vessels
or aircraft.  

([36]36) ‘Unlawfully imported, exported, or carried goods’ means any smuggled goods and any goods imported, exported, or carried in breach of the provisions of this chapter, or any other law of the FSM, or whose sale, possession or use is prohibited or contrary to restrictions imposed by the State into which the importation took place. The above defined phrase carries a like meaning wherever similarly stated in this chapter.

([36]37) ‘Vehicle’ means every description of motorized carriage or other contrivance used or capable of being used as a means of transport on land.

Section 3. Sections 241, 257, 261, 264, 265 and 270 of chapter 2 of title 54 of the Code of the Federated States of Micronesia are hereby repealed in their entirety.

Section 4. Section 221 of chapter 2 of title 54 of the Code of Federated States of Micronesia is hereby repealed in its entirety and a new section 221 is established to read as follows:

“Section 221. Levy and rates. Import duty is hereby levied on all goods which are imported into the FSM at the rate of ten percent (10%) ad valorem.”

Section 5. Section 222 of chapter 2 of title 54 of the Code of the Federated States of Micronesia, as amended by Public Law No. 15-58, is hereby further amended to read as follows:
“Section 222. Exemptions.

(1) Damaged, pillaged or faulty goods. Upon receipt of a written request within 28 days of the goods' release from Customs control, the [Secretary] CEO may authorize a refund of the whole or part of the duty paid, where any of the following conditions exist:

(a) goods have been damaged, pillaged, lost or destroyed during the voyage;

(b) goods have, while subject to the control of Customs, been damaged, pillaged, lost or destroyed; or

(c) the [Commissioner] CEO is satisfied that, owing to a fault or defect in any goods, the importer has received a reduction or a refund, in whole or part, of the price paid for the goods.

(2) Goods imported for subsequent export.

(a) Upon application to and approval by the [Secretary] CEO, import duty paid on the following goods shall be refunded: goods imported for processing in the FSM, not otherwise used in the FSM, and subsequently exported from the FSM. For purposes of this subsection, raw materials or ingredients which are worked into or otherwise become part of a different or more finished product are deemed exported when that product is exported.

(b) Goods imported for processing are eligible
for the duty refund when the finished products which the imported goods were processed into have been loaded on an aircraft or vessel for direct removal from the FSM and that aircraft or vessel has departed from the port. After they have been so loaded, the goods shall again be subject to import duty if they are unloaded or used in the FSM. With respect to importers primarily engaged in importing for processing and subsequent export, the Secretary shall provide for waiving, by regulation rather than collecting and subsequently refunding, duties.

(c) Upon application to and approval by the [Secretary] CEO, import duty shall be waived on the following goods: goods imported for transshipment through the FSM, not to be used in the FSM, which are securely stored while in the FSM and which are exported from the FSM within a reasonable time of import to the FSM, as defined by regulation. Should these goods not be exported within a reasonable time, the importer will be subject to a penalty equal to one-quarter of the import duty that would have been due if the goods were to be used in the FSM. Should these goods be removed from the secure storage facility or used in the FSM, they will be subject to the full import duty.

(d) The burden of proving that goods imported are
for subsequent export shall be upon the importer/exporter as specified in regulations.

(3) Goods carried in per trip abroad. Each time an individual person enters or returns to the FSM from a foreign jurisdiction, he or she is entitled to bring into the FSM the following goods duty free, provided that such goods are for that person's own personal use or consumption and not for resale or exchange, and provided further that such person is permitted by applicable State law to possess, use, and consume such goods:

(a) up to 200 cigarettes;
(b) up to one pound of tobacco or twenty cigars;
(c) up to 52 fluid ounces or 1500 milliliters of distilled alcoholic beverages; and
(d) up to two hundred dollars ($200) worth of goods other than tobacco products, beer and malt beverages, distilled alcoholic beverages, and wine.

(4) Visitors' personal effects. A visitor to the FSM may import bona fide personal effects into the FSM duty free, provided the goods are for the visitor's own personal use and will be taken with the visitor when he or she leaves the country.

(5) Returning goods. Goods produced or properly entered in the FSM which are subsequently removed from
the FSM may be returned to the FSM duty free. The burden shall be on the owner of the goods to establish that the goods were either produced in the FSM or previously and properly entered.

(6) Goods used in foreign aid projects. An international organization, foreign contractor, or other foreign entity may import goods into the FSM duty free in connection with the performance of services or other conduct of business in furtherance of a foreign aid agreement entered into by the FSM, the terms of which require that such import shall not be subject to taxation by the FSM; provided that if and when such goods are subsequently sold in the FSM, import duty shall be due based on the sale amount. The duty, together with penalties and interest, shall be the joint and several personal liability of the importer and the purchaser and shall be secured by first liens on the goods and on the importer's property as hereinafter provided.

(7) Certain fishing vessels and equipment. Fishing vessels basing in the Federated States of Micronesia under a valid permit or license issued pursuant to title 24 of the Code of the Federated States of Micronesia shall not be subject to the import duty on either the vessel or equipment installed in the vessel. This
exemption shall apply to replacement parts and equipment imported by these fishing vessels as well.

(8) Parcels which would generate a de minimis duty. Parcels mailed or otherwise sent into the FSM, which would otherwise generate a de minimis duty, shall be exempt from import duty, provided that such goods are for the recipient's own personal use or consumption and not for resale or exchange. Parcels with values up to the amount specified in subsection (3)(d) of this section, shall be exempt.

(9) Health, education and welfare related goods donated for humanitarian use. Upon application to and approval by the [Secretary] CEO, the import duty on goods related to health, education or welfare donated without cost for humanitarian purposes, and not for resale, shall be waived or refunded; PROVIDED, HOWEVER, that if and when any of such goods are subsequently sold in the FSM, import duty shall be due based on the sale amount. The duty, together with penalties and interest, shall be the joint and several personal liability of the importer and the purchaser and shall be secured by first liens on the goods and on the importer’s property as hereinafter provided.”

Section 6. Section 231 of chapter 2 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as
follows:

“Section 231. Administration of Customs.

(1) The [Secretary of Finance] CEO shall appoint Customs officers.

(2) Customs locks and seals.

(a) Official locks and seals. All courts and all persons shall take notice of any official lock or seal used by an officer during the course of his/her duties and shall presume, until shown otherwise, that the lock or seal was fastened by the proper authority.

(b) National offense. Any person who willfully disregards, alters, breaks, or interferes with a lawfully affixed Customs lock or seal is guilty of a National offense.

(c) Penalty. A person convicted under this subsection shall be subject to a fine not exceeding $1,000, or imprisonment of not more than one year, or both.

(3) Customs stamps.

(a) Stamped impression. All courts and all persons shall take notice of a stamped impression made by an officer during the course of his/her duties and shall presume, until shown otherwise, that the impression was made by the proper authority.

(b) National offense. Any person who willfully
disregards, alters or attempts to alter, or unlawfully duplicates a Customs stamp is guilty of a National offense.

(c) Penalty. A person convicted under this subsection shall be subject to a fine not exceeding $1,000, or imprisonment of not more than one year, or both.

(4) Working days and hours. The working days and hours of [the Division of] Customs are Monday through Friday, 8 a.m. through 5 p.m., except for National holidays [or as prescribed by Public Service System Regulations].

(a) Except when the working of overtime is authorized in advance by the [Commissioner] CEO, cargo should be cleared and passengers landed from vessel or aircraft only on working days and during working hours.

(b) Any person may request that the [Commissioner] CEO arrange for an officer to be made available to perform a function at a place outside of the hours prescribed under paragraph (a) above. Such person shall pay to the FSM Government such fee as is set by the [Secretary] CEO reflecting the cost of making officers available.

(5) Insurance. The Commissioner is authorized to provide insurance coverage for Customs officers who
undertake hazardous duties.

[(6) Annual report. Within 60 days of the end of each fiscal year the Division of Customs will provide for Congress an annual report on its activities setting out the following details:

(a) overview;

(b) revenue:

(i) revenue collected;

(ii) cost of collection;

(iii) costs recovered;

(iv) entries passed;

(c) enforcement:

(i) invoices appraised;

(ii) vessels and aircraft searched;

(iii) goods seized;

(iv) prosecutions and convictions;

(d) Staff;

(e) Plan for the next year.]

[7)6] Customs officers’ authority to arrest.

(a) When authorized by the [Secretary] CEO, a Customs officer shall have the authority given to a policeman under section 211 of title 12, or successor provision of law, to make an arrest without warrant for an offense defined under this chapter.

(b) The [Secretary] CEO shall, on consultation
with the [Attorney General] Secretary of the FSM Department of Justice, establish procedures for arrest and disposition of criminal suspects by Customs officers."

Section 7. Section 232 of chapter 2 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 232. Duties of controlling authorities.

(1) The controlling authority of every port, airport or transit building shall provide and maintain at the port, airport or transit building, to the satisfaction of the [Secretary] CEO the following;

(a) staff accommodation and facilities for the use of Customs officers, at such place or places as the [Secretary] CEO may direct; and

(b) suitable transit buildings as the [Secretary] CEO may declare as necessary in respect to the port or airport, together with suitable weighing appliances for use by Customs officers.

(2) The controlling authority of every port, airport or transit building shall store goods subject to the control of Customs in such manner and place as the [Commissioner or other proper officer of Customs] CEO may direct."

Section 8. Section 233 of chapter 2 of title 54 of the Code
of the Federated States of Micronesia is hereby amended to read as follows:

“Section 233. Cooperation with other National and State authorities.

The [Secretary] CEO is authorized to enter into Memorandums of Understanding with other National and State authorities to allow the [Division of Customs] Authority to provide assistance in the enforcement of any National or State law.

[(1) Taxation. The Division of Customs is authorized to exchange information with other National or State authorities to ensure the proper and correct collection of taxes.]

[(2) Statistics.

(a) The [Division of Customs] Authority is responsible for the collection of statistical data on the importation and exportation of goods and providing this information to the Division of Statistics.

(b) The [Secretary] CEO is authorized to introduce classification schedules, including the Harmonized Commodity Description and Coding System HS and its subsequent revisions, and associated computer software to assist with this function.

[(3) Quarantine. The [Secretary] CEO may accept an appointment made by the Secretary of the FSM]
Department of Resources and Development, regarding the empowering of Customs officers to perform agriculture quarantine inspections, pursuant to section 407 of title 22 of this code or any successor provision.

((4)[3]) Food safety. The [Secretary] CEO may accept an appointment by the Secretary of the FSM Department of Health Services regarding the empowering of Customs officers to perform food safety inspections pursuant to [41 F.S.M.C. 1013] section 1013 of title 41 of this code (National Food Safety Act) or any successor provision.

((5)[4]) Immigration. The [Secretary] CEO may accept an appointment made by the Secretary of the FSM [Office of the Attorney General] Department of Justice regarding the empowering of Customs officers to perform immigration inspections pursuant to section 108 of title 50 of this code or any successor provision.

((6)[5]) Community, social, environmental and antiquities protection. The [Division of Customs] Authority will monitor imports and exports on behalf of other National and State agencies to ensure compliance with legislation and international agreements, ratified by the FSM, dealing with community, social, environmental and antiquities protection.

Section 9. Section 234 of chapter 2 of title 54 of the Code
of the Federated States of Micronesia is hereby amended to read as
follows:

“Section 234. Customs control of goods.

(1) Goods subject to Customs control:

(a) Imported goods, from the time of their
importation until applicable duties are paid and the
goods are released or until their exportation to any
country outside of the FSM.

(b) All goods for export, from the time such
goods are brought to any port, airport or other place
for export until their exportation to any country
outside of the FSM.

(c) Goods imported or exported through the Post
Office are subject to the control of the Customs in the
same manner as goods otherwise imported or exported.

(2) Non-routine examinations. Where, for the
purposes of section 235 of this chapter, examination at
the dock or airport is impracticable, shipments may,
subject to approval by a Customs officer of a written
undertaking in the approved form, be removed to the
owner’s premises for examination.

(3) CY-CY Containers.

(a) CY-CY container shipments or similar
shipments may be delivered to a final destination other
than the dock, upon the approval of a Customs officer.
(b) The consignee shall notify the [Division of Customs] Authority of the delivery of the shipment and shall not open the container without the approval of a Customs officer.

(c) Customs officers shall be given access to any CY-CY container or similar shipment at the owner’s premises for the purposes of any section of this chapter.

(4) Removal of goods. Goods removed from the dock or airport pursuant to subsections (2) and (3) of this section remain subject to Customs control until the examination has been undertaken and a Customs officer has authorized their release.

(5) National offense. Any person who, otherwise than by authority and in accordance with this chapter, moves, alters or interferes with goods subject to the control of Customs, is guilty of a National offense.

(6) Penalty. A person convicted under this section shall be subject to a fine not exceeding $5,000, or imprisonment of not more than five years, or both.”

Section 10. Section 235 of chapter 2 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

“Section 235. Right of examination.

A Customs officer shall have the right to examine all
goods subject to Customs control.

(1) *Examination of goods.* In carrying out the examination of goods:

(a) Any Customs officer may open packages and examine, weigh, mark and seal any goods.

(b) Where, shipment has been removed to the owner’s premises for examination, Customs officers shall be granted access to the shipment for the purposes of this section. The expenses of the examination, including the cost of removal to the place of the examination, shall be borne by the owner.

(2) *Search of residences, building and premises.* Any officer, with legally sufficient grounds to believe goods that may be forfeited pursuant to section 253 of this chapter are present and, pursuant to a search warrant required by law, may enter any residence, building or premise to search for and seize such goods.

(3) *Search of persons.*

(a) Where a Customs officer on reasonable grounds believes a person who has just landed from or is about to board a vessel or aircraft has dutiable or prohibited goods on or about his or her person, the officer may, subject to the following conditions, search and detain that person and may use reasonable force to carry out the search.
(b) No search shall be undertaken unless another officer or person is present as a witness.

(c) Searches shall be undertaken by an officer or person of the same gender unless there are reasonable grounds for believing the person being searched may resist the search or, despite diligent efforts to procure an officer or person of the same gender, no such person is available to undertake the search.

(d) Body cavity searches shall be carried out by a qualified medical officer.

(4) The powers in this section are in addition to the powers in subchapter VII of chapter 8 of this title.”

Section 11. Section 238 of chapter 2 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

“Section 238. Importation of goods.

(1) Arrival procedures. On arrival of a vessel or an aircraft at any port in the FSM the master or pilot of such vessel or aircraft shall deliver to the Customs officer:

(a) Copies of the manifest; and

(b) All bills of lading and air waybills for cargo to be discharged at that particular port.

(2) Time limit for entry. Each consignee of imported goods shall make entry of those goods at the local
Customs office within 15 days after departure of the importing vessel or aircraft, exclusive of Sundays and FSM national holidays. To enter goods means to notify [Customs officials] the CEO of the arrival of those goods and to comply with all Customs requirements in connection therewith.

(3) Verification of entry:

(a) Entry shall be verified by the presentation to Customs by the consignee, or authorized agent of the consignee, of a completed and signed entry form together with a non-negotiable bill of lading or an air waybill and vendor’s invoices for the imported goods.

(b) The consignee shall answer any questions relating to the goods and, upon request of a Customs officer, furnish any other documentation deemed necessary for:

(i) a proper assessment of the duties on the merchandise;

(ii) the proper collection of accurate statistics with respect to the merchandise being imported; and

(iii) a determination of whether any other applicable legal requirements have been met.

(c) The approved entry form shall set forth such facts in regard to the importation as the [Secretary]
1 CEO may require for the inspection, appraisement, payment of import taxes and for the collection of statistics.

(4) Releasing of goods. Customs personnel shall, on satisfactory examination of the above documents, and payment of the correct duty, stamp and release the imported goods.

(5) Personal Baggage. Goods that are the personal baggage of passengers in a vessel or aircraft and are not taxable goods may be released without entry.

(6) Importation defined:

(a) Goods shall, except where otherwise expressly provided, be deemed to be imported into the FSM as soon as and in any manner, whether lawfully or unlawfully, they are brought or come within the territorial limits of the FSM from any country outside those limits. For purposes of this chapter, the territorial limits of the FSM include the territorial sea, as defined in chapter 1 of title 18 of this code.

(b) Goods whose destination is outside the territorial limits of the FSM, including ship’s stores and aircraft stores, shall not be deemed to be imported unless, while they are within those limits, they are removed from the vessel or aircraft in which they arrived there.
(c) Imported goods intended for use, sale, or other disposition within the territorial sea or internal waters of the FSM must first be brought to a port of call and cleared through Customs.

(d) Vessels or aircraft entering into the territorial limits of the FSM solely in transit or for loading, unloading, transshipping, provisioning, refueling, other resupply, equipping, maintenance, repair, overhaul, and other like purposes shall not be deemed to be goods imported into the FSM unless such vessels or aircraft thereafter become based in the FSM.

(7) Import tax rate. Dutiable goods shall be liable to the duty rates at the time when the aircraft or vessel first arrives at a designated port of entry within the FSM.

(8) Clearing goods prior to arrival. Each consignee of imported goods, may, provided he or she has the required documentation, clear those goods prior to arrival of the vessel or aircraft. This does not waive or limit the authority of Customs to examine those goods on arrival.

(9) Exempt goods. All tax exempt goods shall be identified and cleared on the official clearance form.

(10) Abandoned goods:

(a) Goods remaining unentered three months after
the departure of the importing vessel or aircraft shall be treated as goods abandoned to the National Government and may be sold by public auction, destroyed, or otherwise disposed of as the CEO may direct.

(b) Proceeds of such sale shall be [deposited in the General Fund and] used first to pay expenses of sale, duties, storage charges, and any lien for freight changes, in said order. Surplus proceeds may be paid to the owner upon proof of his or her interest therein."

Section 12. Section 242 of chapter 2 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

“Section 242. Boarding and searching vessels and aircraft on arrival.

(1) Boarding, searching, and answering questions. A Customs officer may:

(a) Board any vessel or aircraft on its arrival in the FSM. The hoisting or displaying of a foreign flag will be taken as consent to board;

(b) Search any vessel or aircraft on arrival in the FSM;

(c) Require all persons found on the vessel or aircraft to answer questions, and produce documents in relation to:

(i) the vessel or aircraft, its voyage or
flight, and its cargo, stores, crew and passengers; or

(ii) the presence of those persons on the

vessel or aircraft.

(2) **Arming of officers.**

(a) Where the [Commissioner] CEO has reasonable

cause to believe any person on board any vessel or

aircraft bears firearms, the [Commissioner] CEO is

authorized to direct that the officers boarding the

vessel or aircraft be armed.

(b) All occasions when Customs officers are armed

while boarding shall be reported to the FSM [Office of

the Attorney General] Department of Justice."

**Section 13.** Section 249 of chapter 2 of title 54 of the Code

of the Federated States of Micronesia is hereby amended to read as

follows:

“Section 249. **Report of cargo.**

(1) The master, owner or pilot of a vessel or aircraft

arriving from a place outside the FSM is guilty of a

National offense if that person willfully fails:

(a) To report, within one day after the arrival

at a port or airport, the vessel or aircraft and her

cargo by delivering to [Customs] the Authority an inward

manifest, in duplicate, of goods for the port or

airport;

(b) To answer questions relating to the vessel or
aircraft and her cargo, crew, passengers, stores and voyage; or

(c) To produce documents relating to the vessel or aircraft and her cargo.

(2) Penalty. A person convicted under this section shall be subject to a fine not exceeding $5,000, or imprisonment of not more than five years, or both."

Section 14. Section 250 of chapter 2 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 250. Report of wrecked vessel or aircraft."

(1) When any vessel from outside the FSM is lost or wrecked upon the coast, the master or owner shall without unreasonable delay make report of the vessel and her cargo to the Customs office nearest to the place where the vessel was lost or wrecked.

(2) When any aircraft arriving from outside the FSM is lost or wrecked at any place within the FSM, the pilot or owner shall, without unreasonable delay, make report of the aircraft and cargo to the Customs office nearest to the place where the aircraft was lost and wrecked.

(3) Any master or owner of a vessel lost or wrecked, or pilot or owner of an aircraft lost or wrecked, who fails to report such loss or wreck [to Customs] as required by this section is guilty of a National
(4) **Penalty.** A person convicted under this section shall be subject to a fine not exceeding $1,000, or imprisonment of not more than one year, or both.”

Section 15. Section 253 of chapter 2 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

“Section 253. **Forfeited goods.**

The following goods may be forfeited to the FSM Government:

(1) All goods which are unlawfully imported, exported, or carried;

(2) All goods found on any vessel or aircraft after arrival in any port or airport which are not specified or referred to in the inward manifest and are not baggage belonging to crew or passengers and have not been satisfactorily accounted for;

(3) All goods subject to the control of Customs that are moved, altered or interfered with in violation of the provisions of this chapter;

(4) All goods which are, as specified by statute or as directed by a Customs officer, to be moved or dealt with in any way and which are not moved or dealt with in any way and which are not moved or dealt with accordingly;

(5) Any vehicle or animal used in smuggling or in the
unlawful importation, exportation, or conveyance of any
goods;

(6) All goods, except a passenger’s baggage, found on
any vessel or aircraft after clearance and not specified
or referred to in the outward manifest[ed] and not
accounted for to the satisfaction of the [Commissioner]
CEO;

(7) All dutiable goods concealed in any manner;

(8) Any package in which there are concealed goods:
   (a) Not included in the clearance documents; or
   (b) So packed as to deceive the officer.

(9) All dutiable goods found in the possessions or in
the baggage of any person who has got out of, landed
from or gone on board any vessel or aircraft and who has
denied that he or she has any dutiable goods in his or
her possession, or who when questioned by a Customs
officer has not fully disclosed that such goods are in
his or her possession or baggage;

((11)[10] Any stolen or counterfeit goods.”

Section 16. Section 254 of chapter 2 of title 54 of the Code
of the Federated States of Micronesia is hereby amended to read as
follows:

“Section 254. Seizure of goods.

(1) A Customs officer or officer of the FSM National
Police may seize any forfeited goods or any goods that
the officer believes on reasonable grounds are forfeited goods.

(2) The power to seize goods under subsection (1) of this section may, without limiting the power of that subsection, be exercised at sea or in any other waters.

(3) All seized goods shall be taken to the nearest National Government warehouse or to such other place of security as the [Commissioner] CEO directs.

(4) All seized goods must be endorsed on an appropriate receipt.

(5) If the [Commissioner] CEO determines that any goods are of a perishable nature or are live animals, such goods may be sold by the [Commissioner] CEO without delay.”

Section 17. Section 256 of chapter 2 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

“Section 256. Return of seized goods on security. The [Secretary] CEO may authorize any vessel, aircraft or goods seized, other than controlled substances or narcotic drugs, to be delivered to the owner or agent upon production of adequate security.”

Section 18. Section 258 of chapter 2 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:
“Section 258. Disposal of forfeited goods, aircraft, and vessels.

All forfeited goods, aircraft, and vessels shall become the property of the National Government and shall be sold, destroyed, or otherwise disposed of as the [Secretary or Commissioner] CEO may direct.”

Section 19. Section 267 of chapter 2 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

“Section 267. Regulations.

(1) The Secretary [of Finance may adopt, amend or rescind] shall, subject to the approval of the President, prescribe and have printed reasonable regulations for the [administration] enforcement of this chapter and such regulations shall have the force and effect of law if they are not in conflict with the express provisions of this chapter or other laws of the FSM.

(2) The regulations shall also provide for matters prescribed under the chapter to be made by regulation.

(3) Such regulations shall be promulgated pursuant to chapter 1 of title 17 of this code.”

Section 20. Section 269 of chapter 2 of title 54 of the Code of the Federated States of Micronesia is hereby amended to read as follows:
“Section 269. **Implementation.**

1. To give effect to the provisions of this chapter the [Secretary] CEO is authorized to:
   
   (a) Draw up and implement procedures and guidelines;
   
   (b) Distribute such procedures and guidelines to interested parties;
   
   (c) Appoint appraisers in each of the States to examine invoices presented to Customs[.];

   (d) introduced the Harmonized Commodity Description and Coding System (HS) and its subsequent revisions.

2. The [Division of Customs] Authority is authorized to become a member of and to send representatives to meetings of[.]:
   
   (a) Organizations that foster cooperation between Pacific Island Nations Customs Divisions;
   
   (b) Organizations that will increase the expertise and efficiency of the Customs Division.”

Section 21. Title 54 of the Code of the Federated States of Micronesia is hereby amended by adding a new section 271 to subchapter III of chapter 2 to read as follows:

“Section 271. **Commencement of administration.**

Administration of this act shall commence eighteen (18) months after the commencement of administration date of
the Unified Revenue Authority Act as determined by section 769 of this title."

Section 22. 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: 5/27/11 Introduced by: Florencio S. Harper (by request)