
A BILL FOR AN ACT

To further amend title 41 of the Code of the Federated States of Micronesia (Annotated), as amended, by amending sections 1003, 1007, 1009, 1011, 1013, 1014, 1020, 1022, 1024, 1025, 1026, 1027, 1028, and 1030 thereof, to provide for the establishment of the Competent Authority, and for other purposes.

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

1 Section 1. Section 1003 of chapter 10 of title 41 of the
2 Code of the Federated States of Micronesia (Annotated), as
3 amended, is hereby further amended to read as follows:

4 "Section 1003. Definitions.

5 As used in this chapter, the following terms shall have
6 the meanings set forth below:

7 (1) "Advertisement" means words, whether written or
8 spoken, symbolic or pictorial representation or design,
9 or any other representation which has the effect of
10 promoting a product for sale.

11 (2) "Article" means

12 (a) Any food, or anything used to label or
13 advertise food; or

14 (b) Any thing or machine used for the
15 preparation, preservation, packing or storing of any
16 food.

17 (3) "Export" means to send, mail, ship or carry out of

1 the Federated States of Micronesia in any way food or
2 any food product for sale, trade, exchange, or for any
3 consideration or in pursuance of any sale, trade,
4 exchange, or consideration.

5 (4) " Facility" means a food processing facility.

6 ([4]5) "Food" means any article manufactured, sold or
7 represented to be for human consumption, and includes:

8 (a) All beverages except sakau and tuba;

9 (b) All chewing substances except betel nut and
10 the articles used to prepare betel nut for consumption;

11 (c) Any ingredient, food additive or other
12 substance that enters into or is capable of entering
13 into or is used in the composition or preparation of
14 food.

15 ([5]6) "Import" means to bring or carry into the
16 Federated States of Micronesia any food or food product
17 for sale, trade, exchange or consideration, or in
18 pursuance of any sale, trade, exchange or consideration,
19 by any means of transportation[+], and includes
20 transshipment as defined in Title 24 of the Code of the
21 Federated States of Micronesia.

22 ([6]7) "Label" means any tag, ticket, stamp, brand, or
23 mark containing any writing, picture, symbol or design,
24 attached to, included in, or accompanying any food or
25 food package.

1 (8) "Operator" in relation to a facility means any
2 person who is in charge of, responsible for the
3 operations of, directs or controls such facility,
4 including the owner, director and manager and includes
5 the beneficiary of the economic or financial benefit of
6 the facility's operations.

7 ([7]9) "Package" includes anything in which any food is
8 wholly or partly placed or packed and includes any
9 basket, pail, tray, or any receptacle whether open or
10 closed.

11 ([8]10) "Person" includes individuals, partnerships,
12 corporations, associations, and all other entities doing
13 business in the [FSM] Federated States of Micronesia.

14 ([9]11) "Premises" means:

15 (a) Any building or tent or facility or other
16 structure, permanent or temporary, the land on which it
17 is situated, and any adjoining land used in connection
18 with it;

19 (b) Any vehicle or vessel; and

20 (c) Any place, including a street, open space,
21 or place of public resort, used in the preparation,
22 preservation, packaging or storage of any article.

23 ([10]12) "Preparation" and "prepare" include
24 manufacture, processing, and any form of treatment.

25 (13) "Processing" includes storing, packaging,

1 filleting, slicing, skinning, mincing, dismembering,
2 cleaning, chilling, treating, freezing, drying, smoking,
3 cooking, canning, packing of live seafood or other
4 preservation and further processing techniques; and
5 "process" and "processed" and "processor" shall have a
6 corresponding meaning.

7 (14) "Seafood" means any aquatic species whether wild or
8 farmed and including all edible forms, and products of
9 such species.

10 (15) "Seafood product" means any product made from
11 seafood or any part thereof.

12 (16) "Seafood Verification Unit" or "Unit" means the
13 body established in Section 1011 of this chapter.

14 (~~11~~17) "Secretary" means the Secretary of the
15 Department of Health [~~Services~~] and Social Affairs.

16 (~~12~~18) "Sell" [~~means to offer, advertise, keeps,~~
17 ~~deliver, or prepare for sale or exchange, to dispose of~~
18 ~~for consideration, or to deliver in pursuance of a sale~~
19 ~~or exchange]. Includes:~~

20 (a) any method of disposition for consideration,
21 including cash, anything which has value or which can be
22 exchanged for cash, and barter;

23 (b) disposition to an agent for sale on
24 consignment;

25 (c) offering or attempting to sell, or receiving

1 or having in possession for sale, or displaying for
2 sale, or sending or delivering for sale, or causing or
3 permitting to be sold, offered, or displayed for sale;

4 (d) disposition by way of raffle, lottery, or
5 other game of chance; and

6 and "sale" and "sold" have a corresponding meaning.

7 ([13]19) "Unsanitary condition" means such condition as
8 could cause contamination of a food with dirt or filth,
9 or could render the food injurious or dangerous to
10 health, whether such contamination or injury or danger
11 actually occurs or not.

12 ([14]20) "Vehicle" mean any device, whether operational
13 or not, that is usually a means of conveyance by land,
14 water or air."

15 Section 2. Section 1007 of title 41 of the Code of the
16 Federated States of Micronesia (Annotated), as amended, is hereby
17 further amended to read as follows:

18 "Section 1007. Food standards.

19 Where a standard has been prescribed by regulation for
20 any food that has been imported or is being prepared for
21 export, no person may label, package, prepare, sell, or
22 advertise that food when it does not comply with that
23 standard~~[, in such a way that the food could be mistaken~~
24 ~~for food which meets the standard]."~~

25 Section 3. Section 1009 of title 41 of the Code of the

1 Federated States of Micronesia (Annotated), as amended, is hereby
2 further amended to read as follows:

3 "Section 1009. Compliance

4 (1) Except as provided in section 1010 of this chapter,
5 no person may import any article which does not comply
6 with the provision of this chapter.

7 (2) No person may import any article into the [~~FSM~~]
8 Federated States of Micronesia which is restricted in
9 its sales in the country of origin.

10 (3) No person may import, export, transport, sell,
11 receive, acquire or purchase any article taken,
12 possessed, transported or sold in violation of any law
13 or regulation of a foreign state upon implementation, on
14 a reciprocal basis, of an agreement between the
15 Government of the Federated States of Micronesia and
16 such other foreign state or states, in which such
17 activities are agreed to be unlawful.

18 (~~3~~4) No person may import any food or package
19 containing food which is marked with an expiration date
20 which has passed".

21 Section 4. Section 1011 of title 41 of the Code of the
22 Federated States of Micronesia (Annotated), as amended, is hereby
23 repealed in its entirety.

24 Section 5. Title 41 of the Code of the Federated States of
25 Micronesia (Annotated), as amended, is hereby further amended by

1 inserting a new section 1011 to read as follows:

2 "Section 1011. Seafood Verification Unit.

3 (1) The Seafood Verification Unit is hereby
4 established.

5 (2) The Seafood Verification Unit shall act as
6 the competent authority for the purpose of implementing
7 the international food safety requirements and related
8 obligations of the Federated States of Micronesia.

9 (3) The objectives of the Seafood Verification Unit
10 are:

11 (a) to verify and certify the export of seafood;
12 and

13 (b) to ensure the application of appropriate
14 quality control measures and seafood production industry
15 standards.

16 (4) The Unit has the following functions:

17 (a) to verify the operation of licensed seafood
18 processing facilities where required by law:

19 (b) to monitor, regulate and control all exports
20 of seafood, and seafood products to ensure compliance
21 with prescribed requirements and standards;

22 (c) to make recommendation to the Secretary with
23 regard to licensing of seafood processing facilities in
24 accordance with this chapter;

25 (d) to certify exports of seafood and seafood

1 products originating from the Federated States of
2 Micronesia;

3 (e) to liaise with the National Oceanic
4 Resources Management Authority established under Title
5 24 of the Code of the Federated States of Micronesia
6 with regard to the certification of seafood and seafood
7 products discharge from vessels entitled to fly the flag
8 of the Federated States of Micronesia;

9 (f) to liaise with seafood facility operators,
10 other agencies and importing country authorities with
11 regard to seafood safety and market access requirements;

12 (g) provide official assurances to importing
13 country authorities of the safety of seafood and seafood
14 products for exports;

15 (h) to provide verification and inspection
16 information and services to individuals, agencies and
17 other organizations within the Federated States of
18 Micronesia and overseas in respect of seafood and
19 seafood product exports;

20 (i) to do such matters incidental to or
21 consequential upon the exercise of its power or the
22 discharge of its functions under this chapter.

23 (5) The exercise of the objectives and functions of
24 the Unit shall be administered by a Manager appointed in
25 accordance with the laws of the Federated States of

1 Micronesia and such qualified person deemed necessary.
2 The Manager shall hold all necessary powers for the
3 purpose of implementing the international food safety
4 requirements and related obligations of the Federated
5 States of Micronesia."

6 Section 6. Section 1013 of title 41 of the Code of the
7 Federated States of Micronesia (Annotated), as amended, is hereby
8 further amended to read as follows:

9 "Section 1013. Powers of food inspectors.

10 (1) A food inspector may, upon reasonable belief and
11 at any reasonable hour:

12 (a) Enter any port of entry or facility where
13 articles subject to this chapter are being received,
14 shipped or prepared for export, ad examine and take
15 samples of articles, and examine anything which appears
16 capable of being used for such preparation, packaging,
17 storage, sale, or conveyance;

18 (b) Detain and search any vehicle at any port of
19 entry which is conveying any article subject to this
20 chapter, and examine and take samples of any such
21 article;

22 (c) Open and inspect any package which contains
23 any article subject to this chapter;

24 (d) Examine any books, accounts, documents, or
25 other records that could contain any relevant

1 information about articles subject to this chapter and
2 make copies of such;

3 (e) Destroy or dispose of food for export or
4 food which has been imported which is decayed or
5 petrified or otherwise a danger to the public health,
6 with prior notice to owner;

7 (f) Cut, remove, detain, seize, or recall any
8 food not fit for human consumption or not suitable for
9 export;

10 (g) Indelibly or otherwise mark, brand, dye or
11 label any food of package containing any food;

12 (h) Make or impose any relevant order,
13 instruction, condition or penalty;

14 (i) Interrupt, suspend or prohibit actions or
15 operations wherever food is being cut-up, stored, sold
16 or in any way processed.

17 ([~~f~~]j) Call a member of the [~~local or~~] national
18 police force for necessary assistance. Any member of the
19 national police shall aid the food inspector as
20 required;

21 ([~~j~~]k) Question any person to determine compliance
22 with this chapter.

23 (2) After any inspection, the food inspector shall
24 give to the owner or person in charge a written report
25 noting any violation of this chapter or the regulations.

1 A copy of this report shall be given to the Secretary.

2 (3) Any person aggrieved by any of these actions has
3 a right to a hearing before the [~~Food Working Group~~
4 Hearing Committee, which shall be conducted according to
5 regulations promulgated [~~by the Secretary~~] under this
6 chapter."

7 Section 7. Section 1014 of title 41 of the Code of the
8 Federated States of Micronesia (Annotated), as amended, is hereby
9 further amended to read as follows:

10 "Section 1014. Assistance.

11 (1) All owners, operators, occupiers, persons in
12 charge, or their employees or agents found on premises
13 or in vehicle containing articles subject to this
14 chapter shall give the food inspector all reasonable
15 assistance in carrying out his duties.

16 (2) All owners, operators, occupiers, persons in
17 charge, or their employee or agents shall immediately
18 comply with every instruction or direction given by a
19 food inspector as appropriate, and facilitate safe
20 inspection of the premises or vehicle containing
21 articles subject to this chapter. Such owners,
22 operators, occupiers, persons in charge or their
23 employees or agents shall ensure the safety of a food
24 inspector in the performance of his duties.

25 (3) Any person who:

1 (a) assaults, obstructs, resists, delays,
2 intimidates, or fails to ensure the safety of or
3 otherwise interfere with a food inspector in the
4 performance of his duties;

5 (b) incites or encourages any other person to
6 assault, resist, or obstruct, any food inspector while
7 in the execution of his power or duties, or any person
8 lawfully acting under the food inspector's order of in
9 his aid;

10 (c) uses threatening language or behaves in a
11 threatening or insulting manner or uses abusive language
12 or insulting gestures towards any food inspector which
13 in the execution of his powers or duties or any person
14 lawfully acting under an inspector's order or in his
15 aid;

16 (d) fails to comply with the lawful requirements
17 or instructions of any food inspector;

18 (e) furnishes to any food inspector any
19 information of particulars which are false or misleading
20 in any material respect;

21 (f) personates or falsely represents himself to
22 be a food inspector, or who falsely represents himself
23 to be a person lawfully acting under a food inspector's
24 order or in his aid;

25 (8) obstructs the administration of this law;

1 ~~[(2) Any person who obstructs the administration of this~~
2 ~~law]~~ shall be prosecuted by the ~~[Office of the Attorney~~
3 ~~General]~~ FSM Department of Justice under chapter 5 of
4 title 11 of ~~[this Code]~~ the Code of the Federated of
5 States of Micronesia."

6 ~~[(3) Any person who makes any false statement to a~~
7 ~~National Government food inspector who is executing his~~
8 ~~duties shall be prosecuted by the Office of the Attorney~~
9 ~~general pursuant to section 542 or 543 of title 11 of~~
10 ~~this code"]~~

11 Section 9. Section 1020 of title 41 of the Code of the
12 Federated States of Micronesia (Annotated), as amended, is hereby
13 further amended to read as follows:

14 "Section 1020. Dangerous foods.

15 (1) If the Secretary determines that a food that has
16 been imported or is to be exported is or could be
17 dangerous or injurious to health, the Secretary may so
18 declare, and no such food may be sold in the ~~[FSM]~~
19 Federated States of Micronesia or exported until the
20 Secretary determines that it is no longer dangerous or
21 injurious to health.

22 (2) If the Secretary determines that food obtained
23 from a certain area is or could be dangerous or
24 injurious to health, the Secretary may so declare, and
25 no food cultivated, taken, harvested, or otherwise

1 obtained from that area may be sold in [FSM] Federated
2 States of Micronesia or exported until the Secretary
3 determines that the danger has passed.

4 (3) An owner of foods banned under this section may
5 appeal such decision in accordance with this chapter [~~to~~
6 ~~the Food Working Group, which shall conduct a hearing~~
7 ~~according to regulations promulgated by the Secretary~~]."

8 Section 10. Section 1022 of title 41 of the Code of the
9 Federated States of Micronesia (Annotated), as amended, is hereby
10 further amended to read as follows:

11 "Section 1022. Trade Secretes.

12 (1) Information furnished to the Secretary under
13 section 1021 of this chapter shall remain confidential.
14 The Secretary, the Unit and any committee established
15 under this chapter [~~the Food Working Group~~], their
16 employees and agents shall not reveal to any person any
17 information furnished under section 1021 of this
18 chapter, except as is necessary to perform his or her
19 duties under this chapter.

20 (2) Any person who willfully violates this section
21 shall be guilty of a national crime.

22 (3) A person convicted under subsection (2) of this
23 section shall be punished by a fine not more than
24 \$100,000, or imprisonment for not more than five years,
25 or both.

1 (4) In addition to the above, any person aggrieved by
2 a violation of this section may recover damages,
3 including punitive damages, in a civil suit filed
4 against the offending individual or individuals."

5 Section 10. Section 1024 of title 41 of the Code of the
6 Federated States of Micronesia (Annotated), as amended, is hereby
7 further amended to read as follows:

8 "Section 1024. Licenses.

9 (1) The Secretary may license persons to import,
10 export, prepare, pack, store food that has been imported
11 or is being prepared for export, or transport food that
12 has been imported or being transported for export,
13 according to regulations promulgated by him under this
14 chapter. [~~All license fees shall be paid into the~~
15 ~~General Fund~~].

16 (2) The Secretary may license a facility, on the
17 application by the owner or operator, authorizing such
18 facility to be used for processing of food, or for other
19 purposes in accordance with this chapter as may be
20 specific in the license.

21 (3) The Secretary may establish a Licensing Committee
22 for the purpose of providing licensing recommendations
23 or advice to the Secretary.

24 (4) No license shall be issued pursuant to this
25 chapter unless:

1 (a) an application is made to the Secretary in
2 the approved form; and

3 (b) the required license fees have been paid
4 into the General Fund.

5 (5) The Secretary, on the advice of the Licensing
6 Committee, may deny an application for a license on any
7 of the following grounds:

8 (a) the owner or operator is the subject of
9 proceedings under the bankruptcy laws of any
10 jurisdiction and reasonable financial assistance have
11 not been provided;

12 (b) there has been failure to satisfy a judgment
13 or other determination for a contravention of this
14 chapter by the owner or operator of the premise in
15 respect of which application for a license has been made
16 until such time as the judgment or other determination
17 has been made;

18 (c) an owner or operator of the facility has
19 contravened any other law of the Federated States of
20 Micronesia;

21 (d) the previous offending history, if any, of
22 the license applicant; or

23 (e) in accordance with such other grounds as may
24 be prescribed.

25 (6) The Secretary, as appropriate, shall attach such

1 condition as may be prescribed and may attach such
2 additional conditions as her or she thinks fit and are
3 consistent with those which ay be prescribed, to any
4 license granted under subsection (1) and (2).

5 (7) Each person, and the owner or operator of a
6 facility licensed in accordance with this section shall
7 comply with all applicable laws of the Federated States
8 of Micronesia and any conditions of such license.

9 (~~2~~8) A person commits a national crime if he knowingly
10 imports, exports, prepares, packs, or stores food that
11 has been imported or is being prepared for export
12 without a valid license.

13 (9) A person commits a national crime if he operates
14 a seafood processing facility in the FSM without a valid
15 license.

16 (~~3~~10) A person convicted under subsection [~~2~~](8)
17 of this section shall be punished by a fine not more
18 than \$1,000 or imprisonment for not more than six
19 months, or both.

20 (11) A person convicted under subsection (9) of this
21 section shall be punished by a fine of not more than
22 \$2,000 or imprisonment for not more than 12 months, or
23 both.

24 Section 11. Section 1025 of title 41 of the Code of the
25 Federated States of Micronesia (Annotated), as amended, is hereby

1 further amended to read as follows:

2 "Section 1025. Regulations.

3 (1) Before any program authorized by this chapter may
4 go into effect, the Secretary shall promulgate
5 regulations providing for the training of food
6 inspectors and setting forth the procedures to be
7 followed by food inspectors in administering and
8 enforcing this chapter, in order to insure that the food
9 inspectors exercise their powers with due regard to the
10 safety of the public, and in such a way as to avoid
11 unnecessary disruptions of business operations.

12 (2) The Secretary may also promulgate regulations
13 regarding food standards including standards for
14 domestic use and export purposes; import, export,
15 conveying, testing, advertising, bookkeeping, and
16 licensing standards; licensing fees; methods of sampling
17 and analysis; food handlers; certification; and the
18 procedure to be followed in the exercise of his duties
19 and those of the Seafood Verification Unit or such other
20 committees established under this chapter [~~food group~~],
21 its employees, and food analysts.

22 (3) When regulations proposed under this chapter will
23 affect an industry, [~~the members of the Food Working~~
24 ~~Group shall supply the Secretary with a list of the~~
25 ~~names of all members of that industry of which they are~~

1 ~~aware.~~] in addition to the requirements of chapter I of
2 Title 17 of this Code, the Secretary shall give notice
3 of the proposed regulations to those members of the
4 affected industry, and shall conduct at least one public
5 hearing no sooner than 10 days after the public and the
6 industry have been notified."

7 Section 12. Section 1026 of title 41 of the Code of the
8 Federated States of Micronesia (Annotated), as amended, is hereby
9 further amended to read as follows:

10 "Section 1026. Hearing.

11 (1) The Secretary shall establish a Hearing Committee
12 for the purpose of conducting hearings under this
13 chapter and providing recommendations or advice to the
14 Secretary.

15 ([1]2) Except for cases arising under section 1013 (1)
16 (e) and section 1017 of this chapter, where immediate
17 seizure or destruction is appropriate, when a food
18 inspector observes a violation of this chapter, or
19 reasonably believes that a violation of this chapter has
20 occurred, he or she shall file a violation report with
21 the Secretary. ~~[The Secretary may investigate, and then~~
22 ~~may order a hearing, which shall be conducted according~~
23 ~~to established regulations.]~~

24 (3) Any person aggrieved by an action of the Unit or
25 the decision of the Secretary may submit a petition for

1 a hearing. Hearings shall be conducted in accordance
2 with regulations promulgated pursuant to title 17 of the
3 Code of the Federated States of Micronesia."

4 Section 13. Section 1027 of title 41 of the Code of the
5 Federated States of Micronesia, as amended, is hereby further
6 amended to read as follows:

7 "Section 1027. Sanctions.

8 (1) The Secretary may suspend or revoke a license if
9 there is a failure to comply with any condition of the
10 license, requirement of this chapter, or any regulation
11 promulgated under this chapter.

12 ([1]2) If the Secretary [~~Food Working Group~~] finds after
13 a hearing initiated by an aggrieved person that a
14 violation of the license or a requirement of this
15 chapter or regulations has occurred, the Secretary [~~Food~~
16 ~~Working Group may~~] shall suspend or revoke the license
17 of any person who has violated, or whose employee or
18 agent has violated any provision of this chapter or the
19 regulations promulgated under it.

20 ([2]3) In addition to suspension or revocation of a
21 license, the Secretary [~~Food Working Group~~] may order
22 that any article, vehicle, or premises involved in the
23 violation be forfeited. The Secretary [~~Food Working~~
24 ~~Committee~~] may dispose of such article, vehicle, or
25 premises as it sees fit. The costs of disposal shall be

1 paid from the proceeds; all remaining amounts shall be
2 paid into the General Fund.”

3 Section 14. Section 1023 of title 41 of the Code of the
4 Federated States of Micronesia (Annotated), as amended, is hereby
5 further amended to read as follows:

6 “Section 1028. Inspection for export purposes.
7 Upon the application of any licensed commercial [~~packer~~]
8 processor of seafood whose business is located within
9 the [~~FSM~~] Federated States of Micronesia, the Secretary
10 may designate a food inspector to examine and inspect
11 the seafood for export and its production, packing,
12 canning and labeling. All fees paid for certification
13 shall be paid into the General Fund.”

14 Section 15. Section 1030 of title 41 of the Code of the
15 Federated States of Micronesia (Annotated), as amended, is hereby
16 further amended to read as follows:

17 “Section 1030. Regulations.
18 After consultation with the Secretary of the Department
19 of Resources and Development, the Secretary of the
20 Department of Health [~~Services~~] and Social Affairs shall
21 promulgate regulations, [~~under~~] pursuant to chapter 1 of
22 title 17 of this code, governing the certification
23 program, including sanitary and other conditions which
24 seafood processors must meet.”

25

1 Section 16. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its
3 becoming law without such approval.

4

5 Date: 6/26/18

Introduced by: /s/ Florencio S. Harper

Florencio S. Harper

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(by request

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