

A BILL FOR AN ACT

To amend title 38 of the Code of the Federated States of Micronesia by amending sections 301, 302, 303, 304, 305, 306, 307, 308, 309 and 310 for the purpose of eliminating reference to the Trust Territory Government, and for other purposes.

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

1 Section 1. Section 301 of title 38 of the Code of the Federated
2 States of Micronesia is hereby amended to read as follows:

3 "Section 301. Definitions. For the purpose of this chapter:

4 (1) 'Person' means any individual, company,
5 corporation, association, or other business activity,
6 which, except as provided in section 303 of this chapter,
7 must be wholly owned by citizens of the ~~Trust Territory~~
8 Federated States of Micronesia.

9 (2) 'Ports of entry' means the official ports
10 specified under title 18, sections 202 and 203 of this code.

11 (3) 'Taxes' means excise, tariff, and other taxes
12 levied on the import, export, and sale of merchandise
13 pursuant to the laws of the ~~Trust Territory~~ Federated
14 States of Micronesia, but does not include gross revenue
15 taxes."

16 Section 2. Section 302 of title 38 of the Code of the Federated
17 States of Micronesia is hereby amended to read as follows:

18 "Section 302. Establishment; Operation and maintenance;
19 Transfer; Fees generally. The ~~High Commissioner~~ President
20 is hereby authorized, subject to the conditions and
21 restrictions of this chapter, to grant to any person the
22 privilege of establishing, operating, and maintaining a
23 duty-free retail concession in or adjacent to any port of
24 entry under the jurisdiction of the ~~Trust Territory~~
25 Federated States of Micronesia. He may lease, rent, or let

1 any public land or building or any part thereof or any
2 interest therein, to any person to establish a duty-free
3 retail concession under terms and conditions which, among
4 others determined by him to be reasonable and proper, shall
5 include the following:

6 (1) Only one duty-free retail concession shall be
7 permitted at each port of entry.

8 (2) Each duty-free retail concession shall be
9 advertised for public auction or public bidding and be
10 granted to that financially responsible person of good
11 moral character and reputable experience who, in the sole
12 opinion of the ~~High Commissioner~~ President, makes the best
13 offer or bid. A noncitizen who wishes to bid for a
14 duty-free retail concession pursuant to section 303 of this
15 chapter shall comply with all applicable ~~Trust Territory~~
16 Federated States of Micronesia foreign-investment laws.

17 (3) Bids or offers shall be accepted only in
18 conformance with precise terms and conditions uniform in
19 all ~~Administrative Districts~~ States, which terms and
20 conditions, among others, shall include hours of business,
21 standards of operation, reasonableness of prices charged,
22 and appropriate record keeping, cash handling, and audit
23 procedures all in accordance with sound accounting
24 principles.

25 (4) The term of any duty-free concession shall not

1 exceed five years except as provided in section 303 hereof,
2 and regardless of term shall not be extended without public
3 auction or bids.

4 (5) The concession privilege granted hereunder may
5 not be sold or assigned without the prior written approval
6 of the ~~High Commissioner~~ President of the financial
7 responsibility, moral character, and reputable experience
8 of the proposed purchaser or assignee. Any such approval
9 if given shall be without charge or levy upon the seller,
10 purchaser, or assignee as a condition to such approval. A
11 concession privilege may not be sold or assigned to a
12 noncitizen who has not first obtained a foreign investor's
13 business permit in the ~~district~~ State in which the
14 duty-free retail concession is located.

15 (6) The minimum concession fee shall be seven percent
16 (7%) of gross sales of each duty-free retail concession.
17 The percentage fee shall be paid within ~~fifteen~~ 15 days
18 after the last day of each calendar month. In addition to
19 the concession fee, there shall be a business privilege fee
20 of three percent (3%) of the gross sales of each duty-free
21 retail concession which shall be paid within ~~fifteen~~ 15
22 days after the last day of each calendar month and be
23 deposited in and be a part of the General Fund of the
24 Congress of the Federated States of Micronesia. The
25 business privilege fee may not be increased during the

1 term of a concession privilege granted by the ~~High~~
2 ~~Commissioner~~ President."

3 Section 3. Section 303 of title 38 of the Code of the Federated
4 States of Micronesia is hereby amended to read as follows:

5 "Section 303. Grant on prepaid concession-fee basis.

6 At any port of entry where the ~~High Commissioner~~ President
7 determines prepayment of the duty-free concession fee to be
8 desirable or necessary to supplement available public funds
9 for purposes of constructing port of entry facilities,
10 including space for said concession, he may require offers
11 or bids on the basis of a prepaid minimum concession fee.
12 In such instances noncitizens may bid for the concession
13 privilege, and the ~~High Commissioner~~ President may, with
14 respect to that person who submits the best offer or bid of
15 a prepaid concession fee in excess of ~~\$1 million~~
16 1,000,000.00:

17 (1) grant a concession term not in excess of ~~fifteen~~
18 15 years; and

19 (2) waive the imposition of gross revenue taxes and
20 district and municipal license and permit fees."

21 Section 4. Section 304 of title 38 of the Code of the Federated
22 States of Micronesia is hereby amended to read as follows:

23 "Section 304. Disposition of concession fees. All
24 concession fees paid by each duty-free retail
25 concession shall, upon receipt, be deposited into and be a

1 part of the ~~g~~General ~~f~~Fund of that administrative district
2 in which the concession is situated; provided, that in
3 those ~~districts~~ States in which separate authorities or
4 agencies operate port of entry facilities said concession
5 fees may by determination of the ~~High Commissioner~~
6 President be deposited into and become a part of the funds
7 of such authority or agency operating said port of entry
8 facilities."

9 Section 5. Section 305 of title 38 of the Code of the Federated
10 States of Micronesia is hereby amended to read as follows:

11 "Section 305. License fee. There shall be paid to the
12 ~~Trust Territory~~ Federated States of Micronesia Government
13 the sum of \$100.00 each year by any person who shall be
14 granted a privilege to establish, operate, and maintain a
15 duty-free retail concession in any port of entry of the
16 ~~Trust Territory~~ Federated States of Micronesia. Such
17 license fee shall be in addition to any other sums of money
18 which shall be payable to the Government for concession
19 fees, lease of land, or other facilities or privileges."

20 Section 6. Section 306 of title 38 of the Code of the Federated
21 States of Micronesia is hereby amended to read as follows:

22 "Section 306. Importation of goods for resale at duty-free
23 stores. All foreign merchandise of every description,
24 except such as is prohibited by law, may be imported into
25 the ~~Trust Territory~~ Federated States of Micronesia for

1 resale at and from the duty-free retail concessions."

2 Section 7. Section 307 of title 38 of the Code of the Federated
3 States of Micronesia is hereby amended to read as follows:

4 "Section 307. Tax exemptions and refunds. Any person who
5 operates a duty-free retail concession shall be eligible
6 for refunds of all taxes paid by him upon merchandise sold
7 at and from the duty-free retail concession and such
8 merchandise shall be exempt from all sales taxes."

9 Section 8. Section 308 of title 38 of the Code of the Federated
10 States of Micronesia is hereby amended to read as follows:

11 "Section 308. Consumer purchases from duty-free shops -
12 Limitations.

13 (1) Except as hereinafter provided, all sales of
14 merchandise from such duty-free retail concessions shall
15 be restricted to the crew and passengers of any common
16 carrier engaged in foreign commerce, whether oceangoing or
17 air, for consumption or use outside the limits of the
18 ~~Trust Territory~~ Federated States of Micronesia by said crew
19 or passengers.

20 (2) Persons traveling between ports of entry within
21 the ~~Trust Territory~~ Federated States of Micronesia may
22 reimport not more than two-fifths of a wine gallon of
23 distilled alcoholic beverages and three cartons of
24 cigarettes into a ~~Trust Territory~~ Federated States of
25 Micronesia port of entry which were purchased at a

1 duty-free retail concession at a different ~~Trust Territory~~
2 Federated States of Micronesia port of entry."

3 Section 9. Section 309 of title 38 of the Code of the Federated
4 States of Micronesia is hereby amended to read as follows:

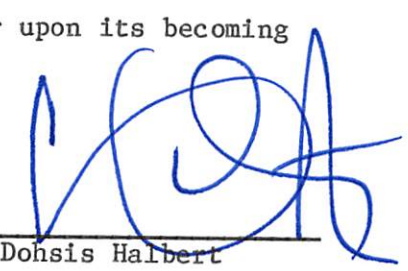
5 "Section 309. Manner of delivery of goods. Any and all
6 merchandise sold pursuant to this chapter shall be
7 delivered to the purchaser at a point or points and in a
8 manner whereby said merchandise may not reenter the ~~Trust~~
9 ~~Territory~~ Federated States of Micronesia without customs
10 examination and control."

11 Section 10. Section 310 of title 38 of the Code of the Federated
12 States of Micronesia is hereby amended to read as follows:

13 "Section 310. Regulations. The ~~High Commissioner~~
14 President shall promulgate such rules and regulations as he
15 shall deem necessary to carry out the provisions and intent
16 of this chapter."

17 Section 11. This act shall become law upon approval by the
18 President of the Federated States of Micronesia or upon its becoming
19 law without such approval.

20
21 Date: 5-16-90

Introduced by: 

Donsis Halbert