A BILL FOR AN ACT

To further amend title 24 of the Code of the Federated States of Micronesia, as amended, by further amending sections 501 and 503, as amended by Public Laws Nos. 5-37 and 6-11; and by further amending section 502, as amended by Public Law No. 6-37, all for the purpose of changing certain prohibited acts and penalties for violations of the fisheries laws, and for other purposes.

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

1. Section 501 of title 24 of the Code of the Federated States
2. of Micronesia, as amended by Public Laws Nos. 5-37 and 6-11, is hereby further
3. amended to read as follows:

"Section 501. Prohibited acts.

(1) It is unlawful for any person:

(a) to violate any provision of this Act or a fishing permit, license, agreement, arrangement, treaty, or any regulation issued pursuant to this title;

(b) to engage in fishing under any treaty or agreement, nor shall the permit issued pursuant to this title nor permit any person issued under this title

to violate any provision of any applicable foreign fishing agreement entered into pursuant to sections 491 and 492 through 499 of this title nor any term or condition of any permit issued in accordance with this title nor any regulation issued under this title

to violate any provision of any applicable foreign fishing agreement or any regulation issued under this title

to refuse to permit any authorized officer
to board a fishing vessel for purposes of conducting any search

or inspection in connection with the enforcement of this title or

any regulation, permit, or foreign or domestic-based fishing
agreement or any applicable fishing treaty, agreement or
arrangement;

\((\text{c})\) to assault, obstruct, resist, delay, refuse
boarding to, intimidate, or interfere with any authorized officer or
authorized observer in performance of his duties, including in the
conduct of any search or inspection described in paragraph (e) of
this subsection; and for the purposes of this subparagraph, any
person who refuses to allow any authorized officer or observer,
or any person acting under his order or in his aid, to exercise any
of the powers conferred on an authorized officer or observer by
this title or any regulations made under this title shall be deemed
to be obstructing that officer, observer, or person;

\((\text{d})\) to fail to comply with the lawful
requirements of any authorized officer or observer;

\((\text{e})\) to furnish to any authorized officer any
particulars which, to his knowledge, are false or misleading in any
respect;

\((\text{f})\) being on board any vessel being pursued or
about to be boarded by any authorized officer, to throw
overboard or destroy any fish, fishing gear, explosive, poison, or
other noxious substance to avoid seizure of such fish, fishing gear,
explosive, poison, or other noxious substance or thing or to avoid
the detection of any offense under this title or the regulations
made under this title;

\((\text{g})\) to resist a lawful arrest for any act
prohibited by this section;

(h) to provide information required to be
recorded, notified or communicated pursuant to any requirement
of the provisions of this title or the regulations, knowing or having
reasonable cause to believe that it is false, incomplete or
misleading;

(i) to knowingly ship, transport, offer for sale,
sell, purchase, import, export, or have custody, control, or
possession of any fish taken or retained in violation of this title or
any regional fishing treaty, regulation, permit, foreign or domestic-
based fishing agreement or any applicable law;

(j) to interfere with, delay, or prevent, by any
means, the apprehension or arrest of another person, knowing
that such person has committed any act prohibited by this
section;

(k) to violate any provision of, or regulation
under, any applicable agreement to implement a regional fisheries
treaty, or any other treaty, agreement or arrangement having
effect in the Federated States of Micronesia, entered into
pursuant to section 106 of this title; &d

(l) to use any foreign fishing vessel for fishing
within a two-mile radius of any fish aggregating device of the
Government, a citizen, or any other body established under the
laws of the Federated States of Micronesia; or

(m) to violate any provision of this title.
It is unlawful for any fishing vessel, and for the crew, owner, or operator of any fishing vessel, to engage in fishing in the Exclusive Economic Zone authorized by and proclaimed in accordance with, without a valid and applicable fishing permit issued pursuant to this title or after revocation, or during the period of suspension of a permit issued pursuant to this title, where such permit is required by sections 103 and 104 of this title, and unless such fishing is permitted pursuant to section 106."

Section 2. Section 502 of title 24 of the Code of the Federated States of Micronesia, as amended by Public Law No. 6-37, is hereby further amended to read as follows:

"Section 502. Civil penalties.

(1) Any person who is found by the Supreme Court of the Federated States of Micronesia in a civil proceeding to have committed an act prohibited by section 501 of this chapter shall be liable to the Federated States of Micronesia for a civil penalty.

(2) The amount of the civil penalty shall not exceed $5,000,000 for each violation, except as otherwise provided herein. Each day of a continuing violation shall constitute a separate offense. The Supreme Court of the Federated States of Micronesia may impose a penalty in excess of $5,000,000 provided, in its review of the factors set forth in subsection (3), the Supreme Court finds that the defendant has committed a gross violation.

(3) In determining the amount of such penalty, the
Supreme Court of the Federated States of Micronesia shall take
into account the nature, circumstances, extent, and gravity of the
prohibited acts committed and, with respect to the violator, the
degree of culpability, any history of prior offenses, and whether
any other civil or criminal fine or any imprisonment has been
imposed as a result of the specific conduct which has given rise to
this action, and such other matters as justice may require.

(4) The Attorney General of the Federated States of
Micronesia is authorized to initiate all proceedings under this
section and to recover the amount assessed as a civil penalty.

(5) The proceeds of civil penalties shall be deposited into
the General Fund of the Federated States of Micronesia. Fifty
percent of these proceeds from civil penalties shall then be
distributed to the State affected."

Section 3. Section 503 of title 24 of the Code of the Federated States
of Micronesia, as amended by Public Laws Nos. 5-37 and 6-11, is hereby further
amended to read as follows:

"Section 503. Criminal penalties.

(1) A person is guilty of an offense if he commits any
act prohibited by section 501 of this chapter.

(2) Unless otherwise provided, any offense described
as a prohibited act by subsections (1)(a), (1)(f), (1)(k), or (1)(l)
listed in section 501 is
punishable by a fine of not less than to exceed $50,000.
(3) Unless otherwise provided, any offense described as a prohibited act by subsections (1)(b), (1)(c), (1)(d), (1)(e), (1)(f), (1)(g), (1)(h), or (1)(i)
of section 501 is punishable by a fine of not less than $100,000, or imprisonment for not more than
two years, or both; PROVIDED that if in the commission of any
such offense the person uses a dangerous weapon, engages in
conduct that causes bodily injury to any officer authorized to
enforce the provisions of this title, or threatens any such officer
with bodily injury, the offense is punishable by a fine of not to
exceed $200,000, or imprisonment for not more than ten years, or both; and PROVIDED FURTHER that where
a regional fisheries treaty so requires, persons arrested for
violating any provisions of, or regulations under, such treaty shall
not be subject to imprisonment.

(4) Any offense described as a prohibited act by
subsection (2) of section 501 is punishable by a fine of not less
than $500,000. Each day of continuing violation shall be
considered a separate offense.

(5) A violation of any provision of this title for which no
other punishment is prescribed is punishable by a fine of not to
exceed $10,000.

(6) In determining the amount of any fine and the length
of any imprisonment, the Court shall take into account those
factors set forth in section 502(3) of this title.
Section 4. 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: Nov. 27, 1991

Introduced by: Nishima E. Yolezah