
A BILL FOR AN ACT

To amend sections 102 and 913 of title 24 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-34, to prohibit the targeting of sharks, by adding the definitions of "Shark" and "Shark Fin", and for other purpose.

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

1 Section 1. Section 102 of Title 24 of the Code of the
2 Federated States of Micronesia, as enacted by Public Law No.
3 12-34, is hereby amended to read as follows:

4 "Section 102. Definitions. In this subtitle, except
5 where otherwise specified, the following terms shall
6 have the meanings stated below:

7 (1) 'Access agreement' means a treaty, agreement or
8 arrangement entered into by the Authority pursuant to
9 this act in relation to access to the exclusive economic
10 zone for fishing by foreign fishing vessels, and
11 includes bilateral and multilateral instruments
12 applicable at the national, multilateral instruments
13 applicable at the national, sub regional, regional or
14 international level.

15 (2) 'Administrator' means the director of a regional
16 fisheries agency or any other organization or person
17 authorized, pursuant to section 106 of chapter 1 of this
18 subtitle, to administer a fisheries access agreement or

1 fisheries management agreement to which the Federated
2 States of Micronesia is party.

3 (3) 'Agent' includes a person appointed or designated
4 by a foreign fishing company to act as the legal
5 representative of that company within the Federated
6 States of Micronesia, including acceptance of and
7 response to legal process, pursuant to section 404(4)
8 (a) of chapter 4 of this subtitle.

9 (4) 'Aircraft' means any craft capable of self-
10 sustained movement through the atmosphere and includes
11 helicopters.

12 (5) 'Atoll' means a naturally formed coral reef system
13 which has one or more islands situated on the reef
14 system, including, but not limited to, Ngulu, Ulithi,
15 Sorol, Eauripi, Woleai, Faraulep, Ifalik, Olaimarao,
16 Elato, Lamotrek, West Fayu, Puluwat, Pulap, Pulusuk,
17 Nomonuito, Kuop, Nomowin, Murilo, Losap, Namoluk,
18 Satawan, Etal, Lukunor, Minto Reef, Oroluk, Nukuoro,
19 Kapingamarangi, Pakin, Ant, Sapwuahfik, Mwoakilloa and
20 Pingelap.

21 (6) 'Authority' means the National Oceanic Resource
22 Management Authority established by section 201 of
23 chapter 2 of this subtitle.

24 (7) 'Authority observer' means any person authorized
25 in writing by the Authority to act as an observer on

1 fishing vessels for the purposes of this subtitle,
2 including any observer authorized pursuant to the
3 provisions of an access agreement or a fisheries
4 management agreement.

5 (8) 'Authorized officers' means any person or category
6 of persons designated pursuant to section 602 of chapter
7 6 of this subtitle as an authorized officer.

8 (9) 'Automatic location communicator' or 'transponder'
9 means a device placed on a fishing vessel that
10 transmits, either in conjunction with another device or
11 devices or independently, information concerning the
12 position, fishing and other activities of the vessel.

13 (10) 'Based in the Federated States of Micronesia'
14 means using land-based facilities in the Federated
15 States of Micronesia to support fishing, including
16 location of the home port of a vessel in the Federated
17 States of Micronesia, landing or transshipping all fish
18 harvested within the exclusive economic zone and/or
19 operating under a joint venture arrangement in the
20 Federated States of Micronesia, or under arrangements
21 where the operator of a vessel is participating in
22 shore-based developments or is otherwise making a
23 substantial contribution to the development of the
24 domestic tuna industry.

25 (11) 'Buy' includes:

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- 1 (a) barter or attempt to barter'
2 (b) purchase or attempt to purchase;
3 (c) receive on account or consignment;
4 (d) purchase or barter for future goods or for
5 any consideration of value; and
6 (e) purchase or barter as an agent for another
7 person, and 'buyer' shall have a corresponding meaning.

8 (12) 'Citizen' means a person who is a citizen of the
9 Federated States of Micronesia.

10 (13) 'Closed area' means an area in which fishing is
11 prohibited.

12 (14) 'Closed season' means a period of time during
13 which fishing is prohibited.

14 (15) 'Commercial fishing' means any fishing resulting
15 or intending or appearing to result in the sale or trade
16 of any fish, which may be taken during the fishing
17 operation, and does not include subsistence fishing.
18 For the purposes of this act, the following shall be
19 presumed to be commercial fishing:

20 (a) use of a vessel for fishing, which measures
21 twenty seven (27) feet or more in overall length;

22 (b) use of more than one vessel for fishing which
23 is owned by a single person for the primary purpose of
24 selling or trading any fish.

25 (16) 'Commercial pilot fishing' means any fishing for

1 the purpose of testing the commercial viability of (a)
2 new fishing methods;

3 (b) developing new stocks of fish; or

4 (c) fishing in previously unexploited areas.

5 (17) 'Court' means the Supreme Court of the Federated
6 States of Micronesia.

7 (18) 'Domestic fishing' means any fishing by a local
8 fishing vessel longer than twenty-seven (27) feet in
9 overall length, but not including commercial pilot
10 fishing.

11 (19) (Reserved)

12 (20) (Reserved)

13 (21) 'Drift net' means a gillnet or other net or
14 arrangement of nets which is more than 2.5 kilometers
15 (1.56 miles) in length, the purpose of which is to
16 enmesh, entrap or entangle fish.

17 (22) 'Drift net fishing activities' includes fishing
18 with the use of a drift net and any related activities
19 including transporting, transshipping and processing any
20 drift net catch, and provisioning of food, fuel and
21 other supplies for vessels used or outfitted for drift
22 net fishing.

23 (23) 'Exclusive economic zone' means the exclusive
24 economic zone as defined in title 18 of the Code of the
25 Federated States of Micronesia.

1 (24) 'Executive Director' means the individual
2 appointed by the Authority to be in charge of the daily
3 activities and operation of the authority and to perform
4 such other functions as required by this subtitle.

5 (25) "Export' means to:

- 6 (a) send or take out of the country;
7 (b) attempt to send or take out of the country;
8 (c) receive on account or consignment for
9 purposes of paragraph (a) or (b) above;
10 (d) act as an agent for another person for
11 purposes of (a) through (c) above; and
12 (e) carry or transport anything for purposes of
13 paragraphs (a) through (d) of this subsection, and
14 'exporter' shall have a corresponding meaning.

15 (26) 'Fish' means any living marine resources.

16 (27) 'Fish' aggregating device' means any man-made or
17 partly man-made floating or semi-submerged device,
18 whether anchored or not, intended for the purpose of
19 aggregating fish, and includes any natural floating
20 object on which a device has been placed to facilitate
21 its location.

22 (28) 'Fish processing' means the producing of any
23 substance or article from fish by any method and
24 includes the cutting up, dismembering, cleaning,
25 sorting, lining, freezing, canning, salting, preserving

1 and reduction of fish.

2 (29) 'Fisheries management agreement' means any
3 agreement, arrangement or treaty in force to which the
4 Federated States of Micronesia is a party, not including
5 any access agreement, which has as its primary purpose
6 cooperation in or coordination of fisheries management
7 measures in all or part of the region, or implementation
8 of a multilateral access agreement, including, but not
9 limited to, fisheries monitoring, control and
10 surveillance and establishing criteria or requirements
11 for fishing and fisheries access.

12 (30) 'Fishery' or 'Fisheries' means one or more stock
13 of fish or any fishing operation based on such stocks,
14 which can be treated as a unit for purposes of
15 conservation and management, taking into account
16 geographical, scientific, technical, recreational,
17 economic and other relevant characteristics.

18 (31) 'Fishery waters' means the exclusive economic
19 zone, the territorial sea and internal waters as
20 described in title 18 of the Code of the Federated
21 States of Micronesia, and any other waters over which
22 the Federated States of Micronesia claims sovereignty or
23 sovereign Rights.

24 (32) 'Fishing' means:

25 (a) the actual or attempted searching for,

1 catching, taking or harvesting of fish;

2 (b) any activity, which can reasonably be
3 expected to result in the locating, catching, taking or
4 harvesting of fish,

5 (c) the placing, searching for or recovering of
6 any fish aggregating device or associated electronic
7 equipment such as radio beacons;

8 (d) any operation at sea directly in support of
9 or in preparation for any activity described in this
10 subsection except for operations defined as related
11 activities in subsection (51) of this section; and

12 (e) the use of an aircraft in relation to any
13 activity described in this subsection except for flights
14 in emergencies involving the health or safety of crew
15 members or the safety of a vessel.

16 (33) 'Fishing gear' means any equipment, implement, or
17 other thing that can be used in the act of fishing,
18 including any fishing net, rope, line, float, trap,
19 hook, winch, boat, beacon or locating device, aircraft
20 or helicopter.

21 (34) 'Fishing vessel' means any vessel, boat, ship or
22 other craft, which is used for, equipped to be used for
23 or of a type that is normally used for fishing as the
24 terms fishing is defined in subsection (32) of this
25 section.

1 (35) 'Flag fishing vessel' means any foreign fishing
2 vessel that is registered in the Federated States of
3 Micronesia pursuant to title 18 of the Code of the FSM
4 and any domestic fishing vessel.

5 (36) 'Foreign fishing' means any fishing not defined as
6 domestic fishing, and not including commercial pilot
7 fishing or fishing from a local fishing vessel less than
8 or equal to twenty-seven (27) feet in overall length.

9 (37) 'Foreign fishing vessel' means any fishing vessel
10 other than a local fishing vessel.

11 (38) 'Foreign party' means a noncitizen party to an
12 access agreement or a party to an access agreement that
13 is at least twenty percent foreign-owned.

14 (39) 'Foreign recreational fishing' means fishing using
15 a foreign fishing vessel for recreational or sport
16 purposes.

17 (40) 'High seas' means all parts of the sea that are
18 not included in the exclusive economic zone, in the
19 territorial sea, or in the internal water of any nation,
20 or in the archipelagic waters of an archipelagic nation.

21 (41) 'Internal waters' means waters on the landward
22 side of the baseline of the territorial sea of any
23 island within the Federated States of Micronesia.

24 (42) 'Island' means a naturally formed area of land
25 surrounded by water, which is above water at high tide.

1 (43) 'Local fishing vessel' means any fishing vessel
2 wholly owned and controlled by:

3 (a) the Government of the Federated States of
4 Micronesia, any State government or any subdivision
5 thereof;

6 (b) one or more natural persons who are citizens
7 of the Federated States of Micronesia;

8 (c) any corporation, company, society, or other
9 association of persons incorporated or established under
10 the laws of the Federated States of Micronesia or of any
11 State and which is wholly owned and controlled by one or
12 more of the entities or persons described in paragraphs
13 (a) through (c) of this subsection.

14 (44) 'Master' in relation to any fishing vessel means
15 the person in charge or apparently in charge of that
16 vessel.

17 (45) 'Multilateral access agreement' means an access
18 agreement between a foreign party and one or more
19 regional parties, to which the Federated States of
20 Micronesia is a party.

21 (46) 'Officer' means any authorized officer or national
22 police officer, and includes any officer of a vessel or
23 aircraft used for the enforcement of this act, whether
24 or not such officers are official of the Government of
25 the Federated States of Micronesia or of one of the four

1 State governments.

2 (47) 'Operator' means any person who is in charge of or
3 directors or controls a fishing vessel, or for whose
4 direct economic or financial benefit a vessel is being
5 used, including the master, owner, and charterer.

6 (48) 'Owner' in relation to a fishing vessel means any
7 person exercising or discharging or claiming the right
8 or accepting the obligation to exercise or discharge any
9 of the powers or duties of an owner, whether on his own
10 behalf or on behalf of another, and includes a person
11 who owns the vessel jointly with any other person or
12 persons and any manager, director or secretary of any
13 corporate body or company that holds an ownership
14 interest in the vessel.

15 (49) 'Permit' means any permit issued under this
16 subtitle or under an access agreement entered into
17 pursuant to this subtitle.

18 (50) 'Person' means any natural person or business
19 enterprise and includes, but is not limited to, a
20 corporation, partnership, cooperative, association, the
21 government of any of the four States, or any political
22 subdivision thereof, and any foreign government,
23 subdivision of such government or other entity.

24 (51) 'Port sampler' means a category of authorized
25 observer who performs duties at a point of transshipment

1 or port Micronesia.

2 (52) 'Recreational fishing' means fishing for sport or
3 leisure.

4 (53) 'Region' means that area of land and ocean which
5 falls within the sovereignty and sovereign rights of the
6 member countries of the South Pacific Forum Fisheries
7 Agency, whose headquarters are located in Honiara,
8 Solomon Islands, and includes high seas within such
9 area, and for the purposes of data collection, includes
10 that area of the Western and Central Pacific Ocean which
11 falls within the jurisdiction and sovereign rights of
12 the member countries of the Secretariat of the Pacific
13 Community located in Noumea, New Caledonia, and
14 'regional' shall have a corresponding meaning.

15 (54) 'Regional access license' means a regional access
16 license issued to any fishing vessel of a party to a
17 multilateral access agreement or fisheries management
18 agreement, in accordance with such agreement.

19 (55) 'Related activities' in relation to fishing means:

20 (a) transshipment;

21 (b) refueling or supplying fishing vessels,
22 selling or supplying fishing equipment, or performing
23 either activity in support of fishing; and

24 (c) on-shore storing, buying or processing fish
25 or fish products from the time they are first landed.

1 (57) 'Secretary' means the Secretary of the Department
2 of Justice.

3 (58) 'Sell' includes the exchange of any fish or fish
4 product or other thing for cash or for anything, which
5 has value or which can be exchanged for cash, and
6 includes any exchange by barter.

7 (59) 'Shark' means all animals in the orders of
8 Hexanchiformes, Pristiophoriformes, Squatiniforms,
9 Heterodontiformes, Orectolobiformes, Lamniformes and
10 Carcharhiniformes.

11 (60) 'Shark Fin' means the raw or dried fin or tail of
12 a shark, whether or not such shark fin has been severed
13 from the shark or remains un-severed from the body of
14 the shark or portion of the body of the shark.

15 [59] (61) 'Stock of fish' means a species, subspecies or
16 other category of fish identified on the basis of
17 geographical, scientific, technical, recreational and
18 economic characteristics which can be treated as a unit
19 for purposes of conservation and management.

20 [60] (62) 'Subsistence fishing' means fishing by a
21 citizen or a resident substantially for personal
22 consumption, and does not include any fishing resulting
23 or intending or appearing to result, directly or
24 indirectly, in the sale or trading of any fish which may
25 be taken during the fishing operations.

1 [~~61~~] (63) 'Transponder' or 'automatic location
2 communicator' means a device placed on a fishing vessel
3 that transmits, either in conjunction with another
4 device or devices or independently, information
5 concerning the position, fishing and other activities of
6 the vessel.

7 [~~62~~] (64) 'Transshipment' means the transfer of any or
8 all fish or fish products to or from any vessel or
9 aircraft for the purposes of transporting such fish or
10 fish products elsewhere.

11 [~~63~~] (65) 'United Nations Agreement' means the agreement
12 for the implementation of the provisions of the United
13 Nations Convention on the Law of the Sea of 10 December
14 1992 relating to the conservation and management of
15 straddling fish stocks and highly migratory fish stocks.

16 [~~66~~] (67) 'Vehicle' means any car, truck, van, bus,
17 trailer or other powered land conveyance.

18 [~~66~~] (68) 'Vessel' means any boat, ship, canoe or other
19 water-going craft."

20 Section 2. Section 913 of title 24 of the Code of the
21 Federated States of Micronesia, as enacted by Public Law No.
22 12-34, is hereby amended to read as follows:

23 "Section 913. Possession, handling and sale of fish,
24 shark, or shark fin, unlawfully taken.

25 (1) No person shall knowingly ship, transport, offer

1 for sale sell, purchase, import, export or have custody,
2 control or possession of any fish taken or retained in
3 contravention of this subtitle or any access agreement,
4 permit or applicable law.

5 (2) It shall be unlawful to intentionally capture,
6 possess, collect, receive, sell, offer to sell, buy,
7 transfer, transport, transship, export, import, trade,
8 distribute or consume shark or any part thereof within
9 the FSM EEZ regardless of where captured, bought,
10 transported from, bartered for, traded, or obtained.
11 Any shark that is inadvertently caught or captured shall
12 be immediately release, whether the shark is dead or
13 alive. No shark shall be retained even if caught as
14 bycatch.

15 (3) Any person who holds a license or permit from the
16 Authority to conduct scientific research on sharks and
17 carries out activities in accordance with that license
18 or permit shall not be subject to the penalties in this
19 election.

20 [~~2~~] (4) Any person who commits an act in violation of this
21 section shall be subject to a civil penalty of not less
22 than \$50,000 and not more than \$250,000. In addition to
23 such fines, for sharks or shark fins each shark or fin
24 shall be fined an additional \$250.00 per shark or fin.
25 All shark or shark fins seized and forfeited pursuant to

1 this Title shall be destroyed by incineration."

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

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6 Date: 1/30/14

Introduced by: /s/ Florencio S. Harper
Florencio S. Harper

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