



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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*Office of the Chief Clerk*

February 10, 2015

His Excellency Manny Mori  
President  
Federated States of Micronesia  
Palikir, Pohnpei FM 96941

Dear President Mori:

I have the honor to transmit herewith Congressional Act No. 18-119, "AN ACT TO FURTHER AMEND CHAPTERS 1, 5, AND 9 OF TITLE 24 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY ADDING "SHARK" AND "SHARK FIN" TO THE DEFINITION SECTION IN CHAPTER 1; BY ADDING A NEW SECTION 503 AND BY RENUMBERING EXISTING SECTIONS 503 AS SECTION 504 IN CHAPTER 5, FOR THE PURPOSE OF REQUIRING THAT ALL VESSELS LAND THEIR BY CATCH AT PORT; BY AMENDING SECTIONS 913 AND 914 IN CHAPTER 9 TO PROHIBIT THE PRACTICE OF SHARK PINNING AND EXTEND CIVIL PENALTIES TO APPLY TO SUCH VIOLATIONS, BY MODIFYING WHAT IS CONSIDERED AS DESTRUCTION OF EVIDENCE, AND FOR OTHER PURPOSES.", which was passed by the Eighteenth Congress of the Federated States of Micronesia, Sixth Regular Session, 2015, by a two-thirds vote of all the State delegations as required and as duly certified.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Liwiana Ramon Ioanis", is written over a horizontal line.

Liwiana Ramon Ioanis  
Chief Clerk, Congress of the  
Federated States of Micronesia

Enclosures



EIGHTEENTH CONGRESS OF THE  
FEDERATED STATES OF MICRONESIA  
SIXTH REGULAR SESSION  
JANUARY 23 - FEBRUARY 11, 2015

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## An Act

TO FURTHER AMEND CHAPTERS 1, 5, AND 9 OF TITLE 24 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY ADDING "SHARK" AND "SHARK FIN" TO THE DEFINITION SECTION IN CHAPTER 1; BY ADDING A NEW SECTION 503 AND BY RENUMBERING EXISTING SECTIONS 503 AS SECTION 504 IN CHAPTER 5, FOR THE PURPOSE OF REQUIRING THAT ALL VESSELS LAND THEIR BY CATCH AT PORT; BY AMENDING SECTIONS 913 AND 914 IN CHAPTER 9 TO PROHIBIT THE PRACTICE OF SHARK FINNING AND EXTEND CIVIL PENALTIES TO APPLY TO SUCH VIOLATIONS, BY MODIFYING WHAT IS CONSIDERED AS DESTRUCTION OF EVIDENCE, AND FOR OTHER PURPOSES.

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INTRODUCED BY SENATOR: FLORENCIO S. HARPER

DATE: JANUARY 30, 2014

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REFERRED TO: COMMITTEE ON HEALTH AND SOCIAL AFFAIRS

S.C.R. NO. 18-275 - FEBRUARY 2, 2015

FIRST READING: FEBRUARY 2, 2015

SECOND READING: FEBRUARY 4, 2015

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A handwritten signature in black ink, appearing to read "Liwiana Ramon Ioanis".

Liwiana Ramon Ioanis  
Chief Clerk, FSM Congress



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

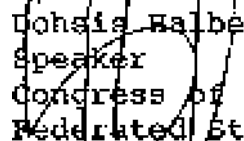
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*Office of the Speaker*


ACT NO. 18-119

(CONGRESSIONAL BILL NO. 18-134, C.D.1, C.D.2)

We hereby certify that on February 4 the foregoing act passed Second and Final Reading of the Eighteenth Congress of the Federated States of Micronesia, Sixth Regular Session, 2015, by a two-thirds vote of all the State delegations as required under article IX, section 20, of the Constitution of the Federated States of Micronesia.



Uohsia Halbert  
Speaker  
Congress of the  
Federated States of Micronesia



Liwiana Ramon Ioanis  
Chief Clerk  
Congress of the  
Federated States of Micronesia

EIGHTEENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

THIRD REGULAR SESSION, 2014

CONGRESSIONAL BILL NO. 18-134, C.D.1,  
C.D.2

AN ACT

To further amend chapters 1, 5, and 9 of title 24 of the Code of the Federated States of Micronesia, as amended, by adding "Shark" and "Shark Fin" to the Definition section in chapter 1; by adding a new section 503 and by renumbering existing sections 503 as section 504 in chapter 5, for the purpose of requiring that all vessels land their by catch at port; by amending sections 913 and 914 in chapter 9 to prohibit the practice of shark finning and extend civil penalties to apply to such violations, by modifying what is considered as destruction of evidence, and for other purposes."

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 have  
6 the meanings stated below:

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

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

1 subtitle, to administer a fisheries access agreement or  
2 fisheries management agreement to which the Federated  
3 States of Micronesia is party.

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

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

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

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

23 (7) 'Authority observer' means any person authorized in  
24 writing by the Authority to act as an observer on fishing  
25 vessels for the purposes of this subtitle, including any

observer authorized pursuant to the provisions of an  
access agreement or a fisheries management agreement.

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

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

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

(11) 'Buy' includes:

(a) barter or attempt to barter;

(b) purchase or attempt to purchase;

(c) receive on account or consignment;

1                   (d) purchase or barter for future goods or for  
2                   any consideration of value; and

3                   (e) purchase or barter as an agent for another  
4                   person, and 'buyer' shall have a corresponding meaning.

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

7                   (13) 'Closed area' means an area in which fishing is  
8                   prohibited.

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

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

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

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

22                  (16) 'Commercial pilot fishing' means any fishing for  
23                  the purpose of testing the commercial viability of (a)  
24                  new fishing methods;

25                  (b) developing new stocks of fish; or

(c) fishing in previously unexploited areas.

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

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

(19) (Reserved)

(20) (Reserved)

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

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

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

(24) 'Executive Director' means the individual appointed by the Authority to be in charge of the daily activities and operation of the authority and to perform



such other functions as required by this subtitle.

(25) "Export" means to:

(a) send or take out of the country;

(b) attempt to send or take out of the country;

(c) receive on account or consignment for  
purposes of paragraph (a) or (b) above;

(d) act as an agent for another person for  
purposes of (a) through (c) above; and

(e) carry or transport anything for purposes of  
paragraphs (a) through (d) of this subsection, and  
'exporter' shall have a corresponding meaning.

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

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

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

(29) 'Fisheries management agreement' means any  
agreement, arrangement or treaty in force to which the

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

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

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

21 (32) 'Fishing' means:

22 (a) the actual or attempted searching for,  
23 catching, taking or harvesting of fish;

24 (b) any activity, which can reasonably be  
25 expected to result in the locating, catching, taking or

1 harvesting of fish,

2 (c) the placing, searching for or recovering of  
3 any fish aggregating device or associated electronic  
4 equipment such as radio beacons;

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

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

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

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

23 (35) 'Flag fishing vessel' means any foreign fishing  
24 vessel that is registered in the Federated States of  
25 Micronesia pursuant to title 18 of the Code of the FSM

and any domestic fishing vessel.

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

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

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

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

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

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

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

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

(a) the Government of the Federated States of

1       Micronesia, any State government or any subdivision  
2       thereof;

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

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

11      (44) 'Master' in relation to any fishing vessel means  
12      the person in charge or apparently in charge of that  
13      vessel.

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

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

24      (47) 'Operator' means any person who is in charge of  
25      or directs or controls a fishing vessel, or for whose

1 direct economic or financial benefit a vessel is being  
2 used, including the master, owner, and charterer.

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

12 (49) 'Permit' means any permit issued under this  
13 subtitle or under an access agreement entered into  
14 pursuant to this subtitle.

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

21 (51) 'Port sampler' means a category of authorized  
22 observer who performs duties at a point of transshipment  
23 or port Micronesia.

24 (52) 'Recreational fishing' means fishing for sport or  
25 leisure.

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

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

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

(a) transshipment;

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

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

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

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

5           (59) 'Shark' means any fish of the taxon  
6           Elasmobranchii.

7           (60) 'Shark Fin' means any fin of a shark including  
8           caudal fins.

9           (61) 'Stock of fish' means a species, subspecies or  
10          other category of fish identified on the basis of  
11          geographical, scientific, technical, recreational and  
12          economic characteristics which can be treated as a unit  
13          for purposes of conservation and management.

14          (62) 'Subsistence fishing' means fishing by a citizen  
15          or a resident substantially for personal consumption,  
16          and does not include any fishing resulting or intending  
17          or appearing to result, directly or indirectly, in the  
18          sale or trading of any fish which may be taken during  
19          the fishing operations.

20          (63) 'Transponder' or 'automatic location  
21          communicator' means a device placed on a fishing vessel  
22          that transmits, either in conjunction with another  
23          device or devices or independently, information  
24          concerning the position, fishing and other activities of  
25          the vessel.



(64) 'Transshipment' means the transfer of any or all fish or fish products to or from any vessel or aircraft for the purposes of transporting such fish or fish products elsewhere.

(65) 'United Nations Agreement' means the agreement for the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1992 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks.

(67) 'Vehicle' means any car, truck, van, bus, trailer or other powered land conveyance.

(68) 'Vessel' means any boat, ship, canoe or other water-going craft."

Section 2. Chapter 5 of title 24 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-34, is hereby amended by adding a new section 503 to read as follows:

"Section 503. Compulsory landing of by-catch by fishing vessels.

(1) By-catch caught by a fishing vessel may be landed at a transshipment port in the Federated States of Micronesia in accordance with any regulation promulgated pursuant to this act.

(2) It shall be unlawful for fishing vessels to retain, discard or otherwise dispose of by-catch in contravention of this section.

(3) Any person who commits an act in violation of this section shall be subject to a civil penalty of not less than \$100,000 and not more than \$500,000.

(4) Any by-catch pursuant to this title may be disposed of in such manner as prescribed by regulation."

Section 3. Chapter 5 of title 24 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-34, is hereby amended by renumbering section 503 as section 504.

Section 4. Chapter 5 of title 24 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-34, is hereby amended by renumbering section 504 as section 505.

Section 5. Section 913 of Chapter 9 of title 24 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-34, is hereby amended to read as follows:

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

(1) No person shall knowingly capture ship, transport, offer for sale sell, purchase, import, export or have custody, control or possession of any fish taken or retained in contravention of this subtitle or any access agreement, permit or applicable law.

(2) It shall be unlawful to remove shark fins from

sharks on board fishing vessels, and to retain on board, transship or land sharks or shark fins, subject to subsections (4) and (6).

(3) It shall be unlawful for fishing vessels to possess wire leaders, steel trace, or wire trace.

(4) All sharks caught by a fishing vessel shall be either: (a) if still alive, immediately released back into the ocean. Fishing vessels must ensure that sharks are released whole, and that sharks are not unnecessarily harmed during the release process; or (b) if dead, landed at a transshipment port in the Federated States of Micronesia. Fishing vessels must ensure that sharks are landed whole with all shark fins attached to the carcass, PROVIDED THAT, Purse Seine vessels shall be exempted from the application of subsection 913(4)(b) for six months from the effective date of this act.

(5) It shall be unlawful to purchase, offer for sale or sell sharks or shark parts, including shark fins which have been removed on board a vessel, transshipped or landed in contravention of this section.

(6) Any person who holds a license or permit from the Authority to conduct scientific research on sharks and carries out activities in accordance with that license or permit shall not be held in contravention of this section.



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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Office of the Chief Clerk

February 10, 2015

His Excellency Manny Mori  
President  
Federated States of Micronesia  
Palikir, Pohnpei FM 96941

Dear President Mori:

I have the honor to transmit herewith Congressional Act No. 18-119, "AN ACT TO FURTHER AMEND CHAPTERS 1, 5, AND 9 OF TITLE 24 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY ADDING "SHARK" AND "SHARK FIN" TO THE DEFINITION SECTION IN CHAPTER 1; BY ADDING A NEW SECTION 503 AND BY RENUMBERING EXISTING SECTIONS 503 AS SECTION 504 IN CHAPTER 5, FOR THE PURPOSE OF REQUIRING THAT ALL VESSELS LAND THEIR BY CATCH AT PORT; BY AMENDING SECTIONS 913 AND 914 IN CHAPTER 9 TO PROHIBIT THE PRACTICE OF SHARK FINNING AND EXTEND CIVIL PENALTIES TO APPLY TO SUCH VIOLATIONS, BY MODIFYING WHAT IS CONSIDERED AS DESTRUCTION OF EVIDENCE, AND FOR OTHER PURPOSES.", which was passed by the Eighteenth Congress of the Federated States of Micronesia, Sixth Regular Session, 2015, by a two-thirds vote of all the State delegations as required and as duly certified.

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Liwiana Ramon Ioanis  
Chief Clerk, Congress of the  
Federated States of Micronesia

Enclosures



EIGHTEENTH CONGRESS OF THE  
FEDERATED STATES OF MICRONESIA  
SIXTH REGULAR SESSION  
JANUARY 23 FEBRUARY 11, 2015

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## An Act

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INTRODUCED BY SENATOR: FLORENCIO S. HARPER

DATE: JANUARY 30, 2014

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REFERRED TO: COMMITTEE ON HEALTH AND SOCIAL AFFAIRS

S.C.R. NO. 18-275 - FEBRUARY 2, 2015

FIRST READING: FEBRUARY 2, 2015

SECOND READING: FEBRUARY 4, 2015

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Liwiana Ration Ioanis  
Chief Clerk, FSM Congress



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

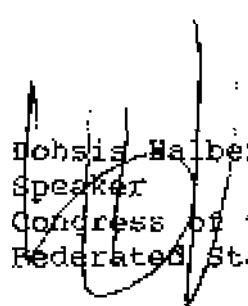
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*Office of the Speaker*


ACT NO. 18-119

(CONGRESSIONAL BILL NO. 18-134, C.D.1, C.D.2)

We hereby certify that on February 4 the foregoing act passed Second and Final Reading of the Eighteenth Congress of the Federated States of Micronesia, Sixth Regular Session, 2015, by a two-thirds vote of all the State delegations as required under article IX, section 20, of the Constitution of the Federated States of Micronesia.



Dohsis Halbert  
Speaker  
Congress of the  
Federated States of Micronesia



Liwiana Ramon Ioanis  
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EIGHTEENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

THIRD REGULAR SESSION, 2014

CONGRESSIONAL BILL NO. 18-134, C.D.1,  
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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 have  
6               the meanings stated below:

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

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

1 subtitle, to administer a fisheries access agreement or  
2 fisheries management agreement to which the Federated  
3 States of Micronesia is party.

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

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

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

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

23 (7) 'Authority observer' means any person authorized in  
24 writing by the Authority to act as an observer on fishing  
25 vessels for the purposes of this subtitle, including any



1 observer authorized pursuant to the provisions of an  
2 access agreement or a fisheries management agreement.

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

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

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

22 (11) 'Buy' includes:

23 (a) barter or attempt to barter'

24 (b) purchase or attempt to purchase;

25 (c) receive on account or consignment;

(d) purchase or barter for future goods or for any consideration of value; and

(e) purchase or barter as an agent for another person, and 'buyer' shall have a corresponding meaning.

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

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

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

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

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

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

(16) 'Commercial pilot fishing' means any fishing for the purpose of testing the commercial viability of (a) new fishing methods;

(b) developing new stocks of fish; or

1 (c) fishing in previously unexploited areas.

2 (17) 'Court' means the Supreme Court of the Federated  
3 States of Micronesia.

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

8 (19) (Reserved)

9 (20) (Reserved)

10 (21) 'Drift net' means a gillnet or other net or  
11 arrangement of nets which is more than 2.5 kilometers  
12 (1.56 miles) in length, the purpose of which is to  
13 enmesh, entrap or entangle fish.

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

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

23 (24) 'Executive Director' means the individual  
24 appointed by the Authority to be in charge of the daily  
25 activities and operation of the authority and to perform

such other functions as required by this subtitle.

(25) "Export" means to:

(a) send or take out of the country;

(b) attempt to send or take out of the country;

(c) receive on account or consignment for  
purposes of paragraph (a) or (b) above;

(d) act as an agent for another person for  
purposes of (a) through (c) above; and

(e) carry or transport anything for purposes of  
paragraphs (a) through (d) of this subsection, and  
'exporter' shall have a corresponding meaning.

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

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

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

(29) 'Fisheries management agreement' means any  
agreement, arrangement or treaty in force to which the

Federated States of Micronesia is a party, not including any access agreement, which has as its primary purpose cooperation in or coordination of fisheries management measures in all or part of the region, or implementation of a multilateral access agreement, including, but not limited to, fisheries monitoring, control and surveillance and establishing criteria or requirements for fishing and fisheries access.

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

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

(32) 'Fishing' means:

(a) the actual or attempted searching for, catching, taking or harvesting of fish;

(b) any activity, which can reasonably be expected to result in the locating, catching, taking or

1 harvesting of fish,

2 (c) the placing, searching for or recovering of  
3 any fish aggregating device or associated electronic  
4 equipment such as radio beacons;

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

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

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

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

23 (35) 'Flag fishing vessel' means any foreign fishing  
24 vessel that is registered in the Federated States of  
25 Micronesia pursuant to title 18 of the Code of the FSM

and any domestic fishing vessel.

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

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

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

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

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

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

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

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

(a) the Government of the Federated States of

1           Micronesia, any State government or any subdivision  
2           thereof;

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

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

11          (44) 'Master' in relation to any fishing vessel means  
12          the person in charge or apparently in charge of that  
13          vessel.

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

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

24          (47) 'Operator' means any person who is in charge of  
25          or directs or controls a fishing vessel, or for whose



direct economic or financial benefit a vessel is being used, including the master, owner, and charterer.

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

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

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

(51) 'Port sampler' means a category of authorized observer who performs duties at a point of transshipment or port Micronesia.

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

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

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

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

(a) transshipment;

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

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

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

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

(59) 'Shark' means any fish of the taxon Elasmobranchii.

(60) 'Shark Fin' means any fin of a shark including caudal fins.

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

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

(63) 'Transponder' or 'automatic location communicator' means a device placed on a fishing vessel that transmits, either in conjunction with another device or devices or independently, information concerning the position, fishing and other activities of the vessel.

(64) 'Transshipment' means the transfer of any or all fish or fish products to or from any vessel or aircraft for the purposes of transporting such fish or fish products elsewhere.

(65) 'United Nations Agreement' means the agreement for the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1992 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks.

(67) 'Vehicle' means any car, truck, van, bus, trailer or other powered land conveyance.

(68) 'Vessel' means any boat, ship, canoe or other water-going craft."

Section 2. Chapter 5 of title 24 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-34, is hereby amended by adding a new section 503 to read as follows:

"Section 503. Compulsory landing of by-catch by fishing vessels.

(1) By-catch caught by a fishing vessel may be landed at a transshipment port in the Federated States of Micronesia in accordance with any regulation promulgated pursuant to this act.

(2) It shall be unlawful for fishing vessels to retain, discard or otherwise dispose of by-catch in contravention of this section.

(3) Any person who commits an act in violation of this section shall be subject to a civil penalty of not less than \$100,000 and not more than \$500,000.

(4) Any by-catch pursuant to this title may be disposed of in such manner as prescribed by regulation."

Section 3. Chapter 5 of title 24 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-34, is hereby amended by renumbering section 503 as section 504.

Section 4. Chapter 5 of title 24 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-34, is hereby amended by renumbering section 504 as section 505.

Section 5. Section 913 of Chapter 9 of title 24 of the Code of the Federated States of Micronesia, as enacted by Public Law No. 12-34, is hereby amended to read as follows:

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

(1) No person shall knowingly capture ship, transport, offer for sale sell, purchase, import, export or have custody, control or possession of any fish taken or retained in contravention of this subtitle or any access agreement, permit or applicable law.

(2) It shall be unlawful to remove shark fins from

sharks on board fishing vessels, and to retain on board, transship or land sharks or shark fins, subject to subsections (4) and (6).

(3) It shall be unlawful for fishing vessels to possess wire leaders, steel trace, or wire trace.

(4) All sharks caught by a fishing vessel shall be either: (a) if still alive, immediately released back into the ocean. Fishing vessels must ensure that sharks are released whole, and that sharks are not unnecessarily harmed during the release process; or (b) if dead, landed at a transshipment port in the Federated States of Micronesia. Fishing vessels must ensure that sharks are landed whole with all shark fins attached to the carcass, PROVIDED THAT, Purse Seine vessels shall be exempted from the application of subsection 913(4)(b) for six months from the effective date of this act.

(5) It shall be unlawful to purchase, offer for sale or sell sharks or shark parts, including shark fins which have been removed on board a vessel, transshipped or landed in contravention of this section.

(6) Any person who holds a license or permit from the Authority to conduct scientific research on sharks and carries out activities in accordance with that license or permit shall not be held in contravention of this section.

1           (7) Any person who commits an act in violation of  
2           this section shall be subject to a civil penalty of not  
3           less than \$50,000 and not more than \$250,000.

4           (8) It shall be a rebuttable presumption that any  
5           sharks caught or shark fins possessed by a fishing  
6           vessel originated from the ERZ of the Federated States  
7           of Micronesia.

8           (9) All shark or shark fins seized and forfeited  
9           shall be destroyed by incineration."

10          Section 6. Section 914 of chapter 9 of title 24 of the Code  
11          of the Federated States of Micronesia, as enacted by Public Law  
12          No. 12-34, is hereby further amended to read as follows:

13               Section 914. Destruction of evidence

14           (1) No person shall destroy, dispose of, conceal,  
15           tamper with or abandon any fish, shark, shark fin, fish  
16           product, fishing gear, net or other fish appliance,  
17           record, document, electric shock device, explosive,  
18           poison or other noxious substance, or any other thing  
19           with intent to avoid seizure or the detection of an  
20           offense against this subtitle.

21           (2) Any person who commits an act in violation of  
22           this section is subject to a civil penalty of not less  
23           than \$100,000 and not more than \$500,000."

1       Section 7. This act shall become law upon approval by the  
2 President of the Federated States of Micronesia or upon its becoming  
3 law without such approval.

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Manny Mori  
President  
Federated States of Micronesia

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