

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) Anything 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

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

14          (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          (12) "Preparation" and "prepare" include manufacture,  
24          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  
8           or farmed and including all edible forms, and products  
9           of 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          (17) “Secretary” means the Secretary of the Department  
15          of Health and Social Affairs.

16          (18) “Sell”. Includes:

17                 (a) any method of disposition for consideration,  
18                 including cash, anything which has value or which can be  
19                 exchanged for cash, and barter;

20                 (b) disposition to an agent for sale on  
21                 consignment;

22                 (c) offering or attempting to sell, or receiving  
23                 or having in possession for sale, or displaying for  
24                 sale, or sending or delivering for sale, or causing or  
25                 permitting to be sold, offered, or displayed for sale;

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

3 (e) "sale" and "sold" have a corresponding  
4 meaning.

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

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

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

16 "Section 1007. Food standards.

17 Where a standard has been prescribed by regulation for  
18 any food that has been imported or is being prepared for  
19 export, no person may label, package, prepare, sell, or  
20 advertise that food when it does not comply with that  
21 standard."

22 Section 3. Section 1009 of title 41 of the Code of the  
23 Federated States of Micronesia (Annotated), as amended, is hereby  
24 further amended to read as follows:

25 "Section 1009. Compliance

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

4           (2) No person may import any article into the  
5           Federated States of Micronesia which is restricted in  
6           its sales in the country of origin.

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

15          (4) No person may import any food or package  
16          containing food which is marked with an expiration date  
17          which has passed".

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

21          Section 5. Title 41 of the Code of the Federated States of  
22          Micronesia (Annotated), as amended, is hereby further amended by  
23          inserting a new section 1011 to read as follows:

24                 "Section 1011. Seafood Verification Unit.

25                         (1) The Seafood Verification Unit is hereby

1 established.

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

6 (3) The objectives of the Seafood Verification Unit  
7 are:

8 (a) to verify and certify the export of seafood;  
9 and

10 (b) to ensure the application of appropriate  
11 quality control measures and seafood production industry  
12 standards.

13 (4) The Unit has the following functions:

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

16 (b) to monitor, regulate and control all exports  
17 of seafood, and seafood products to ensure compliance  
18 with prescribed requirements and standards;

19 (c) to make recommendation to the Secretary with  
20 regard to licensing of seafood processing facilities in  
21 accordance with this chapter;

22 (d) to certify exports of seafood and seafood  
23 products originating from the Federated States of  
24 Micronesia;

25 (e) to liaise with the National Oceanic

1 Resources Management Authority established under Title  
2 24 of the Code of the Federated States of Micronesia  
3 with regard to the certification of seafood and seafood  
4 products discharge from vessels entitled to fly the flag  
5 of the Federated States of Micronesia;

6 (f) to liaise with seafood facility operators,  
7 other agencies and importing country authorities with  
8 regard to seafood safety and market access requirements;

9 (g) provide official assurances to importing  
10 country authorities of the safety of seafood and seafood  
11 products for exports;

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

17 (i) to do such matters incidental to or  
18 consequential upon the exercise of its power or the  
19 discharge of its functions under this chapter.

20 (5) The exercise of the objectives and functions of  
21 the Unit shall be administered by a Manager appointed in  
22 accordance with the laws of the Federated States of  
23 Micronesia and such qualified person deemed necessary.  
24 The Manager shall hold all necessary powers for the  
25 purpose of implementing the international food safety

1 requirements and related obligations of the Federated  
2 States of Micronesia.”

3 Section 6. Section 1013 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 1013. Powers of food inspectors.

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

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

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

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

21 (d) Examine any books, accounts, documents, or  
22 other records that could contain any relevant  
23 information about articles subject to this chapter and  
24 make copies of such;

25 (e) Destroy or dispose of food for export or

1 food which has been imported which is decayed or  
2 petrified or otherwise a danger to the public health,  
3 with prior notice to owner;

4 (f) Cut, remove, detain, seize, or recall any  
5 food not fit for human consumption or not suitable for  
6 export;

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

9 (h) Make or impose any relevant order,  
10 instruction, condition or penalty;

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

14 (j) Call a member of the national police force  
15 for necessary assistance. Any member of the national  
16 police shall aid the food inspector as required;

17 (k) Question any person to determine compliance  
18 with this chapter.

19 (2) After any inspection, the food inspector shall  
20 give to the owner or person in charge a written report  
21 noting any violation of this chapter or the regulations.  
22 A copy of this report shall be given to the Secretary.

23 (3) Any person aggrieved by any of these actions has  
24 a right to a hearing before the Hearing Committee, which  
25 shall be conducted according to regulations promulgated

1 under this chapter.”

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

5 “Section 1014. Assistance.

6 (1) All owners, operators, occupiers, persons in  
7 charge, or their employees or agents found on premises  
8 or in vehicle containing articles subject to this  
9 chapter shall give the food inspector all reasonable  
10 assistance in carrying out his duties.

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

20 (3) Any person who:

21 (a) assaults, obstructs, resists, delays,  
22 intimidates, or fails to ensure the safety of or  
23 otherwise interfere with a food inspector in the  
24 performance of his duties;

25 (b) incites or encourages any other person to

1 assault, resist, or obstruct, any food inspector while  
2 in the execution of his power or duties, or any person  
3 lawfully acting under the food inspector's order of in  
4 his aid;

5 (c) uses threatening language or behaves in a  
6 threatening or insulting manner or uses abusive language  
7 or insulting gestures towards any food inspector which  
8 in the execution of his powers or duties or any person  
9 lawfully acting under an inspector's order or in his  
10 aid;

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

13 (e) furnishes to any food inspector any  
14 information of particulars which are false or misleading  
15 in any material respect;

16 (f) personates or falsely represents himself to  
17 be a food inspector, or who falsely represents himself  
18 to be a person lawfully acting under a food inspector's  
19 order or in his aid;

20 (8) obstructs the administration of this law;  
21 shall be prosecuted by the FSM Department of Justice  
22 under chapter 5 of title 11 of the Code of the Federated  
23 of States of Micronesia."

24 Section 9. Section 1020 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 1020. Dangerous foods.

3 (1) If the Secretary determines that a food that has  
4 been imported or is to be exported is or could be  
5 dangerous or injurious to health, the Secretary may so  
6 declare, and no such food may be sold in the Federated  
7 States of Micronesia or exported until the Secretary  
8 determines that it is no longer dangerous or injurious  
9 to health.

10 (2) If the Secretary determines that food obtained  
11 from a certain area is or could be dangerous or  
12 injurious to health, the Secretary may so declare, and  
13 no food cultivated, taken, harvested, or otherwise  
14 obtained from that area may be sold in Federated States  
15 of Micronesia or exported until the Secretary determines  
16 that the danger has passed.

17 (3) An owner of foods banned under this section may  
18 appeal such decision in accordance with this chapter."

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

22 "Section 1022. Trade Secretes.

23 (1) Information furnished to the Secretary under  
24 section 1021 of this chapter shall remain confidential.  
25 The Secretary, the Unit and any committee established

1 under this chapter, their employees and agents shall not  
2 reveal to any person any information furnished under  
3 section 1021 of this chapter, except as is necessary to  
4 perform his or her duties under this chapter.

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

7 (3) A person convicted under subsection (2) of this  
8 section shall be punished by a fine not more than  
9 \$100,000, or imprisonment for not more than five years,  
10 or both.

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

15 Section 10. Section 1024 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 1024. Licenses.

19 (1) The Secretary may license persons to import,  
20 export, prepare, pack, store food that has been imported  
21 or is being prepared for export, or transport food that  
22 has been imported or being transported for export,  
23 according to regulations promulgated by him under this  
24 chapter.

25 (2) The Secretary may license a facility, on the

1 application by the owner or operator, authorizing such  
2 facility to be used for processing of food, or for other  
3 purposes in accordance with this chapter as may be  
4 specific in the license.

5 (3) The Secretary may establish a Licensing Committee  
6 for the purpose of providing licensing recommendations  
7 or advice to the Secretary.

8 (4) No license shall be issued pursuant to this  
9 chapter unless:

10 (a) an application is made to the Secretary in  
11 the approved form; and

12 (b) the required license fees have been paid  
13 into the General Fund.

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

17 (a) the owner or operator is the subject of  
18 proceedings under the bankruptcy laws of any  
19 jurisdiction and reasonable financial assistance have  
20 not been provided;

21 (b) there has been failure to satisfy a judgment  
22 or other determination for a contravention of this  
23 chapter by the owner or operator of the premise in  
24 respect of which application for a license has been made  
25 until such time as the judgment or other determination

1 has been made;

2 (c) an owner or operator of the facility has  
3 contravened any other law of the Federated States of  
4 Micronesia;

5 (d) the previous offending history, if any, of  
6 the license applicant; or

7 (e) in accordance with such other grounds as may  
8 be prescribed.

9 (6) The Secretary, as appropriate, shall attach such  
10 condition as may be prescribed and may attach such  
11 additional conditions as her or she thinks fit and are  
12 consistent with those which ay be prescribed, to any  
13 license granted under subsection (1) and (2).

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

18 (8) A person commits a national crime if he knowingly  
19 imports, exports, prepares, packs, or stores food that  
20 has been imported or is being prepared for export  
21 without a valid license.

22 (9) A person commits a national crime if he operates  
23 a seafood processing facility in the FSM without a valid  
24 license.

25 (10) A person convicted under subsection (8) of this

1 section shall be punished by a fine not more than \$1,000  
2 or imprisonment for not more than six months, or both.

3 (11) A person convicted under subsection (9) of this  
4 section shall be punished by a fine of not more than  
5 \$2,000 or imprisonment for not more than 12 months, or  
6 both.

7 Section 11. Section 1025 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 1025. Regulations.

11 (1) Before any program authorized by this chapter may  
12 go into effect, the Secretary shall promulgate  
13 regulations providing for the training of food  
14 inspectors and setting forth the procedures to be  
15 followed by food inspectors in administering and  
16 enforcing this chapter, in order to insure that the food  
17 inspectors exercise their powers with due regard to the  
18 safety of the public, and in such a way as to avoid  
19 unnecessary disruptions of business operations.

20 (2) The Secretary may also promulgate regulations  
21 regarding food standards including standards for  
22 domestic use and export purposes; import, export,  
23 conveying, testing, advertising, bookkeeping, and  
24 licensing standards; licensing fees; methods of sampling  
25 and analysis; food handlers; certification; and the

1 procedure to be followed in the exercise of his duties  
2 and those of the Seafood Verification Unit or such other  
3 committees established under this chapter, its  
4 employees, and food analysts.

5 (3) When regulations proposed under this chapter will  
6 affect an industry, in addition to the requirements of  
7 chapter I of Title 17 of this Code, the Secretary shall  
8 give notice of the proposed regulations to those members  
9 of the affected industry, and shall conduct at least one  
10 public hearing no sooner than 10 days after the public  
11 and the industry have been notified."

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

15 "Section 1026. Hearing.

16 (1) The Secretary shall establish a Hearing Committee  
17 for the purpose of conducting hearings under this  
18 chapter and providing recommendations or advice to the  
19 Secretary.

20 (2) Except for cases arising under section 1013 (1)  
21 (e) and section 1017 of this chapter, where immediate  
22 seizure or destruction is appropriate, when a food  
23 inspector observes a violation of this chapter, or  
24 reasonably believes that a violation of this chapter has  
25 occurred, he or she shall file a violation report with

1 the Secretary.

2 (3) Any person aggrieved by an action of the Unit or  
3 the decision of the Secretary may submit a petition for  
4 a hearing. Hearings shall be conducted in accordance  
5 with regulations promulgated pursuant to title 17 of the  
6 Code of the Federated States of Micronesia."

7 Section 13. Section 1027 of title 41 of the Code of the  
8 Federated States of Micronesia, as amended, is hereby further  
9 amended to read as follows:

10 "Section 1027. Sanctions.

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

15 (2) If the Secretary finds after a hearing initiated  
16 by an aggrieved person that a violation of the license  
17 or a requirement of this chapter or regulations has  
18 occurred, the Secretary shall suspend or revoke the  
19 license of any person who has violated, or whose  
20 employee or agent has violated any provision of this  
21 chapter or the regulations promulgated under it.

22 (3) In addition to suspension or revocation of a  
23 license, the Secretary may order that any article,  
24 vehicle, or premises involved in the violation be  
25 forfeited. The Secretary may dispose of such article,

1           vehicle, or premises as it sees fit. The costs of  
2           disposal shall be paid from the proceeds; all remaining  
3           amounts shall be paid into the General Fund.”

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

7           “Section 1028. Inspection for export purposes.

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

15          Section 15. Section 1030 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 1030. Regulations.

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

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.

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October 31, 2018

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for /s/ Yosiwo P. George  
Peter M. Christian  
President  
Federated States of Micronesia

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