

**CHAPTER 10****FSM Weapons Control****SECTIONS**

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**Editor's note:** Former chapter 10 of this title on Sentencing was repealed in its entirety by PL 11-72 § 1. This new chapter 10 was enacted by PL 11-72 § 174 and is part of the Revised Criminal Code Act.

### **§ 1001. Short title.**

This chapter is known and may be cited as the "Federated States of Micronesia Weapons Control Act."

**Source:** PL 11-76 § 9.

**Cross-reference:** The statutory provisions on the Executive and the President are found in title 2 of this code. The statutory provisions on the Judiciary and the FSM Supreme Court are found in title 4 of this code.

**Editor's note:** The case annotations found throughout this title may refer to the earlier provisions of the National Criminal Code that were repealed by PL 11-72, the Revised Criminal Code. These annotations are retained for reference purposes as some of the language of the Revised Criminal Code is similar to the language of the former National Criminal Code.

**Case annotations:** There is no automatic prohibition against use of a dangerous weapon to protect oneself and family against an intruder, even against an intruder without a weapon, so long as the weapon is not used in deadly fashion and the actual force employed is not more than would be reasonably necessary for purposes of protection. *FSM v. Ruben*, 1 FSM R. 34, 38 (Truk 1981).

TT Weapons Control Act is not inconsistent with any provision of the Constitution. It therefore continued in effect. When the National Criminal Code was enacted, and major crimes were defined, the TT Weapons Control Act became national law and trials for violations thereof were within the jurisdiction of the FSM Supreme Court. 11 F.S.M.C. 1201-1231. *FSM v. Nota*, 1 FSM R. 299, 302-03 (Truk 1983).

National court jurisdiction over TT Weapons Control Act is consistent with 12 F.S.M.C. 102 which states in part that criminal prosecutions

shall be conducted in the name of the Federated States of Micronesia for violations of the statutes of the Trust Territory which continued in effect by virtue of the transition article of the Constitution and which are within the jurisdiction of the National Government of the FSM. 11 F.S.M.C. 1201-1231. *FSM v. Nota*, 1 FSM R. 299, 303 (Truk 1983).

8 F.S.M.C. 206 authorizes the transfer of authority from the Trust Territory and its officials to the Government of the FSM and its officials. Thus the reference in the TT Weapons Control Act to the High Commissioner and the Attorney General of the Trust Territory does not prevent its effectiveness as national law of the FSM. 11 F.S.M.C. 1201-1231. *FSM v. Nota*, 1 FSM R. 299, 303 (Truk 1983).

The Weapons Control Act is clear as to its intent in its definition of "dangerous device," that is, to proscribe weapons of violence; its terms become clear in the light of that intent. 11 F.S.M.C. 1204(3). *FSM v. Nota*, 1 FSM R. 299, 304 (Truk 1983).

The Government has a serious interest, and Congress deserves the support of the FSM Supreme Court, in carrying out policy established to control firearm use. Open violations, without punitive results, weaken the congressional policy and thwart efforts to assure that firearms will be available only to responsible people. Courts must assure that the policy is carried out against those convicted. *FSM v. Nena*, 1 FSM R. 331, 336 (Kos. 1983).

Whether a particular item is dangerous often depends upon the use to which it is being put. *Laion v. FSM*, 1 FSM R. 503, 511 (App. 1984).

A "dangerous weapon" under 11 F.S.M.C. 919(1) is an object which, as used, may be anticipated to produce death or great bodily harm. *Laion v. FSM*, 1 FSM R. 503, 512 (App. 1984).

In considering whether the term "dangerous weapon" is so vague as to render 11 F.S.M.C. 919 unconstitutional, it is relevant that a court in the United States has held that term sufficiently definite to meet United States constitutional standards. *Laion v. FSM*, 1 FSM R. 503, 513 (App. 1984).

A gun with a defective trigger is a firearm under 11 F.S.M.C. 1204(4). The statute's purpose may not be evaded by such simple expedients as dismantling the weapon, maintaining weapons and ammunition in separate places, removing one easily replaceable part, or other similar ploys. Under the statute, current operability is not an essential element of the crime of possession of a firearm. *Ludwig v. FSM*, 2 FSM R. 27, 34 (App. 1985).

While proof of current operability is not essential to a finding of guilt for illegal possession of a firearm, the design and the capacity of the instrument to fire are at the very heart of the Weapons Control Act's definition of a firearm. To prove its case, the government must show that the device "is designed or may be converted to expel . . . projectiles." *Ludwig v. FSM*, 2 FSM R. 27, 37 (App. 1985).

Although not always essential, current operability of a firearm should be shown by the government, where possible, as standard procedure. *Ludwig v. FSM*, 2 FSM R. 27, 37 (App. 1985).

A trial court may not simply presume that a person who possesses a firearm is not keeping it as a curio, ornament or for historical significance. This would be an irrational or arbitrary, hence unconstitutional, presumption or inference because one cannot determine from mere possession of a firearm alone the purpose or nature of that possession. *Ludwig v. FSM*, 2 FSM R. 27, 37 (App. 1985).

The Weapons Control Act violations punishable by imprisonment of three or more years are national crimes. *Joker v. FSM*, 2 FSM R. 38, 41 (App. 1985).

The Transition Clause of the FSM Constitution effectively adopts statutes of the Trust Territory, including the Weapons Control Act, and serves as the original enactment of a body of law, criminal as well as civil, for the new constitutional government. Further action of the FSM Congress is not necessary to establish that violations of the Weapons Control Act are prohibited within the FSM. *Joker v. FSM*, 2 FSM R. 38, 43 (App. 1985).

In light of the Constitution's Transition Clause, action by the FSM Congress is not necessary in order to establish that violations of the Weapons Control Act are prohibited within the FSM. The only question is whether those are state or national law prohibitions or both. If the definition of major crimes in the National Criminal Code bears upon the Weapons Control Act at all, it is only for that purpose of allocating between state and national law. *Joker v. FSM*, 2 FSM R. 38, 43 (App. 1985).

Three categories of devices are identified in the definition of "dangerous device" under the Weapons Control Act and the standards of proof for each differ slightly. *Joker v. FSM*, 2 FSM R. 38, 45 (App. 1985).

The second category of "dangerous device" under the Weapons Control Act requires demonstration by the government that the item in question was designed or redesigned as a weapon and that the person whose possession is at issue is aware that the instrument was created or modified for that purpose. The intent and knowledge normally might be inferred from the nature of the instrument itself. It does not appear necessary that the possessor be shown to have actually intended to use the instrument as a weapon or for a wrongful purpose. *Joker v. FSM*, 2 FSM R. 38, 45 (App. 1985).

For the last category of "dangerous device" under the Weapons Control Act, the forbidden instrument in question must not only be capable of causing bodily injury but it must also be possessed without any "lawful purpose." A violation occurs only when the possession is coupled with a wrongful purpose, that is, a purpose to use the instrument to cause bodily injury, or a complete absence of any lawful purpose, shown through statements or overt conduct of the possessor manifesting wrongful purpose. *Joker v. FSM*, 2 FSM R. 38, 45 (App. 1985).

Dangerous device is defined in three categories, 1) explosive, etc., 2) an instrument designed or redesigned as a weapon, and 3) an instrument which can be used to inflict bodily harm and which under the circumstances of its possession serves no lawful purpose. *Este v. FSM*, 4 FSM R. 132, 136 (App. 1989).

In requiring an identification card in order to possess a dangerous device there was not an intent to require such a card for that category of dangerous devices which can be used to inflict bodily harm and which under the circumstances of its possession serves no lawful

purpose. 11 F.S.M.C. 1204(3). *Este v. FSM*, 4 FSM R. 132, 136-37 (App. 1989).

### **§ 1002. General prohibition.**

No person shall manufacture, purchase, sell, possess or carry any firearm, dangerous device, or ammunition other than as hereinafter provided.

**Source:** PL 11-72 § 175.

**Case annotations:** The 1991 constitutional amendment that removed national government jurisdiction over major crimes did not remove national government jurisdiction over firearms and ammunition possession under the Weapons Control Act since there was an independent jurisdictional basis for it under the Constitution's foreign and interstate commerce and national defense clauses and Congress has always had the power to define national crimes. *Jano v. FSM*, 12 FSM R. 569, 574 (App. 2004).

In an examination to determine whether it is a national crime, the focus is: Does the regulation of the possession of firearms and ammunition involve a national activity or function, or is it one of an indisputably national character? *Jano v. FSM*, 12 FSM R. 569, 575 (App. 2004).

Congress's power to define national crimes is generally restricted to three areas: 1) actions occurring in places where the national government has jurisdiction; 2) actions involving an instrumentality of the national government; and 3) actions involving an activity or function that the national government has the power to regulate. *Jano v. FSM*, 12 FSM R. 569, 575 (App. 2004).

The national government can regulate firearms and ammunition possession since there is an international commerce aspect to the regulation of possession of firearms and ammunition that is related to its manufacture outside of the FSM and to its movement through the nation's customs and immigration borders and on the additional jurisdictional basis rooted in the national defense clause. *Jano v. FSM*, 12 FSM R. 569, 576 (App. 2004).

There is a national government interest in regulating the possession of firearms and ammunition in order to provide for the national security, which furthers the nation's interest in its defense, and this, in combination with the international commerce aspects, provides a jurisdictional basis for the national government's regulation of the possession of firearms and ammunition. *Jano v. FSM*, 12 FSM R. 569, 576 (App. 2004).

The regulation of possession of firearms and ammunition involves a national activity or function because of the international commerce aspects of its manufacture and movement, together with the national government interest in protecting the national security under the national defense clause. In combination, these provide the national government with a jurisdictional basis to regulate the possession of firearms and ammunition. *Jano v. FSM*, 12 FSM R. 569, 576 (App. 2004).

The 1991 constitutional amendment did not proscribe Congress's authority to enact legislation pursuant to its independent authority under the national defense and foreign and interstate commerce clauses. Thus, the 1991 amendment did nothing to curtail Congress's authority to regulate the possession of firearms. *FSM v. Louis*, 15 FSM R. 206, 212 (Pon. 2007).

Congress does not lack the authority to regulate possession of firearms because it was the framers' clear intent that commerce within a particular state should be regulated locally since there is an international commerce aspect to the regulation of possession of firearms and ammunition that is related to its manufacture outside of the FSM and to its movement through the nation's customs and immigration borders. *FSM v. Louis*, 15 FSM R. 206, 212 (Pon. 2007).

In concluding that Congress has the authority to regulate the possession of firearms as part of its power to provide for the national defense,

the court does not focus on the defendant's intended use of the firearm at issue, but instead focuses on the potential uses of firearms in general. *FSM v. Louis*, 15 FSM R. 206, 212 (Pon. 2007).

Congress's authority to regulate firearms is not dependent on the defendant's subjective intent because the national government interest in regulating the possession of firearms and ammunition in order to provide for the national security in combination with the international commerce aspects provides a jurisdictional basis for the national government's regulation of the possession of firearms and ammunition. Congress's jurisdiction over the possession of firearms is not tied to the intent of a particular defendant. *FSM v. Louis*, 15 FSM R. 206, 212 (Pon. 2007).

The national government's power to regulate firearms is derived from both its ability to protect the national security under its power to provide for the national defense and its power to regulate international commerce aspects because of the international commerce aspect of firearms manufacture and movement. In combination, these provide the national government with a jurisdictional basis to regulate the possession of firearms and ammunition. *FSM v. Tosy*, 15 FSM R. 238, 239 (Chk. 2007).

The national government's jurisdiction over firearms is not limited to only certain circumstances or certain quantities. What the national government can regulate in aggregate, it is able to regulate piece by piece; otherwise it would not be able to regulate it at all, and that, is clearly not the case. *FSM v. Tosy*, 15 FSM R. 238, 239 (Chk. 2007).

### **§ 1003. Exemptions from provisions of chapter.**

This chapter shall not apply to:

- (1) law enforcement officers while engaged in official duty except to the extent that particular provisions of this chapter are expressly made applicable to them;
- (2) firearms which are in unserviceable condition and which are incapable of being fired or discharged and which are kept as curios, ornaments or for their historical significance or value;

**Case annotations:** Some exceptions under 11 F.S.M.C. 1203, whereunder possession of a firearm is permissible, relate to considerations separate from the essential elements of the crime and require the defendant to place them in issue. A defendant claiming exemption as a law enforcement officer or United States military person engaged in official duty, §§ 1203(1), (4), or as a designated crocodile hunter, § 1203(5), is not disputing any element of the government's basic case. Instead, these exemption claims bring into play new facts, uniquely within the knowledge of the defendant, which the government could overlook by focusing on whether the conduct prohibited by the Weapons Control Act has occurred. The defendant is in a far better position to place these exemptions in issue and it is fair to require that he do so. *Ludwig v. FSM*, 2 FSM R. 27, 36 (App. 1985).

Inapplicability of the 11 F.S.M.C. 1203(2) exemption whereunder possession of a firearm is permissible because it is in unserviceable condition, is incapable of being fired or discharged and is being kept as a curio, ornament or historical piece is an essential element of the government's case in prosecution for unlawful possession of a firearm under 11 F.S.M.C. 1202. *Ludwig v. FSM*, 2 FSM R. 27, 37 (App. 1985).

Although not always essential, current operability of a firearm should be shown by the government, where possible, as standard procedure. *Ludwig v. FSM*, 2 FSM R. 27, 37 (App. 1985).

The 11 F.S.M.C. 1203(2) exemption for curios, ornaments and historical pieces whereunder possession of a firearm is permissible requires findings that the firearm be in "unserviceable condition" and "incapable of being fired or discharged." *Ludwig v. FSM*, 2 FSM R. 27, 37 (App. 1985).

A trial court may not simply presume that a person who possesses a firearm is not keeping it as a curio, ornament or for historical significance. This would be an irrational or arbitrary, hence unconstitutional, presumption or inference because one cannot determine from mere possession of a firearm alone the purpose or nature of that possession. *Ludwig v. FSM*, 2 FSM R. 27, 37 (App. 1985).

Inapplicability of the 11 F.S.M.C. 1203(2) exemption where under possession of a firearm is permissible because it is in unserviceable condition, is incapable of being fired or discharged and is being kept as a curio, ornament or historical piece is an essential element of the Government's case in prosecution for unlawful possession of a firearm under 11 F.S.M.C. 1202. *Ludwig v. FSM*, 2 FSM R. 27, 37 (App. 1985).

The 11 F.S.M.C. 1203(2) exemption whereunder possession of a firearm is permissible applies only if the firearm is: (1) unserviceable; (2) incapable of being fired or discharged; and (3) being kept as a curio, ornament or for its historical significance. *Ludwig v. FSM*, 2 FSM R. 27, 37-38 (App. 1985).

The Weapons Control Act seems well-attuned to the recognition of shared national-state interest in maintaining an orderly society and the goal of cooperation in law enforcement as reflected in the major crimes clause, art. IX, § 2(p) of the Constitution as well as the Joint Law Enforcement Act, 12 F.S.M.C. 1201. *Joker v. FSM*, 2 FSM R. 38, 44 (App. 1985).

(3) weapons or other dangerous devices which are not firearms and which are kept as ornaments, curios, or objects of historical or archeological interest; provided, that the article or articles referred to herein are kept or displayed only in private homes, museums, or in connection with public exhibitions;

(4) persons in the Armed Forces of the United States, whenever such persons are engaged on official duty except to the extent that particular provisions of this chapter are expressly made applicable to them;

(5) persons designated from time to time by the Secretary of the Department of Justice (hereinafter referred to as the "Secretary" in this Act), where such exemption is in the best interest of the National Government; provided, however, that the Secretary shall define the time, manner and purpose of the exemption, and limit the size and type of weapons which may be used by such persons.

**Source:** PL 11-72 § 176.

**Cross-reference:** The statutory provisions on the Executive and the President are found in title 2 (Executive) of this code. The statutory provisions on the Judiciary and the FSM Supreme Court are found in title 4 (Judicial) of this code.

**Case annotations:** The government ultimately bears the burden of disproving the applicability of a statutory exception when it is properly presented as a defense. *Ludwig v. FSM*, 2 FSM 27, 35 (App. 1985).

Some exceptions under 11 F.S.M.C. 1203 where possession of a firearm is permissible relate to considerations separate from the essential

elements of the crime and require the defendant to place them in issue. A defendant claiming exemption as a law enforcement officer or United States military person engaged in official duty, §§ 1203(1) and (4), or as a designated crocodile hunter, § 1203(5), is not disputing any element of the government's basic case. Instead, these exemption claims bring into play new facts, uniquely within the knowledge of the defendant, which the government could overlook by focusing on whether the conduct prohibited by the Weapons Control Act has occurred. The defendant is in a far better position to place these exemptions in issue and it is fair to require that he do so. *Ludwig v. FSM*, 2 FSM R. 27, 36 (App. 1985).

The 11 F.S.M.C. 1203(1), (4) and (5) exemptions where possession of a firearm is permissible are defenses within the meaning of 11 F.S.M.C. 107, although they are not affirmative defenses for they are not so designated. The ultimate burden of persuasion remains with the government, but the defendant has the burden of going forward with sufficient evidence to raise these exemptions as issues. *Ludwig v. FSM*, 2 FSM R. 27, 36 (App. 1985).

### **§ 1004. Definitions.**

(1) "Automatic weapon" means a weapon of any description irrespective of size, by whatever name designated or known, loaded or unloaded, from which may be repeatedly or automatically discharged a number of bullets contained in a magazine, ribbon or other receptacle, by one continuous movement of the trigger or firing mechanism.

(2) "Carry" means having on one's person or in a motor vehicle or other conveyance.

(3) "Dangerous device" means any explosive, incendiary or poison gas bomb, grenade, mine or similar device, switch or gravity blade knife, blackjack, sandbag, metal, wooden or shark's tooth knuckles, dagger, any instrument designed or redesigned for use as a weapon, or any other instrument which can be used for the purpose of inflicting bodily harm and which under the circumstances of its possession serves no lawful purpose.

**Case annotations:** "Dangerous device" as defined under the Weapons Control Act is not unconstitutionally vague. The language, properly interpreted, affords sufficient notice so that conscientious citizens may avoid inadvertent violations, and constructs sufficiently definite standards to prevent arbitrary law enforcement. *Joker v. FSM*, 2 FSM R. 38, 45 (App. 1985).

Three categories of devices are identified in the definition of "dangerous device" under the Weapons Control Act and the standards of proof for each differ slightly. *Joker v. FSM*, 2 FSM R. 38, 45 (App. 1985).

The second category of "dangerous device" under the Weapons Control Act requires demonstration by the government that the item in question was designed or redesigned as a weapon and that the person whose possession is at issue is aware that the instrument was created or modified for that purpose. The intent and knowledge normally might be inferred from the nature of the instrument itself. It does not appear necessary that the possessor be shown to have actually intended to use the instrument as a weapon or for a wrongful purpose. *Joker v. FSM*, 2 FSM R. 38, 45 (App. 1985).

The Weapons Control Act is clear as to its intent in its definition of "dangerous device," that is, to proscribe weapons of violence; its terms become clear in the light of that intent. 11 F.S.M.C. 1204(3). *FSM v. Nota*, 1 FSM R. 299, 304 (Truk 1983).



For the last category of "dangerous device" under the Weapons Control Act, the forbidden instrument in question must not only be capable of causing bodily injury but it must also be possessed without any "lawful purpose". A violation occurs only when the possession is coupled with a wrongful purpose, that is, a purpose to use the instrument to cause bodily injury, or a complete absence of any lawful purpose, shown through statements or overt conduct of the possessor manifesting wrongful purpose. *Joker v. FSM*, 2 FSM R. 38, 45 (App. 1985).

(4) "Department of Justice" means the Federated States of Micronesia Department of Justice.

(5) "Firearm" means any device, by whatever name known, which is designed or may be converted to expel or hurl a projectile or projectiles by the action of an explosion, a release, or an expansion of gas, including but not limited to guns, except a device designed or redesigned for use solely as a signaling, line throwing, spearfishing, or industrial device, or a device which hurls a projectile by means of the release or expansion of carbon dioxide or air.

**Case annotations:** A gun with a defective trigger is a firearm under 11 F.S.M.C. 1204(4). The statute's purpose may not be evaded by such simple expedients as dismantling the weapon, maintaining weapons and ammunition in separate places, removing one easily replaceable part, or other similar ploys. Under the statute, current operability is not an essential element of the crime of possession of a firearm. *Ludwig v. FSM*, 2 FSM R. 27, 34 (App. 1985).

While proof of current operability is not essential to a finding of guilt for illegal possession of a firearm, the design and the capacity of the instrument to fire are at the very heart of the Weapons Control Act's definition of a firearm. To prove its case, the government must show that the device "is designed or may be converted to expel . . . projectiles." *Ludwig v. FSM*, 2 FSM R. 27, 37 (App. 1985).

(6) "Gun" means a handgun or long gun.

(7) "Handgun" means a pistol or revolver with an overall length of less than twenty-six inches.

(8) "Law Enforcement Officer" means an employee of a national or state law enforcement agency authorized to enforce the laws of the National or State Governments. Employees of municipal law enforcement agencies may be included for the purposes of this chapter, at the discretion of the Secretary, upon a showing that municipal law enforcement officers meet the training requirements for National or State law enforcement officers.

(9) "Long gun" means a rifle with one or more barrels more than eighteen inches in length.

(10) "Person" means any natural person, corporation, partnership, or other business entity.

(11) "Semi-automatic weapon" means a weapon of any description irrespective of size, by whatever name designated or known, loaded or unloaded, from which may be repeatedly or automatically discharged a number of bullets contained in a magazine, ribbon or other receptacle by a like number of movements of the trigger or firing mechanism without recocking or resetting the trigger or firing mechanism.

(12) "Transfer" means sale, gift, purchase or any other means by which ownership or temporary rights of use and control are conveyed or shifted from one person to another.

**Source:** PL 11-72 § 177.

**Cross-reference:** The statutory provisions on the Executive and the President are found in title 2 (Executive) of this code. The statutory provisions on the Judiciary and the FSM Supreme Court are found in title 4 (Judicial) of this code.

**§ 1005. Identification cards required; Issuance.**

(1) No person shall acquire or possess any firearm, dangerous device, or ammunition unless he or she holds an identification card issued pursuant to this chapter. The identification card is evidence of the holder's eligibility to possess and use or carry firearms, dangerous devices, or ammunition. A person need not own or possess any firearm, dangerous device, or ammunition to apply for and have issued to him an identification card.

(2) Identification cards shall be issued only by the Department of Justice pursuant to regulations made by the Department of Justice in the manner which is or may be provided by law. The identification card shall have on its face all of the following:

- (a) the name and address of the holder;
- (b) the sex, height, and weight of the holder;
- (c) the birth date of the holder;
- (d) the date of expiration for the card, which shall be two years from the date of issue;
- (e) a photograph of the holder taken within ten days prior to issuance;
- (f) an endorsement setting forth the extent of the holder's eligibility to possess, use, and carry firearms, dangerous devices, or ammunition; and
- (g) the number of the identification card.

(3) An applicant for the issuance or renewal of an identification card shall make application therefor on a form approved by the Department of Justice and shall supply such information as may be necessary to afford the issuing agency reasonable opportunity to ascertain the facts required to appear on the face of the identification card, and to determine whether the applicant complies with all requirements of this chapter to possess and use, or carry firearms, dangerous devices, or ammunition, as the case may be. Such information shall include a complete description and serial number, if any, of any firearm or dangerous device the applicant owns or possesses.

(4) No identification cards shall be issued until 15 days after application therefor, and unless the issuing agency is satisfied that the applicant may lawfully possess and use, or carry firearms, dangerous devices, or ammunition of the type or types enumerated on the identification card; provided, however, that the Secretary may issue an identification card prior to the expiration of 15 days where such issuance is in the best interest of the National Government. Unless the application for use and possession is denied, the identification card shall be issued within 60 days from the date of application. An identification card issued pursuant to this section shall be valid for two years from the date of its issuance unless it has been revoked. A valid identification card issued pursuant to this section may be renewed biannually upon application by the holder made on the form approved by the Department of Justice.

(5) No person shall be issued an identification card if he or she has been:

- (a) acquitted of any criminal charge by reason of insanity;
- (b) adjudicated mentally incompetent;
- (c) treated in a hospital for mental illness, drug addiction, or alcoholism;

- (d) convicted of a crime of which actual or attempted personal injury or death is an element;
- (e) convicted of a crime in connection with which firearms or dangerous devices were used or found in his or her possession; or
- (f) convicted of a crime of which the use, possession, or sale of narcotics or dangerous drugs is an element.
- (6) No person shall be issued an identification card unless that person is at least 21 years of age at the time of application therefor.
- (7) No person shall be issued an identification card if he or she has a physical condition or impairment which makes him unable to use a firearm or dangerous device with proper control.
- (8) Any person suffering from a physical or mental defect, condition, illness, or impairment which would make him ineligible for an identification card pursuant to this section may submit the certificate of a physician licensed to practice in the Federated States of Micronesia to the issuing agency or officer. If the certificate states that it is the subscribing physician's best opinion that the defect, condition, illness, or impairment does not make the applicant incapable of possessing and using a firearm or dangerous device without danger to the public safety, the identification card may be issued. But no such card shall be valid for a period longer than six months.
- (9) Any person who is ineligible for an identification card by reason of conviction of a crime may be issued such a card if his or her most recent discharge from probation or parole or the termination of his or her most recent sentence, whichever is later, is more than ten years prior to the time of application for the identification card and if the issuing agency finds that his or her record, taken as a whole, does not indicate that his or her possessing and using, or carrying, a firearm or dangerous device, as the case may be, are not likely to constitute a special danger to the public safety; provided, that if the crime which renders him ineligible for an identification card is solely the failure to have an identification card issued to him, then the reinstatement to eligibility pursuant to this subsection shall occur five years after the date of his or her sentencing.
- (10) A duplicate identification card may be issued to the holder of a lost, destroyed, or defaced identification card upon proof of such loss, destruction, or defacement as the Department of Justice may require, upon payment of the fee required by section 1030 of this chapter, and upon surrender of any remaining portion of the original card. Notice shall be given to the Department of Justice by the holder within 48 hours of his or her discovery of such loss, defacement, or destruction. The holder shall notify the Department of Justice of any change of name or address from those appearing upon the identification card within 48 hours of such change.
- (11) A person who is neither a citizen nor resident of the Federated States of Micronesia shall not be eligible for an identification card, except upon receiving special permission from the Secretary.

**Source:** PL 11-72 § 178.

**Cross-reference:** The statutory provisions on the Executive and the President are found in title 2 (Executive) of this code. The statutory provisions on the Judiciary and the FSM Supreme Court are found in title 4 (Judicial) of this code.

**Case annotations:** The National Government has an interest in controlling the proliferation and use of firearms throughout Micronesia; the classifications singled out for a ten-year prohibition on possession appear reasonable. 11 F.S.M.C. 1205. *FSM v. Nena*, 1 FSM R. 331, 335 (Kos. 1983).

**§ 1006. Identification cards required; *Prima facie* evidence of possession.**

(1) No person shall purchase, possess, or use a firearm, dangerous device, or ammunition unless he or she is the holder of an identification card issued pursuant to this chapter evidencing the eligibility of such person to purchase, possess, and use a firearm, dangerous device or ammunition. Such person shall be at least 21 years of age.

(2) Where a firearm, dangerous device, or ammunition is found in a vehicle or vessel, it shall be prima facie evidence that such firearm, dangerous device, or ammunition is in the possession of the occupant if there is but one. If there is more than one occupant, it shall be prima facie evidence that it is in the possession of all, except under the following circumstances:

(a) where it is found upon the person of one of the occupants;

(b) where the vehicle or vessel is not a stolen one and the firearm, dangerous device, or ammunition is out of view in a glove compartment, automobile trunk, or other enclosed customary depository, in which case it is prima facie evidence that such firearm, dangerous device, or ammunition is in the possession of the occupant or occupants who own or have authority to operate the vehicle or vessel;

(c) where, in the case of a taxicab, the firearm, dangerous device, or ammunition is found in the passengers' portion of the vehicle, it shall be prima facie evidence that it is in the possession of all the passengers, if there are any, and, if not, that it is in the possession of the driver.

**Source:** PL 11-72 § 179.

**§ 1007. Carrying firearms.**

No person shall carry a firearm unless he or she has a valid identification card and is carrying the firearm unloaded in a closed case or other securely wrapped or closed package or container, or locked in the trunk of his or her vehicle while en route to or from a target range or area where he or she hunts or takes part in other sports involving firearms, or carries the firearm in plain sight on his or her person while actively engaged in hunting or sports involving the use of firearms.

**Source:** PL 11-72 § 180.

**§ 1008. New residents, temporary residents, and visitors in the FSM.**

Visitors, new residents, and temporary residents in the Federated States of Micronesia shall not import, transport, purchase, use, or possess any firearm, dangerous device or ammunition in the Federated States of Micronesia without an identification card issued pursuant to this chapter. Any person who possesses any firearms, dangerous devices, or ammunition shall, before or immediately upon his or her entrance into the Federated States of Micronesia, turn it in to the Secretary, or his or her duly designated representative. Such firearm, dangerous device, or ammunition shall be returned to such person upon his or her being issued an identification card pursuant to the provisions of this chapter or upon his or her departure from the Federated States of Micronesia.

**Source:** PL 11-72 § 181.

### **§ 1009. Law enforcement officers.**

(1) Possession, use, and carriage of firearms, ammunition and dangerous devices by law enforcement officers derives from the laws governing the powers, functions and organization of the police and other organized forces of peace officers. Eligibility of law enforcement officers to possess, use, and carry firearms, ammunition or dangerous devices while on duty is not subject to the holding of identification cards or any other qualifications prescribed in this chapter. Regulations issued pursuant to section 1029 of this chapter may include minimum qualifications for any law enforcement officer authorized to carry firearms, ammunition or dangerous devices while on duty.

(2) Transfer of any firearm from or to a law enforcement officer or agency shall, except as provided in subsection (1) of this section, be subject to the provisions of this chapter and regulations made pursuant thereto.

(3) The head of any national, state, or municipal law enforcement agency of the Federated States of Micronesia shall furnish to the Department of Justice the names, addresses, ranks, and badge numbers or similar identification of each person on his or her force who is authorized to possess, use, and carry firearms in the course of his or her official duty. Upon the occurrence of any changes in personnel to whom this subsection applies, the head of the law enforcement agency shall inform the Department of Justice promptly of the change.

(4) Whenever a law enforcement officer is not engaged in official duties, this chapter shall be applicable to him in the same manner and to the same extent as to any other person.

**Source:** PL 11-72 § 182.

**Cross-reference:** The statutory provisions on the Executive and the President are found in title 2 (Executive) of this code.

### **§ 1010. Licenses for transfer—Requirements.**

(1) No dealer, manufacturer or wholesaler shall transfer firearms, dangerous devices or ammunition except pursuant to a license therefor as provided in this section.

(2) Any person, firm, corporation, association, or other entity proposing to engage in the business of selling firearms, ammunition, and dangerous devices at retail shall apply for a dealer's license. The application shall be on a form approved by the Department of Justice and shall contain the following information:

(a) the name and address of the applicant, including the address of each separate location within the Federated States of Micronesia at which the applicant proposes to do business pursuant to the license;

(b) if the applicant is a partnership or association, the names and addresses of the partners or associates, or if the applicant is a corporation, the names and addresses of the officers and directors; and

(c) such other information bearing on the applicant's ability to operate the business in a manner consonant with the public safety as the Department of Justice may require.

**Source:** PL 11-72 § 183.

**§ 1011. Dealer's license—Issuance and renewal.**

(1) Upon receipt of a proper application and payment of the prescribed fee, the Department of Justice shall, within 60 days, issue a dealer's license to an applicant, if he or she is found to be eligible therefor pursuant to this chapter and any applicable regulations of the Department of Justice. Such regulations shall place a reasonable limit on the number of dealer's licenses available. The license shall list the types of firearms, ammunition, and dangerous devices which the dealer has been authorized to offer for sale.

(2) A license issued pursuant to this section shall be valid for one year from the date of its issuance, unless cancelled sooner, suspended, or revoked. A license shall bear the expiration date thereof on its face.

(3) A license issued pursuant to this section may be renewed annually upon application by the holder made on a form approved by the Department of Justice. Eligibility for renewal shall be on the same terms and conditions as for an original license, except that renewal also may be denied on account of violation of this chapter or regulations of the Department of Justice made pursuant thereto or for any conduct in the operation of the applicant's business which gives the Department of Justice grounds to believe that the applicant will no longer operate in a manner consonant with the public safety.

**Source:** PL 11-72 § 184.

**Cross-reference:** The statutory provisions on the Executive and the President are found in title 2 (Executive) of this code. The statutory provisions on the Judiciary and the FSM Supreme Court are found in title 4 (Judicial) of this code.

**§ 1012. Dealer's license—Conduct of dealer's business.**

The holder of a dealer's license shall:

(1) display his or her license in a conspicuous place at all times at the establishment described in the license. If a dealer has more than one place of business at which he or she sells firearms, dangerous devices, and ammunition or any of them, he or she shall display in the same manner a certified copy of his or her license at each such additional place of business;

(2) keep the records and file the reports required by this chapter and regulations made pursuant thereto;

(3) display no firearms, dangerous devices or ammunition in any place where they can be seen from outside the premises;

(4) keep all firearms, dangerous devices and ammunition in a securely locked place at all times except when they are actually being shown to a customer or prospective customer or when actually being repaired or otherwise worked on;

(5) permit only employees who are holders of identification cards making them eligible to purchase, possess and use firearms, ammunition, or dangerous devices, to have access to firearms, dangerous devices, or ammunition.

**Source:** PL 11-72 § 185.

**§ 1013. Records and reports by dealers.**

(1) Every licensed dealer shall maintain records containing an inventory of firearms, dangerous devices, and ammunition or any of them received, together with the name and address of the person from whom they were received, and the manufacturer, type and serial number of each firearm and dangerous device, the name and address of the person to whom it was transferred, the identification card number of such person, the manufacturer, type and serial number of the gun or dangerous device transferred and the date of transfer. Such records shall be available for inspection at all reasonable times by the Secretary, and his or her duly designated representatives. Such records shall be retained for at least five years.

(2) Every dealer, at the time of any transfer of any firearm or dangerous device to any person other than a licensed dealer shall, within 24 hours of the transfer, supply the following information to the Department of Justice on a form approved by it:

(a) the name, address and license number of the dealer;

(b) the manufacturer, type, and serial number of firearm or dangerous device transferred. No firearm shall be transferred which does not have a serial number or from which the serial number has been removed, defaced, or altered;

(c) the name, address and identification card number of the transferee.

**Source:** PL 11-72 § 186.

**§ 1014. Repair of firearms.**

(1) No person, other than a dealer or manufacturer licensed pursuant to this chapter shall repair firearms or accept the same for repair.

(2) No person shall accept any firearms for repair unless he or she is shown an identification card evidencing eligibility of the holder to possess and use a firearm of the type offered for repair. Prior to returning any such firearm, the manufacturer or dealer shall make and keep a record identical with that required for the purchase of a firearm pursuant to section 1013 of this chapter, and shall maintain such record for at least one year.

(3) Nothing in this section shall be construed to prohibit the repair or maintenance of a firearm by the owner thereof.

**Source:** PL 11-72 § 187.

**§ 1015. Transfer of ammunition.**

(1) No person may transfer ammunition, unless he or she is a manufacturer, wholesaler or dealer licensed pursuant to this chapter. If the transfer is other than to another manufacturer, wholesaler, or dealer, the transfer shall not be made until the transferor has ascertained that the transferee is the holder of an identification card evidencing eligibility to possess and use a firearm of the type for which the ammunition is suited. Upon transfer the transferor

shall record the quantity, type and caliber or gauge transferred, the name and address of the transferee and the number of the transferee's identification card.

(2) No transferee of ammunition shall transfer it to any person other than a dealer licensed pursuant to this chapter. Upon receipt of ammunition, the dealer shall make and keep all records with respect to the ammunition in the manner required by this section for ammunition sold by him.

**Source:** PL 11-72 § 188.

### **§ 1016. Transfer of firearms and dangerous devices.**

No person other than a manufacturer, wholesaler, or dealer licensed pursuant to this chapter shall transfer a firearm or dangerous device to any person other than a manufacturer, wholesaler, or dealer without first ascertaining that the transferee is the holder of an identification card issued pursuant to this chapter. Prior to any such transfer, the transferor shall furnish to the Department of Justice in person or by registered or certified mail, return receipt requested, a properly completed form approved by the Department of Justice providing information equivalent to that required to be furnished by a dealer upon the transfer by him of a firearm or dangerous device.

**Source:** PL 11-72 § 189.

### **§ 1017. Secured transactions in firearms.**

(1) No person, other than a licensed dealer, shall receive a firearm as a pledge or pawn, or in any other manner as security.

(2) A dealer receiving a firearm as a pledge, pawn or otherwise as security, shall record promptly:

(a) the date of receipt;

(b) the full description of the item or items received, including the manufacturer, type, and serial number or numbers, if any;

(c) the name and address of the person making the pledge, pawn, or other deposit as security; and

(d) the number of said person's identification card.

(3) No dealer shall accept the pledge, pawn, or other deposit as security unless the person making the same exhibits an identification card evidencing his or her entitlement to possess and use a gun of the type involved.

(4) Upon the return or other disposition of the firearm in his or her possession pursuant to this section, the dealer shall make a record of the return or other disposition, including the date thereof and the name and address of the person to whom the firearm was returned or disposed. No firearm shall be returned or disposed of to any person who, at the time of such return or disposition, does not exhibit a valid identification card issued in his or her own name and entitling him to possess and use the firearm involved.

**Source:** PL 11-72 § 190.



**§ 1018. Manufacturer's and wholesaler's license.**

(1) No person shall manufacture or deal in firearms, dangerous devices, or ammunition at wholesale unless:

- (a) he or she is the holder of a dealer's license issued pursuant to section 1011 of this chapter; or
- (b) he or she is the holder of a license issued pursuant to this section.

(2) Any person proposing to manufacture or deal at wholesale in firearms, dangerous devices, or ammunition, which person is not the holder of a dealer's license, shall make application for a manufacturer's or wholesaler's license. Such application shall contain the same information required for a dealer's license and any additional information required by the Secretary, as may be appropriate to administer this chapter. No manufacturer's license or wholesaler's license shall authorize transfer or delivery within the Federated States of Micronesia except to a licensed dealer, manufacturer, or wholesaler or to an authorized law enforcement agency in the Federated States of Micronesia or, subject to applicable laws of the Federated States of Micronesia, for export.

(3) The Department of Justice shall issue, renew, cancel, deny, suspend, or revoke manufacturers' and wholesalers' licenses on the same terms and subject to the same conditions as provided for dealers' licenses.

(4) Every manufacturer shall assign a unique serial number to each firearm he or she manufactures and shall inscribe such number in or on the firearm in such manner as will resist removal, alteration, defacement or obliteration. The Department of Justice may make regulations for the style of such serial numbers and for the manner of their inscription.

**Source:** PL 11-72 § 191.

**§ 1019. Registry of firearms and ammunition.**

(1) The Department of Justice shall maintain a registry of firearms. The records in the registry shall be kept permanently unless there is a record of the destruction of the gun.

(2) Records kept in the registry shall include all records required to be filed with the Department of Justice pursuant to this chapter, copies of all records filed with an agency or officer of local government pursuant to this chapter, and any records deposited with the Department of Justice pursuant to subsection (3) of this section.

(3) Any dealer, manufacturer, or wholesaler licensed pursuant to this chapter, upon his or her discontinuance of the licensed business or activity, shall transmit all records kept by him pursuant to this chapter to the Department of Justice.

(4) Records relating to the transfer or repair of firearms shall be kept by the Department of Justice for a period of at least five years after transmittal.

(5) Records in the registry shall not be public records. They shall be made available only to law enforcement officers of the national, state and municipal governments of the Federated States of Micronesia, or at the discretion of the Department of Justice, to law enforcement officers and agencies of foreign governments.

**Source:** PL 11-72 § 192.

**Cross-reference:** The statutory provisions on the Executive and the President are found in title 2 (Executive) of this code.

**§ 1020. Cancellation, denial, suspension and revocation of licenses.**

(1) Any license issued pursuant to this chapter shall be surrendered for cancellation immediately on the discontinuance or termination of business or upon the holder's discontinuing the manufacturing, selling, acquisition for sale or repair of firearms, and the sale of ammunition.

(2) The issuing officer or agency may deny, suspend or revoke an identification card or a license issued pursuant to this chapter for failure of the applicant or holder to meet or continue to meet any of the requirements for eligibility therefor, or for any violation of this chapter or regulations in force pursuant thereto.

(3) The Department of Justice by regulation shall make classifications of crimes and other violations of this chapter or regulations in force thereunder. Regulations made pursuant to this subsection shall set forth those crimes and violations for which identification cards and licenses may be suspended or revoked, and those for which the penalty must be revocation. Such regulations shall be of general application.

(4) Any person who, by reason of the suspension or revocation of his or her identification card, is no longer eligible to continue in possession of a firearm, dangerous device, or ammunition shall surrender any and all firearms, dangerous devices, and ammunition to the Secretary, or his or her duly designated representative, or shall dispose of the firearms, dangerous devices, and ammunition forthwith under the direction and supervision of the Secretary, or his or her duly designated representative. In the case of suspension of an identification card, the owner of the firearm, dangerous device, or ammunition may request that the Department of Justice keep same during the period of suspension and, except as herein provided, the firearm, dangerous device, or ammunition shall be restored to the owner when he or she again becomes eligible to possess same and requests return. Any firearm, dangerous device, or ammunition in the possession of the Secretary, or his or her duly designated representative, pursuant to this subsection may be disposed of, without compensation to the owner, upon revocation of the suspended identification card or at the end of 60 days after receipt or the date of termination of the suspension, whichever is later. However, if proceedings in connection with the suspension or revocation are not yet finally determined, disposal shall not be until such final determination has been made.

(5) Any denial, suspension, or revocation of an identification card or a license shall be subject to review by the Trial Division of the FSM Supreme Court upon petition by the aggrieved person.

**Source:** PL 11-72 § 193.

**Cross-reference:** The statutory provisions on the Executive and the President are found in title 2 (Executive) of this code. The statutory provisions on the FSM Supreme Court and the Judicial are found in title 4 of this code.

**§ 1021. Shipment and delivery of firearms, dangerous devices, and ammunition.**

(1) No person shall ship, transport or deliver any firearm, dangerous device, or ammunition to anyone other than a licensed manufacturer, wholesaler, dealer, or person who possesses a valid identification card.

(2) Any person who ships, transports or delivers firearms or dangerous devices to a manufacturer,

wholesaler, dealer, or person possessing an identification card in the Federated States of Micronesia shall, before delivery, furnish to the Department of Justice an invoice listing his or her name and address, the name and address of the manufacturer, wholesaler, dealer, or person possessing the identification card to whom such firearms or dangerous devices are to be delivered, the place of origin of the shipment, the number of firearms and dangerous devices of each type, and the manufacturer and serial number of each firearm and dangerous device in the shipment.

(3) Any person who ships, transports or delivers ammunition to a manufacturer, wholesaler, dealer or person possessing an identification card in the Federated States of Micronesia shall, before delivery, furnish to the Department of Justice an invoice listing his or her name and address, the name and address of the manufacturer, wholesaler, dealer, or person possessing an identification card to whom the ammunition is to be delivered, the place of origin of the shipment, and the quantity of ammunition of each type in the shipment.

(4) If shipment is by common carrier, a copy of the invoice required by subsections (2) and (3) of this section shall also be delivered to the common carrier. The common carrier shall deliver the invoice and any said shipment to local law enforcement authorities who will verify the accuracy of the shipment, and compliance with this chapter, before delivery to the manufacturer, wholesaler, dealer, or person possessing an identification card. A copy of the invoice shall be left with the manufacturer, wholesaler, dealer, or person possessing an identification card at the time of delivery.

(5) If shipment is by other than common carrier, a copy of the invoice shall be furnished to the manufacturer, wholesaler, dealer, or person possessing an identification card at the time of delivery.

(6) No person shall ship, transport, or deliver firearms, dangerous devices, or ammunition via air without first complying with international regulations pertaining to air shipment of firearms, dangerous devices, or ammunition.

**Source:** PL 11-72 § 194.

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**Cross-reference:** The statutory provisions on the Executive and the President are found in title 2 (Executive) of this code.

### **§ 1022. Loss, destruction or theft of firearms or dangerous devices.**

Whoever owns or possesses a firearm, dangerous device, or ammunition shall, within 24 hours of discovery, notify the Department of Justice of the loss, theft, or destruction of any such firearm, dangerous device or ammunition, and, after such notice, of any subsequent recovery thereof.

**Source:** PL 11-72 § 195.

### **§ 1023. Prohibited acts.**

No person shall:

- (1) knowingly remove, obliterate, or alter the importer's or manufacturer's serial number of any firearm;
- (2) knowingly deface, alter, or destroy an identification card;

- (3) acquire, possess, or use any firearm silencer or muffler;
- (4) carry any gun or dangerous device while under the influence of alcohol or narcotic or other disabling drug;
- (5) import, sell, transfer, give away, purchase, possess or use any handgun, automatic weapon, rifle larger than .22 caliber, shotgun larger than .410 gauge, or any other firearm;
- (6) board or attempt to board any commercial aircraft while carrying any firearm, dangerous device, or ammunition, either on his or her person or in his or her luggage. Such firearm, dangerous device, or ammunition shall be turned in prior to departure to an appropriate official or to the pilot of the airline or aircraft concerned, who shall keep a record of the name of the person turning in such firearm, dangerous device, or ammunition, and the type and quantity turned in. Upon completion of such person's travel, the official of the airline or pilot of the aircraft shall personally deliver the article or articles turned in to the Secretary, or his or her duly designated representative, or another authorized law enforcement officer, at the point of disembarkation. If the point of disembarkation is in the Federated States of Micronesia, such person may recover the article or articles turned in upon either:
  - (a) presentation of a valid identification card or license for such article or articles to the police officer having custody thereof, or
  - (b) departure from the Federated States of Micronesia; provided, however, that persons departing the Federated States of Micronesia via commercial aircraft shall be subject to the provisions of this section;
- (7) use or attempt to use any firearm, dangerous device, or ammunition in connection with or in aid of the commission of any crime against the laws of the Federated States of Micronesia, except those set forth under other provisions of this chapter.

**Source:** PL 11-72 § 196.

**Case annotation:** Since, under 11 F.S.M.C. 1023(7), the government must prove beyond a reasonable doubt that the firearm was used to commit a crime, when the amended information does not allege what crime or crimes, the firearm was used to commit, or even that it was used to commit any crime, it therefore fails to allege an essential element of 11 F.S.M.C. 1023(7), and that count of the amended information will be dismissed for failure to state an offense. *FSM v. Sam*, 14 FSM R. 328, 334 (Chk. 2006).

The absence of an intent element in 11 F.S.M.C. 1223(6) (which prohibits any person from boarding or attempting to board a commercial airliner while carrying a firearm either on his person or in his luggage) evinces a legislative intent to dispense with the mens rea element and make the proscribed conduct a strict liability crime. The court can properly infer from Congress's silence in subsection (6) and lack of silence in subsections (1) and (2) that Congress intended that subsection (6) constitute a strict liability offense, whereas subsections (1) and (2) do not. *Sander v. FSM*, 9 FSM R. 442, 447 (App. 2000).

Although 11 F.S.M.C. 1223(6) does not dispense with the mental element that the defendant must know or be aware that he had the shotgun in his possession, the statute does dispense with the specific intent to board the aircraft knowing that it was illegal to do so with a shotgun. *Sander v. FSM*, 9 FSM R. 442, 447 (App. 2000).

A heavy maximum penalty of a \$2000 fine and five years imprisonment is not dispositive in determining whether a crime is a strict liability offense. *Sander v. FSM*, 9 FSM R. 442, 448 (App. 2000).

Because violation of 11 F.S.M.C. 1223(6) is not a case of an attempt to commit a crime but a case where "attempt to board" is an element of the offense, 11 F.S.M.C. 201 (the attempt statute) does not apply to the crime of attempting to board a commercial aircraft with a

firearm. *Sander v. FSM*, 9 FSM R. 442, 448 (App. 2000).

Because conduct alone without regard to the doer's intent is often sufficient to convict someone of a crime, because there is wide latitude to declare an offense and to exclude elements of knowledge and diligence from its definition, and because the defendant knew, by his own admission, that he was not permitted to take a weapon on board the plane, the strict criminal liability imposed by 11 F.S.M.C. 1223(6) for boarding or attempting to board a commercial aircraft while carrying a firearm or dangerous device does not violate due process. *Sander v. FSM*, 9 FSM R. 442, 449-50 (App. 2000).

#### **§ 1024. Forfeiture.**

All firearms, dangerous devices, or ammunition unlawfully possessed, carried, used, shipped, transported or delivered into the Federated States of Micronesia are declared to be inimical to the public safety and are forfeited to the Federated States of Micronesia. When such forfeited articles are taken from any person, they shall be surrendered to the Department of Justice.

**Source:** PL 11-72 § 197.

#### **§ 1025. Closing of establishments during emergencies.**

In case of emergency concerning the public safety declared by the President, pursuant to chapter 8 of this title, all establishments dealing in guns, dangerous devices, or ammunition may be ordered closed and required to remain closed during the continuance of the emergency. During any such closure, any and all guns, dangerous devices, and ammunition belonging to or in the keeping of a closed establishment may be impounded.

**Source:** PL 11-72 § 198.

#### **§ 1026. Registration of weapons possessed on effective date of chapter.**

(1) Any person having in his or her possession a firearm or dangerous device on the effective date of this chapter shall, within 90 days of such effective date, furnish, on a form approved by the Department of Justice, to the agency or officer authorized to receive information concerning the transfer of firearms or dangerous devices pursuant to this chapter, equivalent information concerning any firearm or dangerous device in his or her possession.

(2) If, prior to the expiration of the 90 day period provided in subsection (1) of this section, the firearm is transferred, the transferor shall comply with the provisions of this chapter for furnishing of information on transfer and need not comply with subsection (1) of this section.

**Source:** PL 11-72 § 199.

#### **§ 1027. Surrender of and compensation for weapons held on effective date by ineligible persons.**

Any person who possessed any firearm or dangerous device in the Federated States of Micronesia prior to the effective date of this chapter, and who is determined to be ineligible to possess or is prohibited from possessing such firearm or dangerous device under this chapter, shall tender such firearm or dangerous device to the Secretary or his or

her duly designated representative within 90 days of the effective date of this chapter and be reasonably compensated therefor.

**Source:** PL 11-72 § 200.

**Cross-reference:** The statutory provisions on the Executive and the President are found in title 2 (Executive) of this code.

### **§ 1028. Local laws.**

Nothing in this chapter shall be deemed to prevent any state or municipal government from further restricting, by local law or ordinance, the transfer, possession, use, or carriage of firearms, ammunition, or dangerous devices. This chapter shall supersede all state laws and municipal ordinances in conflict with this act.

**Source:** PL 11-72 § 201.

### **§ 1029. Regulations.**

The Secretary shall have power to issue, amend, and repeal regulations implementing this chapter in the manner which is or may be provided by law, as may be required by the public interest, safety, and welfare.

**Source:** PL 11-72 § 202.

### **§ 1030. Fees for licenses and identification cards.**

(1) The fees for issuance and renewal of licenses and identification cards as required by this chapter shall be as follows:

- (a) for an identification card, \$5;
- (b) for a dealer's license, \$150;
- (c) for a manufacturer's license, \$500;
- (d) for a wholesaler's license, \$500;
- (e) for replacement of lost, destroyed, or defaced identification card, \$5.

(2) Fees collected pursuant to the provisions of this chapter shall be paid to the General Fund of the Federated States of Micronesia.

**Source:** PL 11-72 § 203.

**§ 1031. Penalties for violation of chapter.**

(1) Any person convicted of a violation of section 1007 or section 1022 of this Act shall be imprisoned for not more than one year.

(2) Any person convicted of a violation of any other provision of this chapter or any regulations issued pursuant thereto shall be imprisoned for not more than ten years, and shall be subject to confiscation of any firearm, dangerous device, or ammunition, without compensation, involved in a violation of this act. The holder of any dealer's license, or the manager or supervisor of employees of any establishment so licensed, or both, shall be liable for any violation of this act by his or her employee or agent committed in the course of the dealer's business, to the same extent as such employee or agent.

(3) It shall be an affirmative defense under subsection (1) of this section, that the defendant was issued a valid identification card before the time of his or her arrest, but neglected to have it upon his or her person.

**Source:** PL 11-72 § 204.