

SEVENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

SECOND REGULAR SESSION, 1991

CONGRESSIONAL BILL No. 7-159

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AN ACT

To further amend title 21 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-7 and 5-104, by adding new sections 101 and 103, by amending sections 101, 103, 104, 105, 106 and 107 for the purpose of authorizing the Secretary of Transportation and Communication to regulate radio communications in the Federated States of Micronesia, by repealing section 102, and for other purposes.

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

**Section 1.** Title 21 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 101 to read as follows:

"Section 101. **Short title** This chapter may be cited as the 'Federated States of Micronesia Radio Communication Act of 1991,' hereinafter referred to as the Act."

**Section 2.** Section 101 of title 21 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 102. **Promulgation of Regulations.** For the purpose of regulating, to the extent provided by this Act, communication by radio so as to make available, so far as possible, to the people of the Federated States of Micronesia such communication services required for the purpose of conducting personal business, promoting safety of life and property, providing public service, and allowing for the efficient and economic use of the radio frequency spectrum, the Secretary of the Department of Transportation and Communication shall, in accordance with the requirements of chapter 1 of title 17 of the Code of the Federated States of Micronesia, promulgate regulations, which shall have the force and effect of law and be binding upon persons seeking to perform or performing the act of providing radio communications within the Federated States of Micronesia."

**Section 3.** Section 102 of title 21 of the Code of the Federated States of Micronesia is hereby repealed in its entirety.

**Section 4.** Title 21 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 103 to read as follows:

"Section 103. **Scope of regulations.**

- (1) The regulations promulgated pursuant to section 102 of this chapter shall apply to:
  - (a) Foreign and interstate radio communications;
  - (b) Radio communications which interfere with, or have the capacity to interfere with, foreign and interstate radio communications; and
  - (c) Radio communications relating to National defense and public safety.
- (2) Radio communications subject to regulation shall include, but not be limited to, the following uses and services:
  - (a) Public safety and government uses;
  - (b) Maritime, land, and aeronautical mobile radio services;
  - (c) Fixed radio services;
  - (d) Amateur services;
  - (e) Citizens radio;
  - (f) Broadcast radio services; and
  - (g) Other uses or services which the Secretary deems necessary to carry out the purposes of this Act.
- (3) The regulations promulgated pursuant to section 102 of this chapter may apply to any matter pertaining to radio communication or transmission of energy by radio in the Federated States of Micronesia including, but not limited to, frequency authorization, restrictions on use of radio frequencies, licensing and examination of commercial and amateur radio operators, licensing radio stations, inspection of radio stations, assessment of reasonable fees for licensed users, and such other matters as may be necessary to carry out the purposes of this Act. The Secretary shall designate and restrict three citizen band radio channels for only emergency, disaster, and government use."

**Section 5.** Section 103 of title 21 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 104. **Definitions.** For the purposes of this Act and subsequent regulations, the following definitions shall apply unless the context otherwise requires:

- (1) 'Amateur service' means a service of self-training, intercommunication, and technical investigations carried on by amateurs, that is, by duly authorized persons interested in radio technique solely with a personal aim and without pecuniary interest.
- (2) 'Amateur station' means a station in the amateur service.
- (3) 'Broadcasting service' means a radio communication service of transmissions to be received directly by the general public, and may include transmissions of sounds or transmissions by television, facsimile, or other means.
- (4) 'Broadcasting station' means a station in the broad casting service.
- (5) 'Coast station' means a land station in the maritime mobile service carrying on a service with ship stations and which may secondarily communicate with other coast stations incident to communication with ship stations
- (6) 'Corporation' includes any corporation, joint-stock company, or association
- (7) 'Fixed service' means a service of radio communication between specified fixed points.
- (8) 'Fixed station' means a station in the fixed service and which may, as a secondary service, transmit to mobile stations on its normal frequencies.
- (9) 'Foreign communication' or 'foreign transmission' means radio communication or transmission of energy by radio from or to any place in the Federated States of Micronesia to or from a foreign country, or between a station in the Federated States of Micronesia and a mobile station located outside the Federated States of Micronesia.
- (10) 'Interstate communication' or 'interstate transmission' means radio communication or transmission of energy by radio from any place in one State in the Federated States of Micronesia to another State in the Federated States of Micronesia.
- (11) 'Licensee' means the holder of a radio station license granted or continued in force by the Government of the Federated States of Micronesia.
- (12) 'Maritime mobile service' means a mobile service between ship stations and coast stations or between ships' stations.
- (13) 'Person' includes an individual, partnership, association, joint-stock company, trust, or corporation.
- (14) 'Radio communication' or 'communication by radio' means the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding and delivery of communications) incidental to such transmissions.
- (15) 'Ship station' means a mobile station in the maritime mobile service located on board a vessel which is not permanently moored.
- (16) 'Transmission of energy by radio' or 'radio trans mission of energy' includes both such transmission and all instrumentalities, facilities, and services incidental to such transmission."

**Section 6.** Section 104 of title 21 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 105. **Unauthorized publication of communications prohibited.**

- (1) No person receiving or assisting in receiving, or transmitting or assisting in transmitting, any foreign or interstate communication by radio shall divulge or publish the existence, contents, substance, purport, effect, or meaning thereof, except through authorized channels of transmission or reception, to any person other than the addressee, his gent, or attorney, or to a person employed or authorized to forward such communication to its destination, or to proper accounting or distributing officers of the various communicating centers over which the communication may be passed, or to the master of a ship under whom he is serving, or in response to a subpoena issued by a court of competent jurisdiction, or on demand of other lawful authority.
- (2) No person not being authorized by the sender shall intercept any communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person.
- (3) No person not being entitled thereto shall receive or assist in receiving any foreign or interstate communication by radio and use the same or any information therein contained or his own benefit or for the benefit of another not entitled thereto
- (4) No person having received such intercepted communication or having become acquainted with the contents, substance, purport, effect, or meaning of the same or any part thereof, knowing that such information was so obtained, shall divulge or publish the existence, contents, substance, purport, effect, or meaning of the same or any part thereof, or use the same or any information therein contained for his own benefit or for the benefit of another not entitled thereto.

- (5) This section shall not apply to the receiving, divulging, publishing, or utilizing the contents of any radio communication broadcast or transmitted by amateurs or others for the use of the general public, or relating to ships in distress."

**Section 7.** Section 105 of title 21 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

Section 106. **War emergency provisions.**

- (1) During the continuance of a war in which the Federated States of Micronesia is engaged, the President of the Federated States of Micronesia is authorized, if he finds it necessary for the National defense and security, to direct that such communications, as in his judgment may be essential to the National defense and security, shall have preference or priority over any licensee subject to the radio regulations of the Government of the Federated States of Micronesia. He may give these directions at and for such times as he may determine, and may modify, change, or annul them.
- (2) For such purpose he is hereby authorized to issue orders directly, or through such person or persons as he designates for the purpose. Any licensee complying with such order or direction for preference or priority authorized in this section shall be exempt from any and all provisions in existing law imposing civil or criminal penalties, obligation, or liabilities upon licensees by reason of giving preference or priority in compliance with such order or direction.
- (3) Upon proclamation by the President of the Federated States of Micronesia that there exists war or threat of war, or a state of public peril or disaster or other National peril, or in order to preserve the neutrality of the Federated States of Micronesia, the President of the Federated States of Micronesia, if he deems it necessary in the interest of National security or defense, may suspend or amend, for such time as he sees fit, the rules and regulations applicable to any or all stations or devices capable of emitting electromagnetic radiations between ten kilohertz and one hundred thousand megahertz, which is suitable for use as a navigational aid beyond five miles, and the removal therefrom of its apparatus and equipment, or he may authorize the use or control of any such station or device or its apparatus and equipment, by any department of the Government of the Federated States of Micronesia under such regulations as he may prescribe upon just compensation to the owners."

**Section 8.** Section 106 of title 21 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

Section 107. **War emergency provisions - Penalties for violations.** Any person who willfully does or causes or suffers to be done any act prohibited pursuant to the exercise of the President of the Federated States of Micronesia's authority under the preceding section, or who willfully fails to do any act which he is required to do pursuant to the exercise of the President's authority under the preceding section, or who willfully causes or suffers such failure, shall, upon conviction thereof, be punished for such offense by a fine of not more than \$1,000, or by imprisonment for not more than a year, or both, and, if a firm, partnership, association, or corporation, by fine of not more than \$5,000, except that any person who commits such an offense with intent to injure the Federated States of Micronesia, or with intent to secure an advantage to any foreign nation, shall, upon conviction thereof, be punished by a fine of not more than \$20,000, or by imprisonment for not more than twenty years, or both."

**Section 9.** Section 107 of title 21 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

Section 108. **General penalty for violations.** Any person who willfully and knowingly does or causes or suffers to be done any act, matter, or thing prohibited or declared to be unlawful, or willfully or knowingly omits or fails to do any act, matter, or thing required to be done, or willfully and knowingly causes or suffers such omission or failure required by any regulation made or imposed by the Secretary of the Department of Transportation and Communication, or any rule, regulation, restriction, or condition made or imposed by an international radio or wire communications treaty or convention, or regulations annexed thereto, to which the Federated States of Micronesia is or may hereafter become a party, shall upon conviction thereof be punished for such offense by a fine of not more than \$10,000, or by imprisonment for a term not exceeding one year, or both.

Section 109. **Impoundment of Unauthorized equipment.**

- (1) No person shall possess or use any radio transmission equipment which is not in compliance with this chapter or the regulations promulgated thereto;
- (2) The Secretary of the Department of Transportation, Communications or his designee, on reasonable belief, may declare any radio transmission equipment as not in compliance with this chapter or the regulations promulgated thereto. Upon declaring radio equipment as not in compliance, the Secretary or his designee shall give a written notice to the owner or possessor of the noncomplying equipment and therein state the factors regarding why the equipment is not in compliance. The notice shall also include the provisions of this section.
- (3) In the notice the Secretary or his designee may prohibit further use of the noncomplying equipment, may state conditions regarding continued use of the noncomplying equipment, and may direct the owner or possessor to have the equipment brought into compliance within 30 or more days. The

- owner or possessor of radio equipment designated by the Secretary or his designee as not in compliance may, pursuant to section 108 of title 17 of this code, petition the Secretary for a hearing on and reconsideration of the finding of noncompliance.
- (4) Noncomplying equipment used when prohibit, used in violation of the conditions stated in the notice, or not brought into compliance within the time frame stated in the notice, may be taken and impounded by the Secretary, his designee, or any duly authorized officer of the law. At the time of removal, the impounding authority shall leave a notice of impoundment with the possessor or owner of the noncomplying equipment or, if unavailable, at the place from which the equipment was taken. The notice of impoundment shall include information about the custodian, the location and identification of the equipment.
  - (5) An impoundment made pursuant to this section may continue until the Secretary or his designee is given reasonable assurances by the owner or possessor that the equipment will be brought into compliance. The Secretary or his designee may send noncomplying equipment directly to a repair shop; PROVIDED, however that the owner or possessor has executed a written agreement to pay for the cost of bringing the equipment into compliance.
  - (6) Impoundment made pursuant to this section shall in no way be deemed a seizure.
  - (7) Copies of the notices required by this section shall be retained by the Secretary or his designee for at least 5 years. Noncomplying equipment must be returned with 10 days after a complaint, if proper notice was not given. Nothing herein, however, shall prevent the equipment from again being taken and impounded upon proper notice.
  - (8) The owner or possessor of impounded radio equipment may petition the Secretary for an administrative hearing and reconsideration of the decision to impound. Upon a negative result from the administrative hearing, the owner or possessor may appeal by bringing an action in the Trial Division of the Supreme Court of the Federated States of Micronesia.
  - (9) An owner or possessor of radio equipment regulated under this chapter shall be deemed to have consented to the inspection at reasonable hours of his or her equipment for compliance with this chapter or the regulations promulgated thereto. The Secretary or his designee, upon a reasonable belief that radio equipment is not in compliance, shall be permitted access to inspect the equipment during reasonable hours. Refusal to permit reasonable entry for inspection of the equipment shall constitute adequate probable cause for search warrant.
  - (10) The impoundments permitted by this section shall not preclude any other penalties provided in this chapter.”

**Section 10.** This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

December 11, 1991  
Bailey Olter  
President  
Federated States of Micronesia