

SEVENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

THIRD SPECIAL SESSION, 1992 CONGRESSIONAL BILL NO. 7-362, C.D.1, C.D.2

Public Law No. 7 - 99

AN ACT

To further amend title 21 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-7, 5-104, and 7-37, by adding a new section 109 for the purpose of authorizing the Department of Transportation and Communication to regulate radio communications in the Federated States of Micronesia by authorizing the impoundment of equipment not in compliance with the law, and for other purposes.

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

1 Section 1. Title 21 of the Code of the Federated States of
2 Micronesia is hereby further amended by adding a new section 109 to
3 read as follows:

4 "Section 109. Impoundment of unauthorized equipment.

5 (1) No person shall possess or use any radio
6 transmission equipment which is not in compliance with this
7 chapter or the regulations promulgated thereto.

8 (2) The Secretary of the Department of Transportation
9 and Communication or his designee, on reasonable belief, may
10 declare any radio transmission equipment as not in
11 compliance with this chapter or the regulations promulgated
12 thereto. Upon declaring radio equipment as not in
13 compliance, the Secretary or his designee shall give a
14 written notice to the owner or possessor of the
15 noncomplying equipment and therein state the factors
16 regarding why the equipment is not in compliance. The
17 notice shall also include the provisions of this section.

18 (3) In the notice the Secretary or his designee may
19 prohibit further use of the noncomplying equipment, may
20 state conditions regarding continued use of the noncomplying
21 equipment, and may direct the owner or possessor to have the
22 equipment brought into compliance within 30 or more days.

1 The owner or possessor of radio equipment designated by the
2 Secretary or his designee as not in compliance may, pursuant
3 to section 108 of title 17 of this code, petition the
4 Secretary for a hearing on and reconsideration of the
5 finding of noncompliance.

6 (4) Noncomplying equipment used when prohibited, used
7 in violation of the conditions stated in the notice, or
8 not brought into compliance within the time frame stated
9 in the notice, may be taken and impounded by the Secretary,
10 his designee, or any duly authorized officer of the law.
11 At the time of removal, the impounding authority shall leave
12 a notice of impoundment with the possessor or owner of the
13 noncomplying equipment or, if unavailable, at the place
14 from which the equipment was taken. The notice of
15 impoundment shall include information about the custodian,
16 the location and identification of the equipment, and the
17 basis for the impoundment of the noncomplying equipment.

18 (5) An impoundment made pursuant to this section may
19 continue until the Secretary or his designee is given
20 reasonable assurances by the owner or possessor that the
21 equipment will be brought into compliance. The Secretary
22 or his designee may send noncomplying equipment directly to
23 a repair shop; PROVIDED, however, that the owner or
24 possessor has executed a written agreement to pay for the
25 cost of bringing the equipment into compliance.

1 (6) Impoundments made pursuant to this section shall
2 in no way be deemed a seizure.

3 (7) Copies of the notices required by this section
4 shall be retained by the Secretary or his designee for at
5 least 5 years. Noncomplying equipment must be returned
6 within 10 days after a complaint, if proper notice was
7 not given. Nothing herein, however, shall prevent the
8 equipment from again being taken and impounded upon
9 proper notice.

10 (8) The owner or possessor of impounded radio
11 equipment may petition the Secretary for an administrative
12 hearing and reconsideration of the decision to impound.
13 Upon a negative result from the administrative hearing, the
14 owner or possessor may appeal by bringing an action in the
15 Trial Division of the Supreme Court of the Federated States
16 of Micronesia.

17 (9) An owner or possessor of radio equipment regulated
18 under this chapter shall be deemed to have consented to the
19 inspection at reasonable hours of his or her equipment for
20 compliance with this chapter or the regulations promulgated
21 thereto. The Secretary or his designee, upon a reasonable
22 belief that radio equipment is not in compliance, shall be
23 permitted access to inspect the equipment during reasonable
24 hours. Refusal to permit reasonable entry for inspection
25 of the equipment shall constitute adequate probable cause

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1 for a search warrant.

2 (10) The impoundments permitted by this section shall
3 not preclude any other penalties provided in this chapter."

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

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Norvelap, 1992

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President
Federated States of Micronesia

