

TWENTY-THIRD CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST REGULAR SESSION, 2023

CONGRESSIONAL BILL NO. 23-11 C.D.1,
C.D.2, C.D.3

P.C. NO. 23-318

PUBLIC LAW NO. 23-72

AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia (Annotated), as amended, by creating a new chapter 11 to prohibit the importation and exportation of nicotine delivery systems including e-Cigarettes into the Federated States of Micronesia, to provide the Secretary of the Department of Finance and Administration with enforcement and regulation authority, to provide the Secretary of the Department of Finance and Administration with the authority to seize nicotine delivery systems at FSM ports of entry and require the Department of Finance and Administration to transfer seized nicotine delivery systems to the Department of Environment, Climate and Emergency Management for proper disposal of seized nicotine delivery systems, and to require record-keeping on seized nicotine delivery systems for 6 years, and for other purposes.

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

1 Section 1. Title 54 of the Code of the Federated States of
2 Micronesia (Annotated), as amended, is hereby further amended
3 by creating a new chapter 11 entitled: "Nicotine Delivery
4 System Import and Export Control Act of 2024".

5 Section 2. Chapter 11 of title 54 of the Code of the
6 Federated States of Micronesia (Annotated), as amended, is
7 hereby further amended by inserting a new subchapter 1
8 entitled: "General Provisions".

9 Section 3. Chapter 11 of title 54 of the Code of the
10 Federated States of Micronesia (Annotated), as amended, is
11 hereby further amended by inserting a new section 1101 of
12 subchapter 1 to read as follows:

13 "Section 1101. Short title. This Act may be referred

1 to as the "Nicotine Control Act."

2 Section 4. Chapter 11 of title 54 of the Code of the
3 Federated States of Micronesia (Annotated), as amended, is hereby
4 further amended by inserting a new section 1102 of subchapter 1
5 to read as follows:

6 "Section 1102. Definitions: For the purposes of this
7 chapter, the following terms shall be given the
8 meanings described herein:

9 (1) "Commercial Activity" mean activities of
10 industry and trade, including but not limited to, the
11 buying or selling of goods and actions conducted for
12 purpose of facilitating buying and selling, and/or
13 carried on for a profit;

14 (2) "Customs Administration" means the Customs and
15 Tax Administration under the FSM Department of Finance
16 and Administration;

17 (3) "DECEM" means the FSM Department of
18 Environment, Climate Change, and Emergency Management;

19 (4) "Exporter" means any retail establishment,
20 distributor, wholesaler, warehouse operation, company,
21 or entity by or for whom any goods are sent outside
22 the FSM for commercial activity, and includes the
23 consignee and any other person who is beneficially
24 interested in the goods;

25 (5) "FSM" means the Federated States of Micronesia;

1 (6) "Importer" means any retail establishment,
2 distributor, wholesaler, warehouse operator, company,
3 or entity by or for whom any goods are received inside
4 the FSM for commercial activity, and includes the
5 consignee and any other person who is beneficially
6 interested in the goods;

7 (7) "Inspect" or "Inspection" means an official
8 examination, conducted on-site by the Customs
9 Administration to determine compliance with laws,
10 regulations, and standards at any FSM port of entry;
11 and

12 (8) "Nicotine Delivery System" means any device
13 that delivers nicotine, additives, compounds,
14 chemicals and/or any mixture thereof through any
15 aerosol or vapor substance for the user to inhale, and
16 any component or part to the device, irrespective if
17 the device is disposable, electronic, battery operated
18 or not. For purposes of this bill, nicotine delivery
19 systems include but are not limited to vapes, vape
20 pens, vaporizers, e-cigarettes, e-pens, e-pipes, e-
21 hookahs, and e-cigars. For the purpose of this bill,
22 regular cigarettes and locally grown tobacco are not
23 nicotine delivery systems; and

24 (9) "Port of entry" or "FSM port of entry" means a
25 port of entry designated under sections 202 and 203 of

1 title 18 of the Code of the FSM; and

2 (10) "Secretary of Finance" means the Secretary of
3 the FSM Department of Finance and Administration."

4 Section 5. Chapter 11 of title 54 of the Code of the
5 Federated States of Micronesia (Annotated), as amended, is hereby
6 further amended by creating a new subchapter 2 entitled: "Scope
7 of Law."

8 Section 6. Chapter 11 of title 54 of the Code of the
9 Federated States of Micronesia (Annotated), as amended, is hereby
10 further amended by inserting a new section 1121 of subchapter 2
11 to read as follows:

12 "Section 1121. Prohibition on the Import and Export of
13 Nicotine Delivery Systems.

14 (1) It shall be unlawful for any importer to bring a
15 nicotine delivery system into the FSM.

16 (2) It shall be unlawful for any person to import
17 and/or bring a nicotine delivery system into the FSM.

18 (3) It shall be unlawful for any exporter to send a
19 nicotine delivery system outside the FSM.

20 (4) It shall be unlawful for any person in the FSM
21 to export and/or send a nicotine delivery system
22 outside the FSM."

23 Section 7. Chapter 11 of title 54 of the Code of the
24 Federated States of Micronesia (Annotated), as amended, is hereby
25 further amended by creating a new subchapter 3 entitled:

1 "Enforcement."

2 Section 8. Chapter 11 of title 54 of the Code of the
3 Federated States of Micronesia (Annotated), as amended, is hereby
4 further amended by inserting a new section 1131 of subchapter 3
5 to read as follows:

6 "Section 1131. Department of Finance Enforcement
7 Authority.

8 (1) Seizure and Transfer.

9 The Secretary of the Department of Finance or his
10 designee shall have the authority to seize nicotine
11 delivery system(s) upon inspection based on reasonable
12 suspicion at any port of entry. Within 30 calendar
13 days of the seizure of nicotine delivery system(s) at
14 the port of entry, the Customs Administration shall
15 transfer the seized nicotine delivery system(s) to the
16 Secretary of DECEM or his designee for proper disposal
17 of the nicotine delivery systems.

18 (2) Administrative Penalty.

19 The Secretary of Finance shall
20 have the authority to impose administrative fines upon
21 an finding of a violation of this Act by any person
22 and/or importer as follows:

23 a. In the case of a person's first offense in
24 violation of this Act, the Secretary shall impose a
25 fine of \$500. In the case of a person's subsequent

1 offenses in violation of this Act, the Secretary shall
2 impose a fine of \$1,000.

3 b. In the case of an importer's first offense
4 in violation of this Act, the Secretary shall impose a
5 fine of \$2,500. In the case of an importer's
6 subsequent offenses in violation of this Act, the
7 Secretary shall impose a fine of \$5,000.

8 c. Any administrative penalties imposed
9 pursuant to this section are subject to administrative
10 review under title 17 of the Code of the Federated
11 States of Micronesia.

12 (3) Exception to Administrative Fines for Voluntary
13 Surrender.

14 a. The Department of Finance shall not issue
15 an administrative penalty for violation of this Act under
16 Section 1131(2) when a person voluntarily surrenders all
17 nicotine delivery systems in their possession to the
18 Customs Administration at a FSM port of entry prior to
19 any inspection and/or seizure conducted under Section
20 1131(1). This exception does not apply to importers and
21 exporters.

22 b. All nicotine delivery systems voluntarily
23 surrendered shall be transferred to DECEM for proper
24 disposal in accordance with Section 1131(1)."

25 Section 10. Chapter 11 of title 54 of the Code of the

1 Federated States of Micronesia (Annotated), as amended, is hereby
2 further amended by creating a new subchapter 4 entitled: "Records
3 Management."

4 Section 11. Chapter 11 of title 54 of the Code of the
5 Federated States of Micronesia (Annotated), as amended, is hereby
6 further amended by inserting a new section 1141 of subchapter 3
7 to read as follows:

8 "Section 1141. Records Management Requirements.
9 The Department of Finance shall maintain electronic
10 records of all nicotine delivery systems seized and
11 voluntarily surrendered for a minimum of 6 years,
12 including a record of the nicotine delivery system(s);
13 (1) type and description; (2) seizure date and
14 location; and 3) transfer date to DECEM. The Secretary
15 of Finance shall make all records under this section
16 publicly available."

17 Section 12. Chapter 11 of title 54 of the Code of the
18 Federated States of Micronesia (Annotated), as amended, is hereby
19 further amended by creating a new subchapter 5 entitled:
20 "Regulation."

21 Section 13. Chapter 11 of title 54 of the Code of the
22 Federated States of Micronesia (Annotated), as amended, is hereby
23 further amended by inserting a new section 1151 of subchapter 5
24 to read as follows:

25 "Section 1151. Regulation Authority and Mandate.

1 (1) The Secretary of Finance shall have the
2 authority to promulgate regulations to implement and
3 enforce this Act.

4 (3) The Secretary of Finance shall promulgate
5 regulation within 90 calendar days of this Act becoming
6 law.

7 (4) The Secretary of Finance shall cause to be
8 posted at all FSM ports of entry signage on the
9 importation ban of nicotine delivery systems, ability
10 to voluntarily surrender nicotine delivery systems at
11 an FSM port of entry, and penalties for violation of
12 this Act.”

13 Section 14. This bill shall take effect 90 days after
14 enactment into law.

15 Section 15. This act shall become law upon approval by the
16 President of the Federated States of Micronesia or upon it
17 becoming law without such approval.

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May 15 _____, 2024

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/s/ Wesley W. Simina
Wesley W. Simina
President
Federated States of Micronesia

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