

CHAPTER 9

Penalties

SECTIONS

§ 901. Civil penalties.

§ 902. Criminal penalties.

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(1) *General penalty.* Any person, other than a person conducting an operation in air transportation or foreign air transportation, who violates any provision of this title or any rule, regulation, or order issued thereunder shall be subject to a civil penalty not exceeding \$1,000 for each such violation. Any person conducting an operation in air transportation or foreign air transportation who violates any provision of this title or any rule, regulation, or order issued thereunder shall be subject to a civil penalty not exceeding \$10,000 for each such violation. If any such violation is a continuing one, each day of such violation shall constitute a separate offense.

(2) *Penalty considerations.* The Secretary shall have the power to assess and compromise any civil penalty. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require. This subsection shall not apply to defense personnel of the United States for conduct occurring while engaged in the performance of their official duties.

(3) *Aircraft subject to liens.* In case a civil aircraft is involved in such violation and the violation is by the owner or operator of the aircraft, such aircraft shall be subject to a lien for the penalty.

Source: PL 9-138 § 59.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on Administrative Procedure are found in title 17 of this code.

§ 902. Criminal penalties.

(1) *Certificate violations.* Any person who knowingly and willfully forges, counterfeits, alters, or falsely makes any certificate authorized to be issued under this title, or knowingly uses or attempts to use any such fraudulent certificate, and any person who knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft, commits a national offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both.

(2) *Interference with air navigation.* A person commits a national offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both, who:

(a) with intent to interfere with air navigation within the Federated States of Micronesia, exhibits within the Federated States of Micronesia any light or signal at such place or in such manner that is likely to be mistaken for a true light or signal established pursuant to this title, or for a true light or signal in connection with an airport or other air navigation facility, or, after due warning by the Secretary, continues to maintain any such misleading light or signal; or

(b) knowingly removes, extinguishes, or interferes with the operation of any such true light or signal.

(3) *Reporting and record keeping violations.* Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and willfully, fail or refuse to make a report to the Secretary as required by this title, or to keep or preserve accounts, records, and memoranda in the form and manner prescribed or approved by the Secretary, or shall, knowingly and willfully, falsify, mutilate, or alter any such report, account, record, or memorandum, or shall knowingly and willfully file a false report, account, record, or memorandum, commits a national offense and shall upon conviction be liable for each offense to a fine of not less than \$1,000 and not exceeding \$5,000.

(4) *Refusal to testify or to produce records.* Every person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if in his power to do so, in obedience to a subpoena or lawful requirement of the Secretary, commits a national offense and shall upon conviction be liable to a fine not less than \$100 and not exceeding \$5,000, or to a term of imprisonment not exceeding one year, or both.

(5) *Aircraft piracy.* Whoever commits or attempts to commit aircraft piracy, as herein defined, commits a national offense and shall be punished:

(a) with imprisonment for not less than 20 years; or

(b) if the death of another person results from the commission or attempted commission of the offense, with imprisonment for life.

(i) as used in this subsection, the term “aircraft piracy” means any seizure or exercise of control, by force or violence, or by any other form of intimidation, and with wrongful intent, of an aircraft within the special aircraft jurisdiction of the Federated States of Micronesia.

(ii) an attempt to commit aircraft piracy shall be within the special aircraft jurisdiction of the Federated States of Micronesia even though the aircraft is not in flight at the time of such attempt, if the aircraft would have been within the special jurisdiction of the Federated States of Micronesia had the offense of aircraft piracy been completed.

(6) *Interference with crew members.* Whoever while aboard an aircraft within the special aircraft jurisdiction of the Federated States of Micronesia, assaults, intimidates, or threatens any flight crew member or flight attendant, including any steward or stewardess of such aircraft, so as to interfere with the performance by such crew member or attendant of his duties or lessens the ability of such member or attendant to perform his duties, commits a national offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both. Whoever in the commission of any such act referred to in this subsection uses a deadly or dangerous weapon shall be liable to a term of imprisonment for any term of years or for life.

(7) *General criminal penalty.* Whoever, while on board an aircraft within the special aircraft jurisdiction of the Federated States of Micronesia, commits an act, which, if committed in the Federated States of Micronesia would be a violation of the laws of the Federated States of Micronesia, shall be punished as provided herein.

(8) *Weapon and explosive violations.*

(a) Whoever, while on board, or while attempting to board, any aircraft in or intended for operation in air transportation, has on or about his person or his property a concealed deadly or dangerous weapon, which is, or would be accessible to such person in flight, or any person who has on or about his person, or who has placed, attempted to place, or attempted to have placed aboard such aircraft any bomb or similar explosive or

incendiary device, commits a national offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both.

(b) Whoever willfully and without regard for the safety of human life, or with reckless disregard for the safety of human life, shall commit an act prohibited by paragraph (a) of this subsection commits a national offense and shall upon conviction be liable to a fine not exceeding \$10,000, or to a term of imprisonment not exceeding 20 years, or both.

(c) This subsection shall not apply to law enforcement officers of the Federated States of Micronesia, who are authorized or required within their official capacities to carry arms, or to persons who may be authorized by the Secretary to carry deadly or dangerous weapons in air transportation, nor shall they apply to persons transporting weapons contained in baggage which is not accessible to passengers in flight if the presence of such weapons has been declared to the air carrier.

(9) *Interference with aircraft operations.* Whoever willfully and with reckless disregard for safety of human life interferes or attempts to interfere with the safe operation of any aircraft in, or intended for operation in, the special aircraft jurisdiction of the Federated States of Micronesia, commits a national offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both.

(10) *False information.*

(a) Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do an act which would be a crime prohibited by subsections (5) through (8) of this section, commits a national offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both;

(b) Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by subsections (5) through (8) of this section, shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$5,000, or to a term of imprisonment not exceeding five years, or both.

(11) *Removal of parts of aircraft involved in accidents.* Every person who knowingly and without authority removes, conceals, or withholds any part of a civil aircraft involved in an accident, or any property which was aboard such aircraft at the time of the accident, commits a national offense and shall upon conviction be liable to a fine of not less than \$100 and not exceeding \$5,000, or to a term of imprisonment not exceeding one year, or both.

Source: PL 9-138 § 60.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions,

committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

The statutory provisions on Crimes, including Weapons Control are found in title 11 of this code.