

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN

2018 (SECOND) Regular Session

LEGISLATIVE SESSION VOTING RECORD

Bill No. 203-34 (LS)

Speaker Antonio R. Unpingco Legislative Session Hall

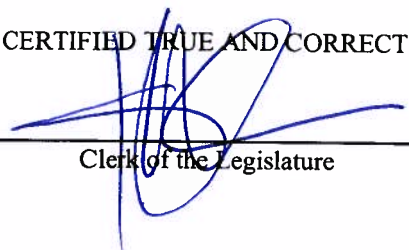
As substituted by the Committee on Culture and Justice; and amended on the Floor.

May 23, 2018

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Thomas C. ADA	✓					
Senator FRANK B. AGUON, JR.	✓					
Senator William M. CASTRO	✓					
Speaker Benjamin J.F. CRUZ	✓					
Senator James V. ESPALDON	✓					
Senator Fernando Barcinas ESTEVES	✓					
Senator Régine Biscoe LEE	✓					
Senator Tommy MORRISON	✓					
Senator Louise B. MUÑA	✓					
Senator Telena Cruz NELSON					✓	✓
Senator Dennis G. RODRIGUEZ, JR.	✓					
Senator Joe S. SAN AGUSTIN	✓	II				
Senator Michael F.Q. SAN NICOLAS		✓				
Vice Speaker Therese M. TERLAJE	✓					
Senator Mary Camacho TORRES	✓					

TOTAL:	13	1			1	1
	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused

CERTIFIED TRUE AND CORRECT:



 Clerk of the Legislature

I = Pass

I MINA'TRENTAI KUÁTTRO NA LIHESLATURANGUÅHAN
2017 (FIRST) Regular Session

Bill No. 203-34 (LS)

As substituted by the Committee on
Culture and Justice; and amended on the Floor.

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Introduced by:

Therese M. Terlaje

**AN ACT TO *REPEAL* AND *TRANSFER* CERTAIN
PROVISIONS OF CHAPTER 18, TITLE 16, GUAM CODE
ANNOTATED; AND TO *ADD* A NEW CHAPTER 92 OF
TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO
ENACTING THE “SAFE STREETS ACT OF 2018”; AND
TO *ADD* A NEW SUBSECTION (d) TO § 2101 OF
CHAPTER 2, TITLE 7, GUAM CODE ANNOTATED,
RELATIVE TO ESTABLISHING A DRIVING WHILE
IMPAIRED TREATMENT COURT.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Intent.** It is the intent of *I Liheslaturan Guåhan* to
3 amend the 1996 enactment of Guam’s drunk and drugged driving statute, known as
4 the “Safe Streets Act,” to improve Guam’s enforcement of those laws, and to further
5 improve the criminal justice response to arrests and prosecution in line with theories
6 of therapeutic jurisprudence, rehabilitation of persons addicted to alcohol and drugs,
7 and immediate accountability. *I Liheslaturan Guåhan* further supports the efforts of
8 the Judiciary of Guam in the continued operation of therapeutic courts, such as Adult
9 Drug Court, Juvenile Drug Court, Family Violence Court, Mental Health Court, and
10 Veterans Court, and the establishment of a Driving While Impaired Treatment Court.

- 1 § 92103. Reckless Driving While Impaired.
- 2 § 92104. First Offender Conviction: Punishment.
- 3 § 92105. Second Offender Conviction: Punishment.
- 4 § 92106. Third Offender Conviction: Felony Punishment.
- 5 § 92107. Fourth Offender Conviction: Felony Punishment.
- 6 § 92108. Vehicular Negligence: Bodily Injuries.
- 7 § 92109. Driving While Impaired with Child On Board: Felony
- 8 Punishment.
- 9 § 92110. Vehicular Homicide: Felony Punishment.
- 10 § 92111. Vehicular Homicide While Driving Impaired: Felony
- 11 Punishment.
- 12 § 92112. Drinking While Driving a Motor Vehicle: Misdemeanor:
- 13 Punishment.
- 14 § 92113. Drinking While Riding in a Motor Vehicle: Misdemeanor:
- 15 Punishment.
- 16 § 92114. Opened Container of Alcohol: Misdemeanor: Punishment.
- 17 § 92115. Marijuana Use While Driving a Motor Vehicle: Petty
- 18 Misdemeanor: Punishment.
- 19 § 92116. Exceptions for Alcohol Use in Tour Buses and Limousines.
- 20 § 92117. Occupational Driving Permit: First Offender Only.
- 21 § 92118. Suspension or Revocation of Driver's License: Process.
- 22 § 92119. Driving While License Suspended or Revoked for Driving While
- 23 Impaired.
- 24 § 92120. Participation in the Driving While Impaired Treatment Court.
- 25 § 92121. Dismissal for Completion of Driving While Impaired Treatment
- 26 Court; Permitted.

1 § 92122. No Conditional Discharge and Dismissal Permitted for Offenses
2 Involving Serious Injuries.

3 § 92123. Probation Allowed.

4 § 92124. Safe Streets Fund.

5 § 92125. Electronic Alcohol Monitoring Device, Rules and Regulations.

6 § 92126. Presumptions Affecting the Burden of Proof: Defenses.

7 **§ 92101. Definitions.**

8 As used in this Chapter:

9 (a) *Alcohol* means a volatile or, flammable liquid synthesized or
10 obtained by fermentation of sugars and starches, and widely used, either pure
11 or denatured, as a solvent and in drugs; an intoxicating beverage with the same
12 characteristics.

13 (b) *Bodily injury* carries the same meaning for bodily injury as
14 defined in 9 GCA, Chapter 16, § 16.10(b).

15 (c) *Breath alcohol ignition interlock device* (BAIID) means a device
16 that attaches to a vehicle and prevents its starting unless a breath alcohol test
17 is passed.

18 (d) *Bus* means a vehicle chartered for transportation of persons for
19 hire. It shall not mean a school bus, open vehicles resembling trolleys, or a
20 vehicle operated pursuant to a public or private franchise operating over a
21 regularly scheduled route.

22 (e) *Controlled substance* is as defined in 9 GCA, Chapter 67 (Guam
23 Uniform Controlled Substances Act).

24 (f) *Driving while impaired, or while driving impaired* (DWI) means
25 any person driving, operating, or in physical control of a motor vehicle under
26 the influence of alcohol or any controlled substance, or the ingestion or
27 administration of any controlled substance, or any combination of these, when

1 as a result, his physical or mental abilities are impaired to such a degree that
2 he or she no longer has the ability to drive a motor vehicle with the
3 characteristics of a sober person of ordinary prudence under the same or
4 similar circumstances.

5 (g) *Electronic alcohol monitoring device* means a portable device
6 capable of automatically and periodically testing and recording alcohol
7 consumption levels and automatically and periodically transmitting such
8 information and tamper attempts regarding such device, regardless of the
9 location of the person being monitored.

10 (h) *Oral fluid (saliva) test* means a method used to collect a saliva
11 sample from a test subject and analyze it for the presence of hormones, drugs,
12 antibodies or other molecules.

13 (i) *Limousine* means a chauffeur-driven motor vehicle, other than a
14 bus or taxicab, designed and used for transportation of persons for
15 compensation.

16 (j) *Negligence* as used in this Chapter has the same meaning for
17 criminal negligence as defined under 9 GCA § 4.30(d).

18 (k) *Officer* means an officer of the Guam Police Department, or a
19 law enforcement officer of the A.B. Won Pat International Airport Authority
20 or the Jose D. Leon Guerrero Commercial Port Authority, but only while such
21 law enforcement officer is carrying out his duties within the confines of the
22 property under the control and jurisdiction of the Authority by which the law
23 enforcement officer is employed.

24 (l) *Percent of alcohol by weight* shall be based upon grams of
25 alcohol per 100 milliliters of blood, or grams of alcohol per 210 liters of
26 breath.

1 (m) *Physical control of a vehicle* means being physically present in
2 the driver's seat of a motor vehicle while the engine is turned on, whether
3 moving or stationary on a public highway, a shoulder adjacent to a public
4 highway, or parked in any public area.

5 (n) *Prior conviction for driving while impaired* means a conviction
6 of an offense in violation of any Section of this Chapter, or an offense based
7 on a violation of Chapter 18 of Title 16 in effect prior to the enactment of this
8 Chapter, or under driving while impaired laws of any other jurisdiction in the
9 world if the offense upon which the conviction is based would, if committed
10 on Guam, be a violation of this Chapter.

11 (o) *Public highway* means any primary or secondary roadway, street,
12 or alley used by the general public, including a public easement.

13 (p) *Serious bodily injury* carries the same meaning for serious bodily
14 injury as defined in 9 GCA § 16.10(c).

15 (q) *Suspended driver's license* means an operator's license,
16 chauffeur's license, or driving privilege that has been suspended by the court,
17 or by administrative action, or seized by an officer pursuant to law.

18 **§ 92102. Driving While Impaired.**

19 It is unlawful for a person to drive, operate, or be in physical control of any
20 motor vehicle within Guam:

21 (a) While driving impaired, as defined in § 92101(f);

22 (b) having an alcohol concentrate of 0.08 percent, or more, by
23 weight, of alcohol in his blood as shown by a chemical analysis of such
24 person's breath or blood administered as authorized by this Chapter;

25 (c) having an alcohol concentrate of 0.04 percent, or more, by
26 weight, of alcohol in the blood of a person under the age of twenty-one (21),

1 as shown by a chemical analysis of such person's breath or blood administered
2 as authorized by this Chapter;

3 (d) having inhaled, ingested, applied or otherwise used any
4 chemical, poison or organic solvent, or any compound, or combination of any
5 of these, when as a result, his physical or mental abilities are impaired to such
6 a degree that he no longer has the ability to drive a motor vehicle with the
7 characteristics of a sober person of ordinary prudence under the same or
8 similar circumstances; or

9 (e) Having any combination of Subsections (a) through (d) of this
10 Section.

11 **§ 92103. Reckless Driving While Impaired.**

12 (a) Any person who, in reckless disregard for the safety of persons
13 or property, operates a motor vehicle while driving impaired shall be guilty of
14 a petty misdemeanor.

15 (b) If the People agree to a plea of guilty or nolo contendere to a
16 charge of a violation of this Section in satisfaction of, or as a substitute for, an
17 original charge of a violation of § 92102, the People shall state for the record
18 a factual basis for the satisfaction or substitution, including whether or not the
19 defendant was driving while impaired in connection with the offense.

20 (c) The court shall notify the Department of Revenue and Taxation
21 of each conviction of this Section.

22 (d) A defendant placed on probation for a conviction under this Section
23 shall enroll in an alcohol or drug education program at the expense of the
24 participant, and complete the same as a condition of probation.

25 **§ 92104. First Offender Conviction: Punishment.**

26 A person convicted of a first violation of driving while impaired is guilty of a
27 misdemeanor and shall be sentenced as follows:

1 (a) A term of incarceration of not less than a mandatory forty-eight
2 (48) hours, nor more than one (1) year.

3 (b) A mandatory minimum fine of not less than One Thousand
4 Dollars (\$1,000), and not more than Five Thousand Dollars (\$5,000).

5 (c) The court shall order the person to be placed on probation for not
6 more than one (1) year.

7 (d) Suspension of a person's driving privilege for six (6) months,
8 which may include an occupational driving permit. The court may modify this
9 suspension prior to the end of the six (6) months' suspension; provided, that
10 the person can show proof that he or she has successfully completed a drug or
11 alcohol treatment program acceptable to the court.

12 (e) The court shall notify the Department of Revenue and Taxation
13 of each conviction of this Section.

14 **§ 92105. Second Offender Conviction: Punishment.**

15 A person convicted of a second violation of driving while impaired, and the
16 offense occurred within five (5) years of a prior conviction, is guilty of a
17 misdemeanor, and shall be sentenced as follows:

18 (a) A term of incarceration of not less than a mandatory seven (7)
19 days, nor more than one (1) year.

20 (b) A mandatory minimum fine of not less than Two Thousand
21 Dollars (\$2,000), and not more than Five Thousand Dollars (\$5,000).

22 (c) The court shall order the person to be placed on probation for not
23 more than three (3) years.

24 (d) Suspension of a person's driving permit for one (1) year, with no
25 occupational driving privileges, which time period may be reduced at the
26 discretion of the Court, provided on motion by the defendant that he has: (1)
27 completed court-approved treatment; (2) paid all fines and fees; (3) has not

1 been charged with a subsequent criminal offense; and (4) the probation officer
2 recommends reduction based on satisfactory performance. The court may
3 further reduce the period of suspension by no more than fifty percent (50%),
4 provided the defendant agrees to have installed either a breath alcohol ignition
5 interlock device (BAIID) as ordered by the court, or an electronic alcohol
6 monitoring device approved by the court.

7 (e) The court shall notify the Department of Revenue and Taxation
8 of each conviction of this Section.

9 **§ 92106. Third Offender Conviction: Felony Punishment.**

10 A person convicted of a third violation of driving while impaired, and
11 the offense occurred within five (5) years of two (2) separate prior convictions
12 for such an offense, is guilty of a felony of the third degree and,
13 notwithstanding any other provision of law, shall be sentenced as follows:

14 (a) A term of incarceration of not less than a mandatory of ninety
15 (90) days, nor more than five (5) years; provided, however, that if the
16 defendant agrees to voluntarily participate in, and successfully complete all
17 the terms and conditions of the DWI Treatment Court Program, the court may
18 reduce the mandatory incarceration time from ninety (90) days to no less than
19 thirty (30) days, otherwise the defendant shall serve the full ninety (90) days.

20 (b) A mandatory fine of not less than Four Thousand Dollars
21 (\$4,000), and not more than Seven Thousand Dollars (\$7,000).

22 (c) Revocation of a person's driving privilege for not less than two
23 (2) years, which time period may be reduced at the discretion of the court
24 provided on motion by the defendant that he has (1) completed court-approved
25 treatment; (2) paid all fines and fees; (3) has not been charged with a
26 subsequent criminal offense; and (4) the probation officer recommends
27 reduction based on satisfactory performance. The court may further reduce

1 the period of suspension by no more than fifty percent (50%), provided the
2 defendant agrees to have installed either a breath alcohol ignition interlock
3 device (BAIID) as ordered by the court, or an electronic alcohol monitoring
4 device approved by the court.

5 (d) The court shall order the person to be placed on probation for not
6 less than three (3) years, and not more than five (5) years.

7 (e) The court shall notify the Department of Revenue and Taxation
8 of each conviction of this Section.

9 **§ 92107. Fourth Offender Conviction: Felony Punishment.**

10 A person convicted of a fourth violation of driving while impaired, and the
11 offense occurred within seven (7) years of three (3) separate prior convictions for
12 driving while under the influence, is guilty of a felony of the third degree, and
13 notwithstanding any other provision of law, shall be sentenced as follows:

14 (a) A term of incarceration of not less than a minimum mandatory
15 one (1) year, nor more than six (6) years. A mandatory minimum fine of not
16 less than Four Thousand Dollars (\$4,000), and not more than Seven Thousand
17 Dollars (\$7,000).

18 (b) Revocation of a person's driving privilege for not less than three
19 (3) years, which time period may be reduced at the discretion of the court,
20 provided on motion by the defendant that he has (1) completed court-approved
21 treatment; (2) paid all fines and fees; (3) has not been charged with a
22 subsequent criminal offense; and (4) the probation officer recommends
23 reduction based on satisfactory performance. The court may further reduce
24 the period of suspension by no more than fifty percent (50%), provided the
25 defendant agrees to have installed either a breath alcohol ignition interlock
26 device (BAIID) as ordered by the court, or an electronic alcohol monitoring
27 device approved by the court.

1 (c) The court shall order the person to be placed on probation for not
2 less than four (4) years, and not more than six (6) years.

3 (d) The court shall notify the Department of Revenue and Taxation
4 of each conviction of this Section.

5 **§ 92108. Vehicular Negligence: Bodily Injuries.**

6 (a) It is unlawful for any person to operate or be in physical control
7 of a motor vehicle while driving impaired and, when doing so, do any act
8 forbidden by law or neglect any duty imposed by law in the driving of the
9 vehicle, or who negligently drives a vehicle, which act or neglect or
10 negligence proximately causes bodily injury to any person other than the
11 driver.

12 (b) It is unlawful for any person to operate or be in physical control
13 of a motor vehicle while having 0.08 percent or more, by weight, of alcohol
14 in his or her blood and, when doing so, do any act forbidden by law or neglect
15 any duty imposed by law in the driving of the vehicle, or who negligently
16 drives a vehicle, which act or neglect or negligence proximately causes bodily
17 injury to any person other than the driver.

18 (c) It is unlawful for any person under the age of twenty-one (21) to
19 operate or be in physical control of a motor vehicle if such person is found to
20 have 0.04 percent or more, by weight, of alcohol in his or her breath or blood,
21 and, when doing so, do any act forbidden by law or neglect any duty imposed
22 by law in the driving of the vehicle, or who negligently drives a vehicle, which
23 act or neglect or negligence proximately causes bodily injury to any person
24 other than the driver.

25 (d) Any violation of Subsection (a), (b) or (c) shall be punished as a
26 felony of the third degree, and notwithstanding any other provision of law,
27 shall be sentenced as follows:

1 (1) A term of incarceration of up to three (3) years for a first
2 conviction under this Section, and up to five (5) years in the event of a
3 prior conviction of driving while impaired.

4 (2) A mandatory fine of not less than Three Thousand Dollars
5 (\$3,000), and not more than Five Thousand Dollars (\$5,000).

6 (3) The court shall order the person to be placed on probation
7 for not more than five (5) years.

8 (4) Suspension of a person's driving privilege for not more
9 than five (5) years, which time period may be reduced in the discretion
10 of the Court, provided on motion by the defendant that he has (A)
11 completed court-approved treatment; (B) paid all fines and fees; (C) has
12 not been charged with a subsequent criminal offense; and (D) the
13 probation officer recommends reduction based on satisfactory
14 performance. The court may further reduce the period of suspension by
15 no more than fifty percent (50%), provided the defendant agrees to have
16 installed either a breath alcohol ignition interlock device (BAIID) as
17 ordered by the court, or an electronic alcohol monitoring device
18 approved by the court.

19 (5) The court shall notify the Department of Revenue and
20 Taxation of each conviction of this Section.

21 (e) In proving the person neglected any duty imposed by law in
22 driving the vehicle, it is not necessary to prove that any specific section of this
23 Chapter was violated.

24 **§ 92109. Driving While Impaired With Child On Board: Felony**
25 **Punishment.**

26 A person convicted of driving while impaired is guilty of a felony of the third
27 degree if at the time of arrest, he or she was operating a motor vehicle in which a

1 child under the age of sixteen (16) was a passenger, or if a child under the age of
2 sixteen (16) was injured as a result of an accident in which the motor vehicle
3 operated by the impaired person was involved, and notwithstanding any other
4 provision of law, shall be sentenced as follows:

5 (a) A term of incarceration of not more than five (5) years.

6 (b) A mandatory fine of not less than Three Thousand Dollars
7 (\$3,000), and not more than Five Thousand Dollars (\$5,000.00).

8 (c) Suspension of a person's driving privilege for not less than one
9 (1) year without occupational driving privileges, which time period may be
10 reduced at the discretion of the court, provided on motion by the defendant
11 that he has: (1) completed court-approved treatment; (2) paid all fines and
12 fees; (3) has not been charged with a subsequent criminal offense; and (4) the
13 probation officer recommends reduction based on satisfactory performance.
14 The court may further reduce the period of suspension by no more than fifty
15 percent (50%), provided the defendant agrees to have installed either a breath
16 alcohol ignition interlock device (BAIID) as ordered by the court, or an
17 electronic alcohol monitoring device approved by the court.

18 (d) The court shall notify the Department of Revenue and Taxation
19 of each conviction of this Section.

20 **§ 92110. Vehicular Homicide: Felony Punishment.**

21 A person is guilty of vehicular homicide if he or she does any act forbidden
22 by law in operating or driving a vehicle, or if he or she negligently operates or drives
23 a vehicle, which act or negligence proximately causes death to any person other than
24 himself or herself. Vehicular homicide while driving a vehicle is a felony of the
25 second degree, and notwithstanding any other provision of law, shall be sentenced
26 as follows:

27 (a) A term of incarceration not to exceed eight (8) years.

1 (b) A fine not to exceed Ten Thousand Dollars (\$10,000).

2 (c) Revocation of a person's driving privilege for five (5) years
3 without occupational driving privileges.

4 (d) The court shall notify the Department of Revenue and Taxation
5 of each conviction of this Section.

6 **§ 92111. Vehicular Homicide While Driving Impaired: Felony**
7 **Punishment.**

8 A person is guilty of vehicular homicide while driving impaired if he or she
9 does any act forbidden by law in driving while impaired, or if he or she negligently
10 operates or drives a vehicle while impaired, which act or negligence proximately
11 causes death to any person other than himself or herself. Vehicular homicide while
12 driving impaired is a felony of the second degree, and notwithstanding any other
13 provision of law, shall be sentenced as follows:

14 (a) A term of incarceration of not less than a mandatory eight (8)
15 years, and not more than fifteen (15) years.

16 (b) A fine of not more than Ten Thousand Dollars (\$10,000.).

17 (c) Revocation of driving privileges for eight (8) years without
18 occupational driving privileges.

19 (d) The court shall notify the Department of Revenue and Taxation
20 of each conviction of this Section.

21 **§ 92112. Drinking While Driving a Motor Vehicle: Misdemeanor:**
22 **Punishment.**

23 It is unlawful for any person to drink any alcoholic beverage or consume a
24 controlled substance while driving a motor vehicle within Guam. Any person
25 convicted of violating this Section shall be guilty of a misdemeanor.

26 **§ 92113. Drinking While Riding in a Motor Vehicle: Misdemeanor:**
27 **Punishment.**

1 It is unlawful for any person to drinks any alcoholic beverage or consumes a
2 controlled substance while riding in a motor vehicle within Guam. Any person
3 convicted of violating this Section shall be guilty of a misdemeanor.

4 **§ 92114. Opened Container of Alcohol: Misdemeanor: Punishment.**

5 (a) It is unlawful for any person to transport or possess alcohol in a
6 container in which the original cap or seal of the container has been opened,
7 broken, or the contents of which have been partially removed when the vehicle
8 is upon a public highway. Any person convicted of violating this Section shall
9 be guilty of a misdemeanor.

10 (b) It is unlawful for the registered owner of a vehicle, when the
11 registered owner is not then present in the vehicle, to knowingly permit
12 another person to store in the registered owner's motor vehicle alcohol in a
13 container in which the original cap or seal of the container has been opened,
14 broken, or the contents of which have been partially removed when the vehicle
15 is upon a public highway. Any person convicted of violating this Section shall
16 be guilty of a misdemeanor.

17 (c) Subsection (a) does not prohibit the transport, possession or
18 storage of alcoholic in which the original cap or seal of the container has been
19 opened, broken, or the contents of which have been partially removed if the
20 container is secured in a rear compartment or trunk of the vehicle not normally
21 occupied by the driver or a passenger, or a rear compartment which is not
22 immediately accessible to the driver or any other passenger, while the vehicle
23 is upon a public highway. A front passenger glove or utility compartment is
24 not acceptable for purposes of this exemption.

25 (d) This Section does not apply to living quarters of a motor home
26 or camper, a bus, or a limousine; provided, that the driver is enclosed within

1 a compartment not accessible to passengers, clients, or customers where
2 alcohol is present while the vehicle is upon a public highway.

3 **§ 92115. Marijuana Use While Driving a Motor Vehicle: Petty**
4 **Misdemeanor: Punishment.**

5 It is unlawful for any person, whether a driver or passenger, to consume
6 marijuana in any manner including, but not limited to, smoking or ingesting in a
7 motor vehicle when the vehicle is upon a public highway. Any person convicted of
8 violating this Section shall be guilty of a petty misdemeanor.

9 **§ 92116. Exceptions for Alcohol Use in Tour Buses and Limousines.**

10 Alcoholic beverages may be sold, offered for sale, and consumed only by
11 passengers, not to include the driver, within the premises of a tour bus or limousine
12 only by a business authorized and issued a license, as prescribed by the Alcoholic
13 Beverage Control Board permitting the sale of alcoholic beverages within the
14 premises of a tour bus or limousine, and only during authorized hours as permitted
15 by the license, and which license is prominently display within the tour bus or
16 limousine. This exemption does not apply in the event any passenger is under the
17 age of twenty-one (21), unless accompanied by a parent or legal guardian. It is the
18 duty of the operator of the tour bus or limousine to verify the ages of every passenger
19 whom alcoholic beverages are intended to be sold or consumed. Any person or
20 company found in violation this Subsection shall be guilty of a misdemeanor.

21 **§ 92117. Occupational Driving Permit: First Offender Only.**

22 An Occupational Driving Permit may be issued to a person convicted of a first
23 offender violation under § 92104 by the court authorizing the person to drive for
24 employment purposes, and as permitted by the court for therapeutic rehabilitation.
25 The person whose privilege to drive is suspended shall immediately surrender to the
26 court his or her driver's license, and if valid, may be granted an Occupational
27 Driving Permit for six (6) months. The court may establish by rule and procedure

1 the manner of issuance of an Occupational Driving Permit, and must notify the
2 Department of Revenue and Taxation promptly regarding the person's restriction on
3 his or her driving privileges. The court is authorized to charge a reasonable fee for
4 issuance of the Occupational Driving Permit which must be fully paid before the
5 permit can be issued. The cost of the permit shall be borne by the person whose
6 privilege to operate a motor vehicle has been restricted by the court. In the event a
7 person does not possess a valid driver's license at the time of conviction, the person's
8 privilege to apply for a driver's license shall be prohibited for the full period of the
9 suspension.

10 **§ 92118. Suspension or Revocation of Driver's License: Process.**

11 (a) The driver's license of a person whose privilege to operate a
12 motor vehicle has been suspended or revoked under this Chapter shall be
13 mutilated with a hole punched on the lower right-hand corner of the license
14 so as to identify it is a restricted license.

15 (b) A license that has been revoked shall be permanently seized from
16 a defendant by the court and promptly transmitted to the Department of
17 Revenue and Taxation with a copy of the abstract of judgment. The court is
18 authorized to maintain custody of a driver's license which is suspended
19 without occupational driving privileges until reinstatement.

20 (c) The Department of Revenue and Taxation shall immediately
21 suspend or revoke the privilege of any person to operate a motor vehicle for
22 the time period required by the judgment, and in accordance with this Chapter,
23 upon receipt of an abstract of judgment from the Clerk of Court showing that
24 the person has been convicted of a violation of this Chapter. The Department
25 shall reinstate a person's driving privileges upon receipt of an order of the
26 court granting such reinstatement in accordance with this Chapter, or upon
27 expiration of the time restriction.

1 (d) The court may establish by rule and procedure the process for
2 suspension or revocation of a person's privilege to drive, not inconsistent with
3 the provisions herein.

4 **§ 92119. Driving While License Suspended or Revoked for Driving**
5 **While Impaired.**

6 (a) It is unlawful for a person to drive a motor vehicle on Guam
7 knowing, or having reason to know, that his or her driver's license is
8 suspended or revoked under this Chapter. Any person convicted of violating
9 this Section shall be guilty of a misdemeanor.

10 (b) In any prosecution under this Section, competent evidence that
11 the defendant's driver's license was surrendered to an officer, or was
12 suspended or revoked under this Chapter by an order of the court, shall be
13 prima facie evidence of the defendant's knowledge of the suspension or
14 revocation.

15 **§ 92120. Participation in the Driving While Impaired Treatment**
16 **Court.**

17 The court may remove or reduce any restriction on a person's privilege to
18 drive and/or reduce any fine imposed resulting from a conviction of any offense in
19 this Chapter upon that person's participation in the Driving While Impaired (DWI)
20 Treatment Court, and the completion of any terms and conditions imposed
21 therefrom; provided, that the person has also demonstrated full compliance with
22 probationary conditions.

23 **§ 92121. Dismissal for Completion of Driving While Impaired**
24 **Treatment Court; Permitted.**

25 Upon satisfactory completion of all the conditions of probation and treatment
26 in DWI Treatment Court, the judge shall order the case dismissed and expunged.

1 **§ 92122. No Conditional Discharge and Dismissal Permitted for**
2 **Offenses Involving Serious Injuries.**

3 The provisions of §§ 92120 and 92121 shall not apply in the case of a violation
4 defined as a third degree felony in this Chapter, and that involves bodily injury to
5 any person other than the driver.

6 **§ 92123. Probation Allowed.**

7 Any person convicted under this Chapter may be granted probation at the
8 discretion of the court, which may include, but is not limited to, prohibition from
9 consuming alcohol or controlled substance(s), payment of restitution, mandatory
10 alcohol and drug testing, obey all laws, perform community service, agree to use an
11 alcohol electronic device or BAID, random searches of home, vehicle and person,
12 regularly reporting to the probation office, and any other condition the court deems
13 reasonable.

14 **§ 92124. Safe Streets Fund.**

15 (a) There is created within the Superior Court of Guam the Safe
16 Street Fund (Fund), which shall be maintained separate and apart from the
17 other funds of the Superior Court of Guam. The Fund shall be held in an
18 interest bearing account, and all interest earned shall remain in the Fund.

19 (b) All fines collected for any of the acts made unlawful in this
20 Chapter shall be deposited in the Safe Streets Fund.

21 (c) So much of the Fund as is required is appropriated to the
22 Department of Corrections to be used to compensate staff and provide
23 supplies or facilities to house incarcerated persons convicted of misdemeanors
24 and persons convicted of acts made unlawful in this Chapter.

25 (d) The Director of Corrections may expend no more than Eight
26 Thousand Dollars (\$8,000) per month from the Fund for the purpose outlined
27 in Subsection (c) of this Section, which the Administrative Director of the

1 Courts shall pay over to the Director of Corrections on a regular basis. Any
2 funds in excess of the monthly payment to the Director of Corrections and all
3 funds accumulated shall be disbursed in accordance with § 9211(c) of Article
4 2, Chapter 9, Title 7, Guam Code Annotated.

5 (e) The Administrator of the Courts and the Director of Corrections
6 shall submit an annual report to *I Maga'låhen Guåhan* and the Speaker of *I*
7 *Liheslaturan Guåhan* regarding the status of the Fund no later than ninety (90)
8 days after the close of the preceding fiscal year. Such report shall be included
9 in the financial statements of the Judiciary of Guam, including its year-end
10 financial statements.

11 **§ 92125. Electronic Alcohol Monitoring Device, Rules and**
12 **Regulations.**

13 The Judicial Council may promulgate rules, regulations, and proposed fees
14 relative to the use of electronic alcohol monitoring devices by defendants convicted
15 under this Chapter.

16 **§ 92126. Presumptions Affecting the Burden of Proof: Defenses.**

17 (a) The amount of alcohol in a person's blood as shown by an
18 analysis of that person's blood or breath shall give rise to the following
19 presumptions affecting the burden of proof:

20 (1) If there was at that time less than 0.08 percent by weight
21 of alcohol in the person's blood, that fact shall not give rise to any
22 presumption that the person was or was not under the influence of an
23 alcoholic beverage, but the fact may be considered with other
24 competent evidence in determining whether the person was driving
25 while under the influence of alcohol at the time of the alleged offense.

26 (2) If there was at that time 0.08 percent or more by weight of
27 alcohol in the person's blood, or 0.04 percent or more by weight of

1 alcohol in a person's blood who is under the age of twenty-one (21), it
2 shall be presumed that the person was under the influence of an
3 alcoholic beverage at the time of the alleged offense.

4 (b) Before such presumptions are made in cases involving a breath
5 test, the People must show the following by a preponderance of the evidence:

6 (1) that the instrument used for the breath test was properly
7 checked and in proper working order at the time of conducting of the
8 breath test;

9 (2) that the person had nothing in his mouth at the time of the
10 breath test, and that he had taken no food or drink within fifteen (15)
11 minutes prior to taking the breath test; and

12 (3) that the breath test was given by a qualified operator and
13 in the proper manner;

14 (4) The provisions of this Subsection shall not be construed as
15 limiting the introduction of any other competent evidence bearing upon
16 the question whether the person ingested alcohol, or was driving while
17 impaired at the time of the alleged offense.

18 (c) It is a rebuttable presumption that a person was under the
19 influence of alcohol if the person had 0.08 percent or more, by weight, of
20 alcohol in his or her blood at the time of the performance of a blood or breath
21 test within three (3) hours after driving.

22 (d) It is a rebuttable presumption that a person under the age of
23 twenty-one (21) was under the influence of alcohol if the person had 0.04
24 percent or more, by weight, of alcohol in his or her blood at the time of the
25 performance of a blood or breath test within three (3) hours after driving.

1 (e) As allowed under Title 9 GCA, Chapter 4, § 4.45, in proving that
2 the person did any act forbidden by law, it shall not be necessary to prove that
3 the person possessed a culpable mental state.

4 (f) The fact that any person, charged in violation of this Chapter, is
5 or has been entitled to use a controlled substance shall not constitute a
6 defense.”

7 **Section 6.** Article 2 (Implied Consent Law) of Chapter 18, Title 16, Guam
8 Code Annotated, is hereby *transferred* to Chapter 92 of Title 9, Guam Code
9 Annotated, and renumbered accordingly by the Compiler of Laws.

10 **Section 7.** Article 3 of Chapter 18, Title 16, Guam Code Annotated, is
11 hereby *repealed*.

12 **Section 8.** Article 4 (Ignition Interlock Devices) of Chapter 18, Title 16,
13 Guam Code Annotated, is hereby *transferred* to Chapter 92 of Title 9, Guam Code
14 Annotated, and renumbered accordingly by the Compiler of Laws.

15 **Section 9. Effective Date.** This Act *shall* become effective upon enactment.