

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 255-30 (COR)

Introduced by:

T. C. Ada
T. R. Muña-Barrés
A. B. Palacios, Sr.

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AN ACT TO AMMEND §3346 OF CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, AND TO ADD A NEW §3346.1 OF CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO RESTRICTING THE USE OF MOBILE PHONES AND MOBILE SERVICE DEVICES WHILE OPERATING A VEHICLE AND PROVIDING FOR PUBLIC EDUCATION REQUIREMENTS REGARDING SUCH RESTRICTIONS.

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

2 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that distracted
3 driving poses a real and significant danger to the public. Studies show that using a
4 mobile phone (more commonly referred to as “cell phones”) while driving increases the
5 risk of collision six-fold, and that driver impairment while using a mobile phone is equal
6 to that of driving with a blood alcohol content in excess of 0.08 percent. Evidence of
7 such dangers are substantial, and have prompted the National Highway Traffic Safety
8 Administration to state that using a mobile phone while driving can pose a “serious
9 cognitive distraction and degrade driver performance.”

10 Recognizing these dangers, *I Mina' Bente Nuebi Na Liheslaturan Guåhan* passed
11 Speaker Unpingco's SBill No. 78 (LS), relative to prohibiting “texting” while driving.

1 Once signed into law as P.L. 29-22, this legal statute took the first step toward making
2 Guam’s highways safer.

3 *I Liheslaturan Guåhan*, in order to continue the late Speaker Unpingco’s efforts to
4 improve traffic safety for all of Guam’s residents, finds it necessary to further prohibit the
5 use of mobile phones and mobile service devices by bus drivers and drivers with
6 Learner’s Permits and Intermediate Licenses, and to provide guidelines by which adult
7 drivers with full licenses may use mobile phones with hands-free configurations.
8 Commercial truck drivers and emergency responders are excluded from certain
9 restrictions of this act in the course of their duties, as are FCC licensed operators of two-
10 way mobile radios (commonly known as Ham radios).

11 **Section 2.** §3346 of Chapter 3, Title 16, Guam Code Annotated, is hereby
12 *amended* to read as follows:

13 **“§3346 ~~Untitled~~ Restrictions on the Use of Mobile Phones and Mobile**
14 **Service Devices While Driving.**

- 15 a. For the purposes of this section, the following terms are defined as such:
- 16 i. A commercial mobile radio service is an FCC designation for any
17 carrier or licensee whose wireless network is connected to the
18 public switched telephone network or is operated for profit.
 - 19 ii. A commercial vehicle, as defined by §1102(c) of Title 16, Guam
20 Code Annotated, means a vehicle of a type required to be
21 registered under Title 16, GCA, used or maintained for the
22 transportation of persons for hire, compensation or profit or

1 designed, used or maintained primarily for the transportation of
2 property.

3 iii. An electronic message means any text-based digital
4 communication, including, but not limited to, electronic mail, text-
5 based chat, Short Message Service (SMS), and other forms of
6 texting.

7 iv. A highway, as defined by §1102(m) of Title 16, Guam Code
8 Annotated, means a way or place of whatever nature open to the
9 use of the public for purposes of vehicular traffic.

10 v. A mass transit vehicle means any publically accessible vehicle that
11 is under the jurisdiction of the Guam Regional Transit Authority.

12 vi. A mobile phone means a portable electronic device that provides
13 full duplex wireless voice or data communication.

14 vii. A mobile service device means an apparatus used to provide
15 portable telecommunication services. This definition includes, but
16 is not limited to, a broadband personal communication device,
17 specialized mobile radio device, handheld device or laptop
18 computer with mobile data access, pager, and two-way messaging
19 device.

20 viii. A navigation device means an apparatus used for the
21 purpose of determining one's present location using the Global
22 Positioning System.

- 1 ix. A passenger bus means any bus, of any size, that is used to
2 transport people over Guam's roadways.
- 3 x. A tow truck, as defined by §12101.3 of Title 16, Guam Code
4 Annotated, means a motor vehicle constructed, designed, altered,
5 or equipped primarily for the purpose of towing or removing
6 vehicles from a highway by means of a crane, hoist, tow bar, tow
7 line, dolly, sling, wheel-lift, flatbed or other means as approved by
8 the Division of Motor Vehicles of the Department of Revenue and
9 Taxation.
- 10 xi. A vehicle, as defined by §1102(oo) of Title 16, Guam Code
11 Annotated, means a device in, upon or by which any person or
12 property is or may be propelled, moved or drawn upon a highway,
13 except a device moved by human power or used exclusively upon
14 stationary rails or tracks.
- 15 b. It is unlawful for a person to read, write, *or* send electronic messages
16 while operating a ~~motor~~ vehicle.
- 17 c. It is unlawful for a person to use a mobile phone or mobile service device
18 for voice-based communication while operating a vehicle in motion on
19 any highway. This restriction shall not apply under any of the following
20 circumstances:
- 21 i. The person is operating an on-duty ambulance, military,
22 firefighting or rescue vehicle, or law enforcement vehicle, and is

1 using the mobile phone or mobile service device in the course of
2 her or his duties; or,

3 ii. The person is making an emergency call, including, but not limited
4 to, calls placed to a law enforcement agency, health care provider,
5 fire department, or other emergency services agency or entity; or,

6 iii. The person is using only a digital two-way radio that operates by
7 depressing a push-to-talk feature and does not require immediate
8 proximity to the ear of the user, the person is driving a commercial
9 vehicle or tow truck that requires either a commercial class C or
10 class B driver's license to operate, and the person is using the
11 digital two-way radio only in the course of her or his duties; or,

12 iv. The person is using only two-way mobile radio transmitters or
13 receivers and possesses a current, valid license from the Federal
14 Communications Commission in the Amateur Radio Service; or,

15 v. The person is using only a mobile phone that is specifically
16 designed and configured to allow hands-free listening and talking
17 and is used only in that manner while driving; or,

18 vi. The person is using only the mobile phone or mobile phone device
19 solely as a navigation device, and is not holding or operating the
20 device in hand.

21 d. The exceptions outlined in Subsection (c) of this Section shall not apply to
22 an individual who:

23 i. Is operating a passenger bus or mass transit vehicle; or,

1 ii. Does not possess a valid Driver’s License. A Learner’s Permit or
2 an Intermediate License shall not constitute a Driver’s License.

3 e. Any person who violates the provisions of subsection ~~(a)~~ (b) or (c) of this
4 Section is guilty of a violation and *shall* be punished by a fine *not to*
5 *exceed* Five Hundred Dollars (\$100 500). However, should a person be
6 found to have violated the provisions of this Section in the course of
7 causing an accident, then she or he is guilty of a violation and shall be
8 punished by a fine not to exceed One Thousand Dollars (\$1,000).

9 i. A law enforcement officer is permitted to stop a vehicle for the
10 purpose of citing a person in violation of Subsection (b) of this
11 Section.

12 ii. A law enforcement officer is not permitted to stop a vehicle for the
13 purpose of citing a person in violation of Subsection (c) of this
14 Section, unless such person appears in violation of a different
15 Section or Subsection of Title 16.

16 f. Notwithstanding the provisions of §9502 of Chapter 9.5 of Title 7 Guam
17 Code Annotated, all fines collected under this Section *shall* be deposited
18 into the Police Services Fund and made available by appropriation by *I*
19 *Liheslaturan Guåhan*.

20 **Section 3**, A new §3346.1 of Chapter 3, Title 16, Guam Code Annotated, is
21 hereby *added* to read as follows:

22 **“§3346.1. Public Education Regarding Restrictions on the Use of Mobile**
23 **Phones and Mobile Service Devices While Driving.**

- 1 a. Within Ninety (90) days following enactment of this Act, commercial
2 mobile radio services and vehicle insurance providers shall send a one-
3 time mailing to all current customers with written information adequately
4 summarizing restrictions on the use of mobile phones and mobile service
5 devices while driving, as outlined in §3346 of Chapter 3, Title 16, Guam
6 Code Annotated. Additionally, commercial mobile radio services and
7 vehicle insurance providers are required to provide such adequately
8 summarized written information to all new customers following the
9 enactment of this Act, and to also include such information continuously
10 on their respective websites.
- 11 b. The Department of Revenue and Taxation, Motor Vehicle Division shall
12 provide all applicants for a Learner’s Permit, Intermediate License, or
13 Drivers License, whether new or renewing, with written information
14 adequately summarizing restrictions on the use of mobile phones and
15 mobile service devices while driving, as outlined in §3346 of Chapter 3,
16 Title 16, Guam Code Annotated.
- 17 c. Any business entity registered with the Department of Revenue and
18 Taxation who sells, leases, or rents vehicles must provide the customer
19 with written information adequately summarizing restrictions on the use of
20 mobile phones and mobile service devices while driving, as outlined in
21 §3346 of Chapter 3, Title 16, Guam Code Annotated.”

22 **Section 4. Effective Date.** This Act shall be effective within 90-days from date of

23 enactment.