



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932

TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

17 JUN 2009

2009 JUN 13 AM 10:42 AM

The Honorable Judith T. Won Pat, Ed.D.
Speaker
Mina' Trenta Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 97(COR) "AN ACT TO AMEND §§26101, 26102, 26103, 26104 AND 26105, AND TO ADD NEW §§ 26106 AND 26107, ALL OF CHAPTER 26 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THE USE OF A SEAT BELT ASSEMBLY AND CHILD RESTRAINT SYSTEM, AND CLARIFYING STANDARDS FOR RIDING IN THE BED OF A PICKUP TRUCK" which I signed into law on June 16, 2009 as **Public Law 30-33**.

Sinseru yan Magåhet,

MICHAEL W. CRUZ, M.D.
I Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

Attachment: copy of Bill

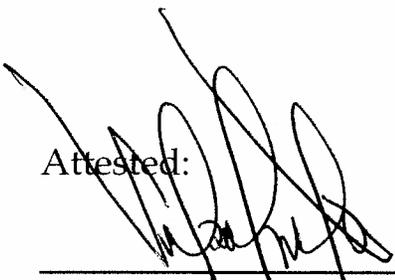
30-09-0728
Office of the Speaker
Judith T. Won Pat, Ed. D.
Date: 6/17/09
Time: 4:30
Received by: [Signature]

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

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 97 (COR), "AN ACT TO AMEND §§ 26101, 26102, 26103, 26104 AND 26105, AND TO ADD NEW §§ 26106 AND 26107, ALL OF CHAPTER 26 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THE USE OF A SEAT BELT ASSEMBLY AND CHILD RESTRAINT SYSTEM, AND CLARIFYING STANDARDS FOR RIDING IN THE BED OF A PICKUP TRUCK," was on the 29th day of May 2009, duly and regularly passed.

Attested:



Tina Rose Muña Barnes
Legislative Secretary



Judith T. Won Pat, Ed. D.
Speaker

This Act was received by *I Maga'lahaen Guåhan* this 4 day of June, 2009, at
9:55 o'clock A.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



MIKE W. CRUZ, MD
GOVERNOR OF GUAM ACTING

Date: 16 JUN 2009

Public Law No. 30-33

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

Bill No. 97 (COR)

As substituted by the Author,
and amended on the Floor.

Introduced by:

T. C. Ada
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
B. J.F. Cruz
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
v. c. pangelinan
Adolpho B. Palacios, Sr.
M. J. Rector
R. J. Respicio
Telo Taitague
Ray Tenorio
Judith T. Won Pat, Ed.D.

AN ACT TO *AMEND* §§ 26101, 26102, 26103, 26104 AND 26105, AND TO *ADD* NEW §§ 26106 AND 26107, ALL OF CHAPTER 26 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THE USE OF A SEAT BELT ASSEMBLY AND CHILD RESTRAINT SYSTEM, AND CLARIFYING STANDARDS FOR RIDING IN THE BED OF A PICKUP TRUCK.

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

2 **Section 1. Legislative Findings and Intent.** On December 10, 1986,
3 Public Law 18-45 mandated the use of passenger restraint devices. National
4 studies have shown that lives have been saved and numerous injuries rendered less

1 life-threatening by simply buckling up. P.L. 18-45, however, only mandated the
2 use of seat belt assemblies for the driver and front seat passenger. Additionally,
3 P.L. 18-45 no longer meets current federal standards for child restraint systems,
4 particularly in regards to child booster seat requirements. It is the intent of *I Mina'*
5 *Trenta Na Liheslaturan Guåhan* to require the use of appropriate passenger
6 restraining devices for all occupants within a car, van or pickup truck, and to
7 clarify and establish certain restrictions for passengers in the bed of a pickup truck.

8 **Section 2.** §26101 of Chapter 26 of Title 16, Guam Code
9 Annotated, is hereby *amended* to read as follows:

10 **“§26101. Child Restraint: Requirement for Child Restraint**
11 **System, Non-Booster Seat.** The driver of a motor vehicle, as defined in
12 Title 16, Guam Code Annotated, §1102(s), excluding a motorcycle, as
13 defined in Title 16, Guam Code Annotated, §1102(q), in which a child under
14 four (4) years of age is being transported, shall secure such child during
15 transit in a child passenger restraint system which meets federal motor
16 vehicle safety standards and is used in accordance with the manufacturer’s
17 operating instructions.”

18 **Section 3.** §26102 of Chapter 26 of Title 16, Guam Code Annotated, is
19 hereby *amended* to read as follows:

20 **“§26102. Child Restraint: Requirement for Child Restraint**
21 **System, Booster Seat.** The driver of a motor vehicle, as defined in Title 16,
22 Guam Code Annotated, §1102(s), excluding a motorcycle, as defined in
23 Title 16, Guam Code Annotated, §1102(q), in which a passenger less than
24 four feet nine inches (4’9”) tall and between four (4) and eleven (11) years
25 of age is being transported, shall secure such passenger during transit in a
26 booster seat or appropriately fitting child restraint system that meets federal

1 motor vehicle safety standards and is used in accordance with the
2 manufacturer's operating instructions."

3 **Section 4.** §26103 of Chapter 26 of Title 16, Guam Code Annotated, is
4 hereby *amended* to read as follows:

5 **"§26103. Driver and Passenger(s). Seat Belts Required.** Each
6 driver and all passengers of a motor vehicle, as defined in Title 16, Guam
7 Code Annotated, §1102(s), excluding a motorcycle, as defined in Title 16,
8 Guam Code Annotated, §1102(q), and excluding passengers covered under
9 §§ 26101 and 26102 of this Chapter, shall be restrained by a seat belt
10 assembly that meets federal motor vehicle safety standards and is used in
11 accordance with the assembly manufacturer's operating instructions.

12 (a) Passengers riding in the bed of a pickup truck are exempted
13 from the requirement to utilize a seat belt assembly, as stated in
14 this Section, provided, that the following criteria are met:

15 (1) The bed of the pickup truck is surrounded on all four (4)
16 sides by a secure vertical body extension, inclusive of a tailgate,
17 that is at least fourteen (14)-inches high;

18 (2) All seats in the cab of the pickup truck are occupied by a
19 passenger;

20 (3) Passengers in the bed of the truck are twelve (12) years of
21 age or older;

22 (4) Passengers in the bed of a pickup truck remain seated on
23 the floor of the truck bed at all times;

24 (5) Passengers are *not* leaning against the tailgate of the pickup
25 truck; and

26 (6) There are *no more than* five (5) passengers riding in the bed
27 of the pickup truck."

1 **Section 5.** §26104 of Chapter 26 of Title 16, Guam Code Annotated, is
2 hereby *amended* to read as follows:

3 “**§26104. Exemptions.** *No* driver of a motor vehicle, as defined in
4 Title 16, Guam Code Annotated, §1102(s), shall be in violation of §§ 26101,
5 26102 or 26103 of this Chapter *if*:

6 (a) The motor vehicle being driven is participating in the
7 annual Liberation Day parade, with said motor vehicle *not* exceeding
8 a speed of ten miles per hour (10 mph);

9 (b) The inadequately restrained individual has a condition
10 that prevents appropriate restraint by the seat belt assembly or child
11 restraint system. Such a condition must be duly certified by a
12 physician who shall state the nature of the condition, as well as the
13 reason such restraint is inappropriate. For a physician’s statement to
14 qualify under this Section, the physician giving the statement must
15 state why use of a child restraint system or seat belt assembly by the
16 person would be impractical or harmful to the person by reason of
17 physical condition and medical issue. Such physician statement shall
18 be in the possession of the individual;

19 (c) The inadequately restrained individual is a passenger of
20 an emergency or passenger transport vehicle. As used in this Section,
21 unless the context otherwise requires:

22 (1) *Emergency vehicle* means an on-duty official ambulance,
23 official firefighting vehicle, official rescue vehicle, or
24 official law enforcement vehicle;

25 (2) *Passenger transport vehicle* means any vehicle operated
26 to carry passengers en masse with a gross vehicle rate
27 rating over ten thousand (10,000) pounds; *or*

1 (d) The vehicle being operated was manufactured before
2 January 1, 1967.”

3 **Section 6.** §26105 of Chapter 26 of Title 16, Guam Code Annotated, is
4 hereby *amended* to read as follows:

5 **“§26105. Conviction of First Violation of §§ 26101, 26102, or**
6 **26103; Penalties.**

7 (a) Any driver convicted of violating §§ 26101, 26102, or 26103 of
8 Title 16, Guam Code Annotated, shall be fined a sum *no greater than*
9 One Hundred Dollars (\$100) per violation.”

10 **Section 7.** A new §26106 of Chapter 26 of Title 16, Guam Code
11 Annotated, is hereby *added* to read as follows:

12 **“§26106. Conviction of Violation of §§ 26101, 26102, or 26103**
13 **Within One Year after Prior Violation; Penalties.**

14 (a) Any driver convicted of violating §§ 26101, 26102, or 26103 of
15 Title 16, Guam Code Annotated, and the offense occurred within one
16 (1) year of a separate conviction for violations of either §26101,
17 §26102, or §26103, *shall* be fined a *sum no greater than* Two
18 Hundred Dollars (\$200) per violation.”

19 **Section 8.** A new §26107 of Chapter 26 of Title 16, Guam Code
20 Annotated, is hereby *added* to read as follows:

21 **“§26107. Conviction Involving Passengers Riding in the Truck**
22 **Bed.**

23 (a) Notwithstanding any other provision of law, a person convicted of
24 violating §3301 of Title 16, Guam Code Annotated, shall be fined One
25 Hundred Dollars (\$100) for each passenger riding in the truck bed. This fine
26 is in addition to, and *not in lieu* of, the fines or penalties incurred for driving
27 in excess of the speed limit.”

1 **Section 9. Effective Date.** This Act shall be effective on January 1, 2010.

6

I MINA' TRENTA NA LIHESLATURAN GUAHAN

2009 (FIRST) Regular Session

Date: 5/29/09

VOTING SHEET

SBill No. 97 (COR)

Resolution No. _____

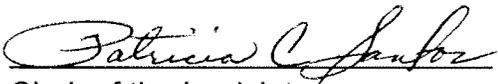
Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BLAS, Frank F., Jr.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J. F.	✓				
ESPALDON, James V.	✓				
GUTHERTZ, Judith Paulette	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera	✓ fr	✓			
RECTOR, Matthew //		✓			
RESPICIO, Rory J.	✓				
TAITAGUE, Telo	✓				
TENORIO, Ray	✓				
WON PAT, Judith T. ///		*✓			

TOTAL

13/2 Y 3 fr

CERTIFIED TRUE AND CORRECT:


Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



Thirtieth
Guam Legislature

Committee on Public Safety,
Law Enforcement &
Senior Citizens
Members:

Senator Adolpho B. Palacios, Sr.
Chairman

Senator Ray Tenorio
Vice Chairman

Speaker Judith T. Won Pat
Member

Senator Thomas C. Ada
Member

Senator Frank B. Aguon, Jr.
Member

Senator Matt Rector
Member

Senator Edward J.B. Calvo
Member

Senator James V. Espaldon
Member

Other Committee Membership:

- Vice Chairman, Committee on Economic Development, Health and Human Services, & Judiciary
- Vice Chairman, Committee on Utilities, Transportation, Public Works, & Veterans Affairs
- Vice Chairman, Committee on Labor, the Public Structure, Public Libraries & Technology
- Member, Committee on Rules
- Member, Committee on Education

**COMMITTEE ON PUBLIC SAFETY,
LAW ENFORCEMENT & SENIOR CITIZENS**

I Mina'Trenta na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.

Chairman

May 22, 2009

The Honorable Judith T. Won Pat, Ed.D.

Speaker

I Mina'Trenta na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

VIA: The Honorable Rory J. Respicio

Chairperson, Committee on Rules

RE: Committee Report – Bill No. 97 (COR)

Dear Speaker Won Pat:

The Committee on Public Safety, Law Enforcement & Senior Citizens, to which was referred **Bill No. 97(COR) AN ACT TO AMEND §26101, §26102, §26103, §26104 AND §26105 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THE USE OF A SEAT BELT ASSEMBLY AND CHILD RESTRAINT SYSTEM,**" hereby reports out with the recommendation **TO PASS.**

Committee votes are as follows:

6	TO PASS
_____	NOT TO PASS
2	TO REPORT OUT ONLY
_____	ABSTAIN
_____	INACTIVE FILE

Sincerely,

ADOLPHO B. PALACIOS, SR., MPA, BS/CJA

Chairperson

Attachments

2009 MAY 26 PM 12:45
grom

COR

RECEIVED

DATE: 5-22-09

Sup. Rector 4:05 PM

Office/Mailing Address: 155 Hesler Pl., Hagåtña GU 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com



**Thirtieth
Guam Legislature**

**COMMITTEE ON PUBLIC SAFETY,
LAW ENFORCEMENT & SENIOR CITIZENS**

I Mina'Trenta na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.

Chairman

May 21, 2009

Committee on Public Safety,
Law Enforcement &
Senior Citizens
Members:

Senator Adolpho B. Palacios, Sr.
Chairman

Senator Ray Tenorio
Vice Chairman

Speaker Judith T. Won Pat
Member

Senator Thomas C. Ada
Member

Senator Frank B. Aguon, Jr.
Member

Senator Matt Rector
Member

Senator Edward J.B. Calvo
Member

Senator James V. Espaldon
Member

Other Committee Membership:

- Vice Chairman, Committee on Economic Development, Health and Human Services, & Judiciary
- Vice Chairman, Committee on Utilities, Transportation, Public Works, & Veterans Affairs
- Vice Chairman, Committee on Labor, the Public Structure, Public Libraries & Technology
- Member, Committee on Rules
- Member, Committee on Education

MEMORANDUM

TO: ALL MEMBERS
Committee on Public Safety, Law Enforcement, & Senior Citizens

FROM: Chairman, Committee on Public Safety, Law Enforcement, & Senior Citizens 

SUBJECT: Voting Sheet.

Transmitted herewith are the voting sheet and the Committee Report on **Bill No. 97 (COR) "AN ACT TO AMEND §26101, §26102, §26103, §26104 AND §26105 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THE USE OF A SEAT BELT ASSEMBLY AND CHILD RESTRAINT SYSTEM,"** for your review and vote via signature.

Your attention to this matter is greatly appreciated.

Attachments



**COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS**

**SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN**

I Mina'Trenta na Liheslaturan Guåhan

VOTING SHEET ON:

Bill No. 97 (COR) "AN ACT TO AMEND §26101, §26102, §26103, §26104 AND §26105 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THE USE OF A SEAT BELT ASSEMBLY AND CHILD RESTRAINT SYSTEM."

SENATOR	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
Adolpho B. Palacios, Sr. Chairman		✓ 5/21/09				
Ray Tenorio Vice Chairman			✓ 5/21/09	✓ 5/21/09		
Speaker Judith T. Won Pat Member		✓				
Thomas C. Ada Member		✓ 5/21/09				
Frank B. Aguon, Jr. Member		✓ 5/21/09				
Matt Rector Member		✓ 5/21/09				
Edward J.B. Calvo Member		✓				
James V. Espaldon Member				✓ 5/22/09		



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guåhan

PUBLIC HEARING

Bill No. 97(COR) AN ACT TO AMEND §26101, §26102, §26103, §26104 AND §26105 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THE USE OF A SEAT BELT ASSEMBLY AND CHILD RESTRAINT SYSTEM.

I. OVERVIEW

The Committee on Public Safety, Law Enforcement, & Senior Citizens convened the public hearing on April 28, 2009. Hearing began at 9:45am on Bill No. 97 (COR). Notices of the hearing were disseminated to all local media outlets via facsimile on April 21 and on April 24, 2009, pursuant to meeting the requirements of the Open Government Law. Notice of the hearing was also posted on the Guam Legislature's website.

Committee Members and Senators present:

Senator Adolpho B. Palacios, Sr., Chairman
Senator Thomas C. Ada
Senator Matt Rector
Senator Telo Taitague

Individual(s) Registered for oral or written testimony:

Mr. Larry Perez, Director, Dept. of Public Works, Oral Testimony, In Favor
Mr. Phil Tydingco, Attorney General's Office, Oral Testimony, In Favor
Cpt. Steven Ignacio, Guam Police Department, Oral Testimony, In Favor
Sgt. Mike Aguon, Guam Police Department, Oral Testimony, In Favor
Dr. Ron McNich, Not Present, Written Testimony In Favor
Ms. Therese Matanane, Program Coordinator for Highway Safety, Written Testimony, In Favor
Mr. Paul R. Suba, Chief of Police, Guam Police Department, Written Testimony, In Favor.

II. SUMMARY OF TESTIMONIES

Chairman Adolpho B. Palacios, Sr. called the Committee on Public Safety, Law Enforcement, and Senior Citizens to order at 9:45am, welcomed and introduced Senators present.

Chairman Palacios recognized the author of the bill, Senator Tom Ada, who gave a brief presentation of the bill. Senator Ada stated that much of this work came from the Highway Traffic Safety Office through the Department of Public Works. The bill is timely with the expected increase in population due to the military build-up. The senator expressed that it is imperative that we need to take a look at the rules of the highway and allow for the safety of all.

Chairman Palacios called those who are present to testify.

Mr. Larry Perez, Director of Department of Public Works, ORAL Testimony, In Favor

Mr. Perez stated that he is not providing written testimony, but the National Highway Traffic Safety Office under his jurisdiction will be submitting a written testimony later. There will be an increase in support contractors, roughly estimated at 40-60,000 people. Roads will be widened to help with the congestion issue that will occur in the next few years. We need to take a look at the myriad of facets that will apply to our road ways. There will be an increase in fees associated with the roadways. Specific to this legislation, the fact that you have vehicles that have seatbelts, there is a reason why you have seat belts and not on the beds of pick ups. State and car manufacturers have tested this and there is a science that provides safety with regards to seat belts. Science supports why we buckle up. It is timely and imperative that we pass legislation with regards to this issue. If you are traveling 35-45 miles per hour and you get ejected, it will hurt and you may die. If you look at the weight of the car and the speed, you may get ejected from this, the probability of stopping is almost nil. You may get hit or run over. He supports this legislation that will keep people in their cars.

Ms. Therese Matanane, Program Coordinator, Office of Highway Safety, Written Testimony, In Favor. On behalf of the Department of Public Works, Office of Highway Safety, in coordination with the National Highway Traffic Safety Administration, we are here in support of this bill because seat belt laws and primary enforcement reduces motor vehicle injuries and fatalities. Those who do not wear seat belts engage more frequently in high-risk behavior. The cost from the failure to use seat belts is substantial; and primary enforcement seat belts laws do increase seat belt use. *(Please see attachment for written testimony)*

Mr. Phil Tydingco, Office of the Attorney General, Oral Testimony, In Favor

We support the intent of Bill 97. It is timely and requires updating. We have the experts who are here, Highway Safety Office and the Guam Police Department, who will provide the data to update these laws and further safeguards adults and children on Guam roadways. From a lawyer standpoint, there are some things that he has questions on. First the bill amends the child restraint system, and the second is the booster seat. Subsections 26104-105 are inconsistent with penalties and fines. Typically, when there is a violation, generally speaking, it is punishable up to one year imprisonment. Over the years and looking at different statutes, they make the penalty and misdemeanor to maintain compliance. In order to maintain compliance, subsection 96103 states that all violations are petty misdemeanors and it makes the fine range what is typically for misdemeanor. If you make it a misdemeanor, you take it out of the traffic courts. If it is a misdemeanor, there is a right to a jury trial. If we are trying to do compliance, we need to change the language to reflect the penalty clause. If there is a second offense, you can make it a misdemeanor. If you have any questions, he is open to taking those questions.

Senator Ada asked Mr. Tydingco, can we leave it as a petty misdemeanor?

Mr. Phil Tydingco

It is best to be left in the traffic court. Petty Misdemeanor can go up to \$500.00 and one year imprisonment. The intent is not to place people in court, but to protect the public.

Chairman Palacios allowed Senators to give comments and/or questions.

Senator Rector

Courts are very burdened today. As you go on for the second to fourth offense, where do you draw the line with reckless endangerment than a petty misdemeanor? One of the concerns is the military buildup and contractors drive the workers to and from work. How will we protect these folks if companies allow for drivers to take the fall in transporting the workers? Are there other jurisdictions that issues tickets to those who ride in a pickup without a seatbelt?

Mr. Phil Tydingco

There are various statutes in the books that address the other offenses. What Guam doesn't have is a reckless endangerment provision that the Senator addresses. Generally speaking, the compliance will come out of the contractor's pocket. What depends is evidence in making the charge. Perhaps, what type of regulatory provisions exists that is applicable to contractors. Perhaps within the provision, ticketing will be given to every person who does not have a seat belt. The issue with the company is complicated. He doesn't know any jurisdiction that restricts people to ride in the back of the pickup.

A seat belt violation is secondary. If a person is stopped, there is usually a reason why that person is stopped. Guam is prime when a seat belt is not use because most Police Officers site this on the ticket.

The driver, under this provision, must have all passengers buckled up. Again, what depends is the circumstance and the evidence to make a case for negligence. For the fact pattern for non-compliance, we will need evidence for non-compliance. If this statute goes through, if there are no seat belts, a ticket will be issued. If you have an additional element in the provision of the law, it will be clear to the understanding of the penalty.

Ms. Matanane

\$380,000.00 was awarded to Guam because of the safety belt usage. Guam has 80% usage of seat belts.

Mr. Larry Perez

The penalty is \$50.00 for every person not wearing a seat belt. The military is working on the logistics for the transport of the workers.

Senator Telo Taitague

Can you enlighten me what is primary/secondary statutes? With regards to your department, we have certain highway funding, but by passing this law, would this help us receive grants?

Senator Palacios

Is there a law right now for people who are riding in the back of the pickup that does not adhere to the seat belt laws? An adult who is riding on the back and he falls out, is there a criminal statute? If we pass this law, and one of the passengers falls off by accident and dies, the driver/operator must suffer the consequences. There should be an additional penalty for non-compliance. This has to be a separate offense. If anyone under the age of 16, the driver must make sure that this passenger is restrained to a seat belt.

Senator Ada

This provision does not allow for seat belts in the back of a pick up truck, but what it does mention are the conduct in the bed of a pick up truck.

Dr. Ron McNich, UOG, In Favor, Written Testimony

Dr. McNich was not present, but signed that he will provide written testimony at a later date.

Capt. Steven Ignacio, Guam Police Department, Highway Safety Officer

The Guam Police Department generally supports the intent of the bill and submits several concerns with regards to the legislation. Capt. Ignacio provided a power point presentation to illustrate the various interpretations for vehicle tailgates and beds of pickups. He also mentioned that the language must change with regards to age and height. There are adults who are 4'8 and who are adults. *(Please see attachment for written testimony and illustrations.)*

Senator Ada stated that based on the recommendations provided by the Guam Police Department, a mark up meeting will be necessary to address some of the issues.

Senator Rector

People are very concerned about riding in the back of pickups. How many people have died in the last five years? Nationally, this is a huge problem. I wanted to find out if this was a big issue for us on Guam. There is a reason why we have seat belt laws. What happens to a person when they are riding in the back of a pickup? Does the Division of Highway Safety provide assistance to parents from lower incomes to provide for safety seats for children?

Sgt. Mike Aguon answered the questions from Senator Rector and stated that there were ten people ejected from the vehicle. Two people died in the past five years. When you are traveling in the back of a pick up, you are traveling. Whether its 10-25 miles per hour, you can die if you impact something. Guam Police has seen an increase in the number of people who are packed in the back of a pickup and there must be legislation to ensure safety on Guam roadways.

Mr. Larry Perez

If there is an issue with regards to the funds, DPW is willing to spend that money on the educational component.

Ms. Matanane

The Division does not have funds at this time to provide for these safety devices. There was a loan program in place, but these devices were never returned. We may revive this program. A car seat is given if a car seat is on recall and if it is available. All of this funding is Federally subsidized.

Senator Palacios

If this law passed, there will be costs associated for these requirements. What is the total amount associated to do some retrofitting for these vehicles?

Cpt. Steven Ignacio

At this point in time, there will be costs associated to retrofit and to regulate these tailgates. We do not know how much it will cost, but it will come out of the pockets of the owners.

Chairman Palacios concluded the hearing and requested that written testimony be submitted within the next ten (10) days. He adjourned the hearing at 11:20am.

III. WRITTEN TESTIMONIES

Therese C.D. Matanane, Program Coordinator, Office of Highway Safety, In Favor. Received April 28, 2009.

Ms. Matanane stated that, "We are here on behalf of the Department of Public Works – Office of Highway Safety, and as stated above, in coordination with the National Highway Traffic Safety Administration, in support of this bill because seat belt laws and primary enforcement reduces motor vehicle injuries and fatalities. Those who do not wear seat belts engage more frequently in high-risk behavior. The cost from the failure to use seat belts is substantial; and primary enforcement seat belts laws do increase seat belt use."

Paul R. Suba, Chief of Police, Guam Police Department, In Favor. Received on April 28, 2009.

The Guam Police Department generally supports the intent of this bill and has submitted some concerns and possible amendments to Bill 97. The Guam Police Department as an advocate for highway safety would prefer proposed legislation that restricts the transporting of a person in cargo beds of pick up trucks.

Dr. Ron McNich, University of Guam, In Favor. Received on May 21, 2009.

Dr. McNich states, "I would like to provide my favorable support for Bill 94 regarding improving Guam's seatbelt laws. Each year my students and I conduct research on passenger and child seat restraint use and we need better laws to improve the safety of our citizens. This bills is supported by both GPD and Highway Safety and it will result in positive progress toward improving safety and reducing traffic fatalities and injuries."

IV. MARK-UP MEETING

A markup meeting for Bill 97 took place in the conference room of Senator Ada's office on Wednesday, May 13, 2009 at 2:00 pm - 4:30pm. Those in attendance were Senator Thomas Ada, Jay Sunga, Cyrus Luhr, Captain Steve Tenorio, Therese Matanane, Cil Javier, Jonathan Quan and Shane Black. Amendments to the bill were made to address the concerns from the attorney general's office and the office of highway division. Representatives from the Attorney General's office requested the insertion of language to be consistent with current law: the addition of "motor vehicle" instead of car, van, pickup truck; the addition of "official" in section 26104; new sections to address a first and subsequent violation of the law and a provision that addressed a speeding violation with passengers in the back of a pick up truck was added. The members of the markup meeting agreed for the penalty fee of \$50.00 was to be increased to \$100.00 and the weight class exemption for required seatbelts in a motor vehicle was kept to 10,000 lbs. The meeting was adjourned at 4:30pm.

V. FINDINGS AND RECOMMENDATIONS

The Committee on Public Safety, Law Enforcement, & Senior Citizens finds that Bill No. 97 (COR) requires the use of appropriate passenger restraining devices for all occupants within a car, van or pickup truck, and to clarify and establish certain restrictions for passengers in the bed of a pickup truck. The legislation requires a driver to secure children under four (4) years of age in a child passenger restraint system which meets the Federal motor vehicle safety standards; requires a driver to secure passengers less than four (4) feet and nine (9) inches tall (4'9) and between four (4) and eleven (11) years of age in a booster seat; no driver shall operate a car, van, pickup truck on any highway unless all passengers are taller than four feet and nine inches and/or twelve years of age or older and are restrained by a seat belt. Furthermore, passengers riding in the bed of a pickup truck are exempted from the requirement to utilize a seat belt provided that certain criteria are met. The legislation also requires violation penalties no greater than fifty dollars (\$50.00) for each violation; and no greater than ninety dollars (\$90.00) for each violation stemming from subsequent incidents.

Accordingly, the Committee on Public Safety, Law Enforcement, & Senior Citizens to which **Bill No. 97(COR)** was referred does hereby submit its findings and recommendations to *I Mina'Trenta na Liheslaturan Guåhan* **TO PASS** Bill No. 97 (COR), "An act to amend §26101, §26102, §26103, §26104 and §26105 of Title 16, Guam Code Annotated, relative to requiring the use of a seat belt assembly and child restraint system."

Declaration Under Penalty of Perjury of Priscilla T. Cruz

1. I am employed as an Administrative Officer at the Office of Senator Adolpho B. Palacios, Sr.
2. I am assigned the task of disseminating public hearing notices to each newspaper of general circulation, broadcasting stations, all Senators, Clerk of the Legislature, Protocol, and Audio.
3. In such notice I included all information required by the Open Government Law, §8107, Title 5, Guam Code Annotated.
4. I sent a public hearing notice via electronic mail (email) and facsimile (fax) to all local media on April 21, 2009, (5 working days prior to hearing) and on April 24, 2009, (48 hours prior to hearing) in accordance with §8107, Title 5, Guam Code Annotated.
5. I sent a public hearing notice via electronic mail (email) and facsimile (fax) to all Senators, the Clerk's Office, MIS, Protocol, and Audio on April 21, 2009, (5 working days prior to hearing) and on April 24, 2009, (48 hours prior to hearing) in accordance with §8107, Title 5, Guam Code Annotated.
6. Copies of public hearing notices, email and fax confirmations are on file at the Office of Senator Adolpho B. Palacios, Sr.

**Declaration Under Penalty of Perjury
§4308, Title 6, Guam Code Annotated**

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on May 21, 2009 on Guam by

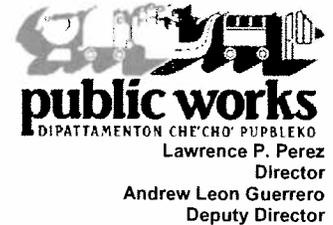


PRISCILLA T. CRUZ



The Honorable
Felix P. Camacho
Governor

The Honorable
Michael W. Cruz, M.D.
Lieutenant Governor



Lawrence P. Perez
Director
Andrew Leon Guerrero
Deputy Director

TESTIMONIAL OF
THERESE C.D. MATANANE
PROGRAM COORDINATOR WITH THE OFFICE OF HIGHWAY SAFETY
BEFORE THE 30TH GUAM LEGISLATURE
ON BILL NUMBER 97

Good Morning Senators

First of all, I want to commend you for considering this measure that will so easily save many motor vehicle occupants from crash-related deaths and injuries. As you know, seat belt laws and child restraint systems are instrumental to increasing seat belt and child restraint use, and the stronger the law, the greater the use.

As you are aware, the Office of Highway Safety was established within the Department of Public Works by Executive Order No. 74-8 on February 1974 and by Public Law 13-29. Public Law 13-29 was enacted by the Guam Legislature in June 1975, authority was granted for Planning & Administration functions in 1976.

The DPW-Office of Highway Safety currently has Section 402 Highway Safety Funds under the Section 402 Highway Safety Program, which was established by the Highway Safety Act of 1966 and is codified within 23 U.S.C. 402. This Act directs that every state has an approved highway safety program designed to reduce traffic crashes, deaths, injuries and property damage. State 402 programs are administered by the Governor's Highway Safety Representative (GR) in coordination with the National Highway Traffic Safety Administration field staff.

We are here on behalf of the Department of Public Works – Office of Highway Safety, and as stated above, in coordination with the National Highway Traffic Safety Administration, in support of this bill because seat belt laws and primary enforcement reduces motor vehicle injuries and fatalities. Those who do not wear seat belts engage more frequently in high-risk behavior. The cost from the failure to use seat belts is substantial; and primary enforcement seat belts laws do increase seat belt use.

We support the amendment to §26101 to cover children four (4) and below to be properly restrained in an approved child restraint system that meets federal motor vehicle safety standards during transit. The current law states in part: "...provided that if a child under two years of age has outgrown a standard size child passenger restraint system, the driver shall secure the child by a federally approved safety belts or safety harnesses." Children under two years of age are still too small to use the seat belt system or safety harness. The child should be restrained in a federally approved child restraint system that meets the child's weight and height. There are child restraint systems that can secure children two and below and not graduate them to a vehicle safety belt.

The proposed amendment to §26102 is to restrain children between the ages four (4) and eleven (11) years of age and who are less than four (4) feet, nine (9) inches tall, in a booster seat. The current subsection 26102 states in part: "...a child two years of age or more but under twelve years of age...shall secure such child during transit by either a child passenger restraint system...or by a federally approved safety belts or safety harness." Again, a child that has outgrown their forward-facing seat (child restraint system), usually around age 4 and 40 pounds, should ride in a booster seat, in the back seat, and until the vehicle seat belts fit properly. Seat belts fit properly when the lap belt lays across the upper thighs and the shoulder belt fits across the chest (usually at age 8 or when they are 4'9" tall).

The important thing for a parent is to ALWAYS read the child restraint instruction manual. Each manufacturer provides specific instructions regarding proper use and installation of their child restraints.

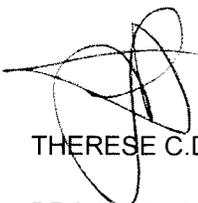
Seat belts and child restraints are the number one defense against motor vehicle injuries and fatalities. Seat belts and child restraints restrain vehicle occupants from the extreme forces experienced during motor vehicle crashes. Unbelted vehicle occupants frequently injure other occupants, and unbelted drivers are less likely than belted drivers to be able to control their vehicles. Seat Belts prevent occupant ejections.

The proposed §26103 requires that all occupants be restrained by a seat belt assembly that meets federal motor vehicle safety standards. The current law states: "Each Driver and front seat passenger...shall wear a properly adjusted and fastened seat safety belt." This current law does not cover the back passengers to be restrained. The key provisions of a comprehensive seat belt law should include coverage of ALL vehicle occupants in all seating positions, coverage of all vehicles, and sufficient penalties to promote compliance with the law.

Enacting this bill is likely the most important life-saving measure you can take to this session. It cost nothing, but will save much. It only takes a second or two to buckle up and be safe.

Thank you again for allowing me to testify on behalf of the Department of Public Works.

Si Yu'os Ma'ase.



THERESE C.D. MATANANE

PROGRAM COORDINATOR III

DEPARTMENT OF PUBLIC WORKS

OFFICE OF HIGHWAY SAFETY



GUAM POLICE DEPARTMENT

DIPATTAMENTON POLISIAN GUAHAN



FELIX P. CAMACHO
Governor of Guam

MICHAEL W. CRUZ, M.D.
Lieutenant Governor

Government of Guam
Bldg No. 233, Central Avenue, Tiyan, Guam 96913
Telephone: (671) 475-8473 (Switchboard); (671) 475-8508 / 8509 / 8512
Fax: (671) 472-4036

PAUL R. SUBA
Chief of Police

COLONEL JOAQUIN G. REYES
Police Commander

April 28, 2009

The Honorable Senator Adolpho B. Palacios, Sr.
Chair, Committee on Public Safety,
Law Enforcement and Senior Citizens
155 Hesler Place
Hagåtña, Guam 96910

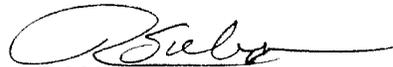
RE: Bill No. 97

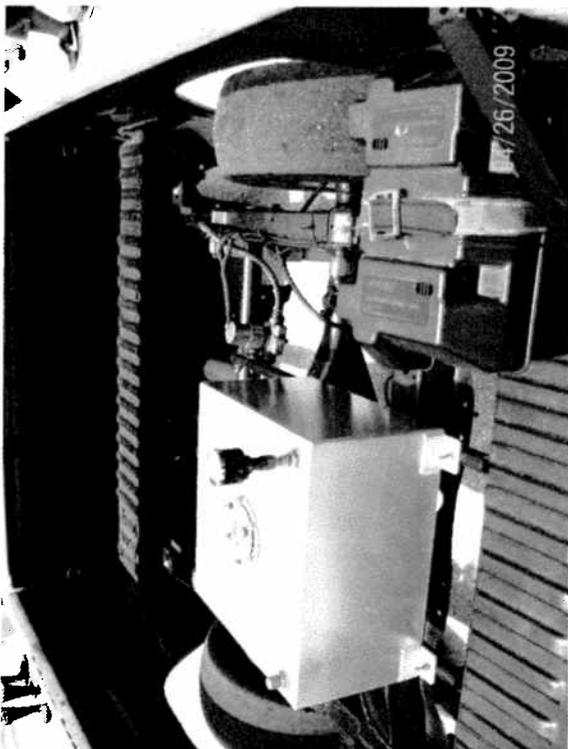
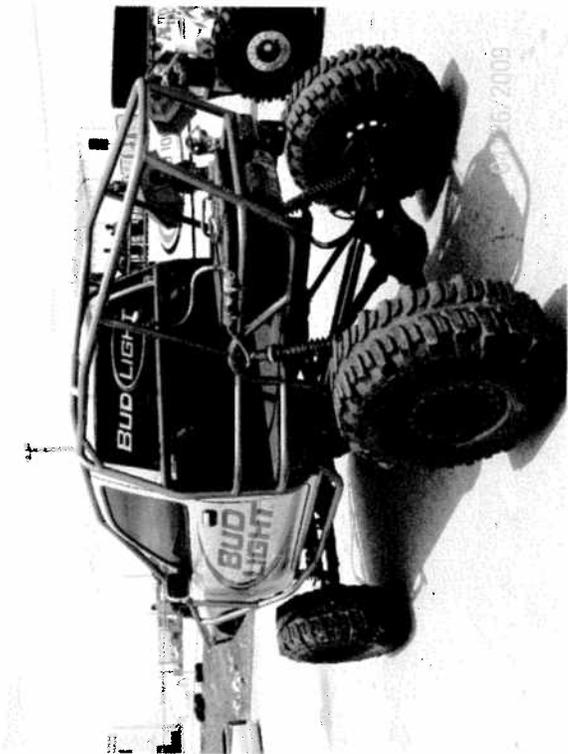
The Guam Police Department generally supports the intent of this bill and submits for your consideration the following concerns or proposed amendments:

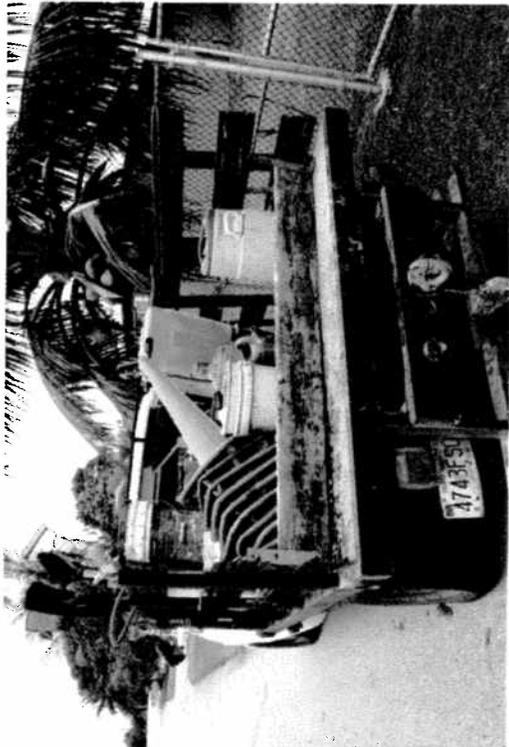
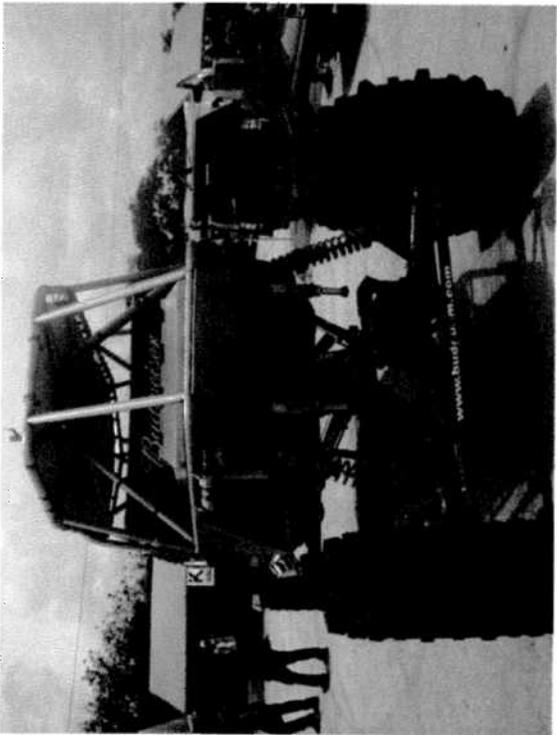
- A). Under §26103(b)(I), we propose language that the bed must properly fit or be the cargo bed original to the pick up truck. The photos which are attached show the many challenges on different modifications that are done or how cargo trucks beds come in various forms. Although some what drastic the Guam Police Department would like to support that cargo beds be used for cargo only and not to transport people regardless of age.
- B). Under §26103(b)(v), the maximum speed limit of 25 mph is problematic when considering that the vehicle will more than likely have to travel on roadways where the speed limit is 35 mph or 45 mph. Under either scenario traveling at speeds less than posted is unsafe and creates an impediment to regular traffic flow.
- C). The Guam Police Department proposes that the definition of bed and tailgate be defined since as the pictures show it may be subject to interpretation.
- D). Under §26103(b)(viii) The Guam Police Department suggests that instead of 75% of the floor area, we propose no more than five (5) people in the cargo bed area. Again we propose that no persons should ride in the cargo bed. Another consideration is no minors be allowed in the cargo bed area.

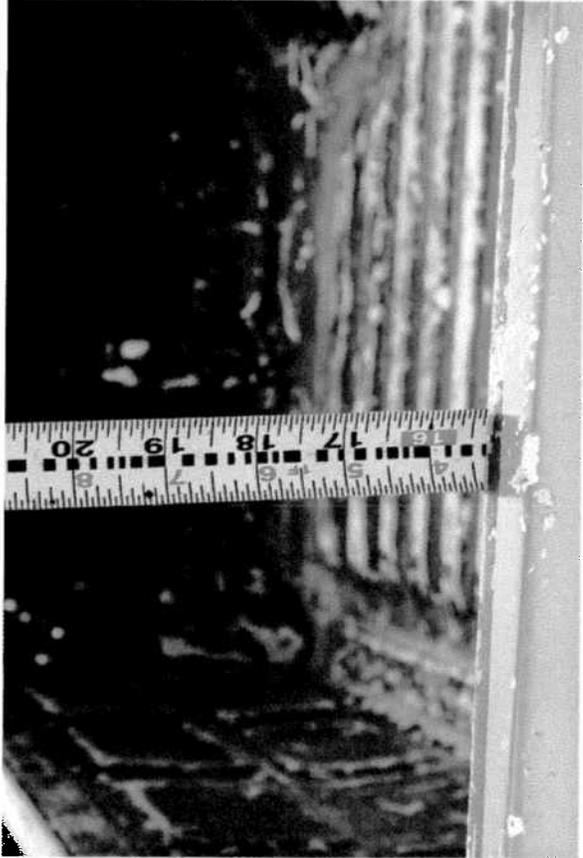
- E). Under §26104(c)(ii) This may impact 14 passenger vans, and may be even limousines. The Guam Police Department is uncertain at this time if all passenger transport vehicles less than 10,000lbs are all equipped with passenger restraints(seatbelts).
- F). Under §26105(b) , we propose that the amount of money appropriated by the legislature to the requesting or respective Law Enforcement agency be proportional to the number of seatbelt citations issued by the agency when compared to the total overall number of citations issued. As currently written all law enforcement agencies can be appropriated money from the fund even if they do not write citations for violations of the seatbelt law. We further propose that the Superior Court of Guam, Traffic Violations Bureau submit to the legislature an annual calendar year report detailing the number of seatbelt citations issued by agency.
- G). Under §26103 we propose keeping the language of requiring the front seat passenger(s) regardless of age or height to be restrained. This is in addition to the other proposed amendments to the law.
- H). The 16-inch vertical requirement may disqualify certain makes and models of pick up trucks as illustrated by the photos of some of the more popular truck purchases for our island. Also it seems that the 16" requirement applies to the tailgate only as written.

The Guam Police Department as an advocate for highway safety, would prefer proposed legislation that restricts the transporting of persons in cargo beds of pick up trucks. In the current form of bill 97 we then submit the above for your kind consideration.


PAUL R. SUBA
Chief of Police











Adolpho Palacios <senabpalacios@gmail.com>

Re: Letter of Support for Seatbelt Legislation (corrected version)

1 message

Ron McNinch <govguam@gmail.com>

Thu, May 21, 2009 at 11:38 AM

To: Adolpho Palacios <senabpalacios@gmail.com>, patrick cepeda <patrickcepeda@hotmail.com>

On Thu, May 21, 2009 at 11:37 AM, Ron McNinch <govguam@gmail.com> wrote:
Ron McNinch, PhD, SPHR

Dear Senator Palacios,
I would like to provide my favorable support for
Bill 94, regarding improving Guam's seatbelt laws.

Each year my students and I conduct research on
passenger and child seat restraint use and we
need better laws to improve the safety of our citizens.

This bill is supported by both GPD and highway safety and
it will result in positive progress toward improving safety and
reducing traffic fatalities and injuries.

Sincerely, Ron McNinch /s/ via email

—
Ron McNinch, PhD, SPHR
488-8889

—
Ron McNinch, PhD, SPHR
488-8889

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

Bill No. 97 (COR)

As substituted by the Author.

Introduced by:

T. C. Ada

AN ACT TO AMEND §26101, §26102, §26103, §26104 AND §26105 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING THE USE OF A SEAT BELT ASSEMBLY AND CHILD RESTRAINT SYSTEM, AND CLARIFYING STANDARDS FOR RIDING IN THE BED OF A PICKUP TRUCK.

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

2 **Section 1. Legislative Findings.** On December 10, 1986, Public Law 18-45 mandated
3 the use of passenger restraint devices. National studies have shown that lives have been saved
4 and numerous injuries rendered less life-threatening by simply buckling up. P.L. 18-45,
5 however, only mandated the use of seat belt assemblies for the driver and front seat passenger.
6 Additionally, P.L. 18-45 no longer meets current federal standards for child restraint systems,
7 particularly in regards to child booster seat requirements. It is the intent of *I Mina' Trenta Na*
8 *Lihselaturan Guåhan* to require the use of appropriate passenger restraining devices for all
9 occupants within a car, van or pickup truck, and to clarify and establish certain restrictions for
10 passengers in the bed of a pickup truck.

11 **Section 2.** § 26101 of Title 16, Guam Code Annotated, is hereby amended to read as
12 follows:

13 **“§ 26101. Child Restraint: Requirement for Child Restraint System, non-**
14 **Booster Seat.** The driver of a ~~car, van or pickup truck~~ motor vehicle, as defined in Title

1 16, Guam Code Annotated, §1102.(s), excluding a motorcycle, as defined in Title 16,
2 Guam Code Annotated, §1102(q), in which a child under two ~~four~~ (4) years of age is
3 being transported shall secure such child during transit by in a child passenger restraint
4 system which meets federal motor vehicle safety standards; and is used in accordance
5 with the manufacturer’s operating instructions, ~~provided that if a child under two years~~
6 ~~of age has outgrown a standard size child passenger restraint system, the driver shall~~
7 ~~secure the child by federally approved safety belts or safety harnesses.”~~

8 **Section 3.** § 26102 of Title 16, Guam Code Annotated, is hereby amended to read as
9 follows:

10 “§ 26102. **Child Restraint: Standards Requirement for Child Restraint**
11 **System, Booster Seat.** The driver of a ~~car, van or pickup truck~~ motor vehicle, as defined
12 in Title 16, Guam Code Annotated, §1102.(s), excluding a motorcycle, as defined in Title
13 16, Guam Code Annotated, §1102(q), in which a ~~child~~ two years of age or more but
14 under twelve years of age ~~passenger~~ less than four feet and nine inches tall (4’9”) and
15 between four (4) and eleven (11) years of age is being transported shall secure such ~~child~~
16 passenger during transit in a booster seat which ~~by either a child passenger restraint~~
17 ~~system that~~ meets federal motor vehicle safety standards and is used in accordance with
18 the manufacturer’s operating instructions, ~~or by federally approved safety belts or safety~~
19 ~~harness.”~~

20 **Section 4.** § 26103 of Title 16, Guam Code Annotated, is hereby amended to read as
21 follows:

22 “§ 26103. **Driver and Passenger(s). Seat Belts Required.** Each Driver and ~~front~~
23 ~~seat~~ all passengers of a ~~car, van or pickup truck~~ motor vehicle, as defined in Title 16,

1 Guam Code Annotated, §1102.(s), excluding a motorcycle, as defined in Title 16, Guam
2 Code Annotated, §1102(q), and excluding passengers covered under §26101 and §26102
3 of this chapter, shall wear a properly adjusted and fastened seat safety belt. be restrained
4 by a seat belt assembly that meets federal motor vehicle safety standards and is used in
5 accordance with the assembly manufacturer’s operating instructions.

6 a. Passengers riding in the bed of a pickup truck are exempted from the requirement
7 to utilize a seat belt assembly, as stated in § 26103.a, provided that the following
8 criteria are met:

9 i. The bed of the pickup truck is surrounded on all four sides by a secure
10 vertical body extension, inclusive of a tailgate, that is at least 14-inches
11 high; and,

12 ii. All seats in the cab of the pickup truck are occupied by a passenger; and,

13 iii. Passengers in the bed of the truck are twelve (12) years of age or older; and,

14 iv. Passengers in the bed of a pickup truck remain seated on the floor of the
15 truck bed at all times; and,

16 v. Passengers are not leaning against the tailgate of the pickup truck; and,

17 vi. There are no more than five (5) passengers riding in the bed of the pickup
18 truck.”

19 **Section 5.** § 26104 of Title 16, Guam Code Annotated, is hereby amended to read as
20 follows:

21 “§ 26104. ~~Violations~~ **Exemptions.** ~~No~~ Any driver of a car, van or pickup truck
22 motor vehicle, as defined in Title 16, Guam Code Annotated, §1102.(s), who violates

1 shall be in violation of § 26101, § 26102 or § 26103 of this Chapter is guilty of a
2 misdemeanor and subject to penalties pursuant to § 26105 of this Chapter. if:

3 a. The motor vehicle being driven is participating in the annual Liberation Day
4 parade, with said motor vehicle not exceeding a speed of ten miles per hour (10
5 mph); or,

6 b. The inadequately restrained individual has a condition that prevents appropriate
7 restraint by the seat belt assembly or child restraint system. Such a condition
8 must be duly certified by a physician who shall state the nature of the condition,
9 as well as the reason such restraint is inappropriate. For a physician's statement
10 to qualify under this section, the physician giving the statement must state why
11 use of a child restraint system or seat belt assembly by the person would be
12 impractical or harmful to the person by reason of physical condition, medical
13 issue or body size. Such physician statement shall be in the possession of the
14 individual; or,

15 c. The inadequately restrained individual is a passenger of an emergency or
16 passenger transport vehicle. As used in this section, unless the context otherwise
17 requires:

18 i. Emergency vehicle means an on-duty official ambulance, official
19 firefighting vehicle, official rescue vehicle, or official law enforcement
20 vehicle;

21 ii. Passenger transport vehicle means any vehicle operated to carry
22 passengers en masse with a gross vehicle rate rating over ten thousand
23 (10,000) pounds.

1 d. The vehicle being operated was manufactured before January 1, 1967."

2 **Section 6.** § 26105 of Title 16, Guam Code Annotated, is hereby amended to read as
3 follows:

4 "**§ 26105. Conviction of First Violation of §26101, §26102, or §26103;**

5 **Penalties.**

6 a. Any operator ~~driver~~ convicted of ~~failing to secure a child with a child passenger~~
7 ~~restraint system in violation of violating~~ §26101, §26102, or ~~violates~~ §26103 shall
8 ~~may be fined a sum no greater than Fifty Dollars (\$50.00)~~ One Hundred Dollars
9 (\$100) per violation."

10 b. ~~The penalty pursuant to subsection (a) of this Section shall be suspended in the~~
11 ~~case of a person who has never before been convicted of a violation of §26101 or~~
12 ~~§26102 of this Chapter and who did not own a child passenger restraint system~~
13 ~~that met federal safety standards at the time of the violation, provided that such~~
14 ~~person establishes to the satisfaction of the court, within a reasonable period of~~
15 ~~time as set by the court, that such person owns such a child passenger restraint~~
16 ~~system.~~

17 c. ~~A driver shall be exempted from the penalty pursuant to subsection (a) of this~~
18 ~~Section in the case of a child who for medical or physical reasons is unable to~~
19 ~~utilize a child passenger restraint system."~~

20 **Section 7.** A new § 26106 of Title 16, Guam Code Annotated, is hereby added to read as
21 follows:

22 "**§ 26106. Conviction of Violation of §26101, §26102, or §26103 Within One**

23 **Year after Prior Violation; Penalties.**

- 1 a. Any driver convicted of violating §26101, §26102, or §26103, and the offense
2 occurred within one (1) year of a separate conviction of either §26101, §26102, or
3 §26103, may be fined a sum no greater than Two Hundred Dollars (\$200) per
4 violation.

5 **Section 8.** A new § 26107 of Title 16, Guam Code Annotated, is hereby added to read as
6 follows:

7 “§26107. Conviction Involving Passengers Riding in the Truck Bed.

8 a. Notwithstanding any other provision of law, a person convicted of violating
9 §3301 of Title 16, Guam Code Annotated, shall be fined One Hundred Dollars
10 (\$100) for each passenger riding in the truck bed. This fine is in addition to, and
11 not in lieu of, the fines or penalties incurred for driving in excess of the speed
12 limit.”

13 **Section 9. Effective date.** This act shall be effective on January 1, 2010.

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

Bill No. 97 (COR)

Introduced by:

T. C. Ada

2009 APR 4 PM 4:32 *mc*

AN ACT TO AMEND §26101, §26102, §26103, §26104 AND
§26105 OF TITLE 16, GUAM CODE ANNOTATED,
RELATIVE TO REQUIRING THE USE OF A SEAT BELT
ASSEMBLY AND CHILD RESTRAINT SYSTEM.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Legislative Findings.** On December 10, 1986, Public Law 18-45 mandated
3 the use of passenger restraint devices. National studies have shown that lives have been saved
4 and numerous injuries rendered less life-threatening by simply buckling up. P.L. 18-45,
5 however, only mandated the use of seat belt assemblies for the driver and front seat passenger.
6 Additionally, P.L. 18-45 no longer meets current federal standards for child restraint systems,
7 particularly in regards to child booster seat requirements. It is the intent of *I Mina' Trenta Na*
8 *Liheslaturan Guåhan* to require the use of appropriate passenger restraining devices for all
9 occupants within a car, van or pickup truck, and to clarify and establish certain restrictions for
10 passengers in the bed of a pickup truck.

11 **Section 2.** § 26101 of Title 16, Guam Code Annotated, is hereby amended to read as
12 follows:

13 “§ 26101. **Child Restraint: Requirement for Child Restraint System, non-**
14 **Booster Seat.** The driver of a car, van or pickup truck in which a child under ~~two~~ four
15 (4) years of age is being transported shall secure such child during transit ~~by~~ in a child

1 passenger restraint system which meets federal motor vehicle safety standards, is in good
2 working order, and is used in accordance with the manufacturer's operating instructions,
3 ~~provided that if a child under two years of age has outgrown a standard size child~~
4 ~~passenger restraint system, the driver shall secure the child by federally approved safety~~
5 ~~belts or safety harnesses."~~

6 **Section 3.** § 26102 of Title 16, Guam Code Annotated, is hereby amended to read as
7 follows:

8 **"§ 26102. Child Restraint: Standards Requirement for Child Restraint**
9 **System, Booster Seat.** The driver of a car, van or pickup truck in which a ~~child two~~
10 ~~years of age or more but under twelve years of age~~ passenger less than four feet and nine
11 inches tall (4'9") and between four (4) and eleven (11) years of age is being transported
12 shall secure such child during transit in a booster seat which ~~by either a child passenger~~
13 ~~restraint system that meets federal motor vehicle safety standards, is in good working~~
14 order, and is used in accordance with the manufacturer's operating instructions, ~~or by~~
15 ~~federally approved safety belts or safety harness."~~

16 **Section 4.** § 26103 of Title 16, Guam Code Annotated, is hereby amended to read as
17 follows:

18 **"§ 26103. Driver and Passenger(s). Seat Belts Required.** ~~Each Driver and front~~
19 ~~seat passenger of a car, van or pickup truck shall wear a properly adjusted and fastened~~
20 ~~seat safety belt.~~

- 21 a. No driver shall operate a car, van or pickup truck upon any highways, either
22 primary or secondary, unless all passengers taller than four feet and nine inches
23 (4'9") and/or twelve (12) years of age or older are restrained by a seat belt

1 assembly that meets federal motor vehicle safety standards, is in good working
2 order, and is used in accordance with the assembly manufacturer's operating
3 instructions.

4 b. Passengers riding in the bed of a pickup truck are exempted from the requirement
5 to utilize a seat belt assembly, as stated in § 26103.a, provided that the following
6 criteria are met:

- 7 i. The bed of the pickup truck is surrounded on four sides by a secure vertical
8 body extension, inclusive of a tailgate, that is at least 16-inches high; and,
9 ii. There are no unoccupied seats in the cab of the pickup truck; and,
10 iii. Passengers in the bed of the truck are twelve (12) years of age or older; and,
11 iv. Passengers in the bed of a pickup truck remain seated on the floor of the
12 truck bed at all times; and,
13 v. A speed limit of twenty-five miles per hour (25 mph) or the posted speed
14 limit, whichever is lower, is not exceeded; and,
15 vi. The pickup truck travels in the outermost lane when prudent and safe, unless
16 otherwise directed by an individual lawfully directing traffic; and,
17 vii. Passengers are not leaning against the tailgate of the pickup truck; and,
18 viii. Passengers, when seated, do not cumulatively occupy more than seventy-
19 five percent (75%) of the available floor area of the pickup truck."

20 **Section 5.** § 26104 of Title 16, Guam Code Annotated, is hereby amended to read as

21 follows:

1 “§ 26104. **Violations and Exemptions.** Any driver of a car, van or pickup truck
2 who violates § 26101, § 26102 and/or § 26103 of this Chapter is shall be guilty of a
3 misdemeanor and subject to penalties pursuant to § 26105 of this Chapter,
4 provided however that no person shall be guilty of violating this statute if:

- 5 a. The motor vehicle being driven is participating in a slow-moving parade, with
6 said motor vehicle not exceeding a speed of ten miles per hour (10 mph); or,
- 7 b. The inadequately restrained individual has a condition that prevents appropriate
8 restraint by the seat belt assembly or child restraint system. Such a condition must
9 be duly certified by a physician who shall state the nature of the condition, as well
10 as the reason such restraint is inappropriate. For a physician’s statement to
11 qualify under this section, the physician giving the statement must state why use
12 of a child restraint system or seat belt assembly by the person would be
13 impractical or harmful to the person by reason of physical condition, medical
14 issue or body size; or,
- 15 c. The inadequately restrained individual is a passenger of an emergency or
16 passenger transport vehicle. As used in this section, unless the context otherwise
17 requires:
- 18 i. Emergency vehicle means an on-duty ambulance, firefighting or rescue
19 vehicle, or law enforcement vehicle;
- 20 ii. Passenger transport vehicle means any vehicle operated to carry
21 passengers en masse with a gross vehicle rate rating over ten thousand
22 (10,000) pounds.
- 23 d. The vehicle being operated was manufactured before January 1, 1967.”

1 **Section 6.** § 26105 of Title 16, Guam Code Annotated, is hereby amended to read as
2 follows:

3 **“§ 26105. Penalties.**

- 4 a. Any ~~operator~~ driver convicted of ~~failing to secure a child with a child passenger~~
5 ~~restraint system in violation~~ violating §26101, §26102, or violates §26103 shall
6 may be fined a sum no greater than Fifty Dollars (\$50.00) for each violation
7 stemming from an initial incident, and a sum no greater than Ninety Dollars (\$90)
8 for each violation stemming from subsequent incidents. For the purposes of this
9 section, a *subsequent incident* means an encounter with a law enforcement officer
10 prior to which a traffic citation was issued to said driver for violating §26101,
11 §26102, or §26103.
- 12 b. With each violation stemming from subsequent incidents, and notwithstanding the
13 Central Accounting Act, any fines collected in excess of Fifty Dollars (\$50) shall
14 be credited to a special fund to be known as the Seat Belt Safety Fund. This Fund
15 shall be kept in a bank licensed to do business on Guam and funds shall be used
16 by Government of Guam law enforcement agencies for the purposes of traffic
17 safety educational programs, traffic safety public awareness campaigns, and to
18 cover capital and operational expenses incurred through seat belt inspection
19 initiatives, inclusive of traffic safety checkpoints. All monies in this Fund shall
20 require legislative appropriation.
- 21 ~~b. The penalty pursuant to subsection (a) of this Section shall be suspended in the~~
22 ~~ease of a person who has never before been convicted of a violation of §26101 or~~
23 ~~§26102 of this Chapter and who did not own a child passenger restraint system~~

1 that met federal safety standards at the time of the violation, provided that such
2 person establishes to the satisfaction of the court, within a reasonable period of
3 time as set by the court, that such person owns such a child passenger restraint
4 system.

5 e. ~~A driver shall be exempted from the penalty pursuant to subsection (a) of this~~
6 ~~Section in the case of a child who for medical or physical reasons is unable to~~
7 ~~utilize a child passenger restraint system.”~~



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guåhan

PUBLIC HEARING

Tuesday, April 28, 2009

9:30 a.m.

Public Hearing Room, *I Liheslaturan Guåhan*

Notices for the public hearing were disseminated to all local media via fax and email on April 21, 2009 and on April 24, 2009, pursuant to the Open Government Law.

A G E N D A

- **Bill No. 97 (COR)** – An act to amend §26101, §26102, §26103, §26104 and §26105 of Title 16, Guam Code Annotated, relative to requiring the use of a seat belt assembly and child restraint system. – by **Senator T. C. Ada**

The Committee will allow up to ten (10) days after the public hearing date for submission of testimonies written or electronic, to Senator Adolpho B. Palacios, Sr., Chairman, Committee on Public Safety, Law Enforcement, and Senior Citizens. Deadline for submission of testimonies for Bill No. 97 will be May 8, 2009, after which time the Committee will prepare the Committee Report, in preparation for consideration by the legislative body.

Office/Mailing Address: 155 Hester Place, Hagatña Guam 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina Trenta na Liheslaturan Guåhan

FACSIMILE TRANSMITTAL SHEET

DATE: April 24, 2009

TO: KUAM/Isla 630 637-9865
Pacific News Center 477-0793
PDN 477-3079
Marianas Variety 648-2007
K-57/Power 98 477-3982
Hit Radio 100 472-7663
KStereo/KISH 477-6411

FROM: Office of Senator Adolpho B. Palacios, Sr.

SUBJECT: *PUBLIC HEARING NOTICE – April 28, 2009*

PAGES: 1 (including this sheet)

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

April 24, 2009

(Pursuant to §8107, Title 5 GCA – 48 hours prior to hearing date)

PUBLIC HEARING SECOND NOTICE

The Committee on Public Safety, Law Enforcement, and Senior Citizens has scheduled a public hearing for **9:30 am, Tuesday, April 28, 2009**, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 97 (COR)** – An act to amend §26101, §26102, §26103, §26104 and §26105 of Title 16, Guam Code Annotated, relative to requiring the use of a seat belt assembly and child restraint system. – by **Senator T. C. Ada**

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Office/Mailing Address: 155 Hester Place, Hagåtña Guam 96910

Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com

MULTI COMMUNICATION REPORT

APR-24-2009 09:49 AM FRI

FAX NUMBER :
NAME :

REF. NAME :
PAGES : 1

1. SUCCESSFUL

FAX NUMBER	NAME
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6482007	
4773982	
4727663	
4776411	

2. UNSUCCESSFUL

FAX NUMBER	NAME
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3. MULTI COMMUNICATION JOURNAL

NO.	NAME/NUMBER	START TIME	TIME	MODE	PAGE	RESULTS
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447	4770793	04-24 09:45AM	00' 14"	ECM BC	001/001	[O.K]
447	4773079	04-24 09:45AM	00' 28"	ECM BC	001/001	[O.K]
447	6482007	04-24 09:46AM	00' 14"	ECM BC	001/001	[O.K]
447	4727663	04-24 09:47AM	00' 14"	ECM BC	001/001	[O.K]
447	4776411	04-24 09:48AM	00' 26"	ECM BC	001/001	[O.K]
447	4773982	04-24 09:49AM	00' 14"	ECM BC	001/001	[O.K]



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guahan

FACSIMILE TRANSMITTAL SHEET

DATE: April 24, 2009

TO:

Speaker J. Won Pat	472-3589
Vice Speaker B. J. Cruz	477-2522
Senator T. Muna-Barnes	472-3400
Senator R. J. Respicio	472-3547
Senator J. P. Guthertz	472-3547
Senator T. C. Ada	473-3303
Senator Matt Rector	734-8085
Senator v. c. pangelinan	473-4238
Senator F. B. Aguon, Jr.	969-1497
Senator E. J. B. Calvo	475-8805
Senator Ray Tenorio	479-1329
Senator J. V. Espaldon	475-2000
Senator T. Taitague	969-8357
Senator F. Blas, Jr.	472-2528

FROM: Office of Senator Adolpho B. Palacios, Sr.

SUBJECT: *PUBLIC HEARING SECOND NOTICE – April 28, 2009*

PAGES: 2 (including this sheet)

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

PLEASE SEE ATTACHED NOTICE.

THANK YOU.



**COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS**

**SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN**

I Mina'Trenta na Liheslaturan Guåhan

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Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com

MULTI COMMUNICATION REPORT

APR-24-2009 10:08 AM FRI

FAX NUMBER :
NAME :

REF. NAME :
PAGES : 2

1. SUCCESSFUL

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4791329	
4752000	
9698357	
4722528	

2. UNSUCCESSFUL

FAX NUMBER	NAME
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3. MULTI COMMUNICATION JOURNAL

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449	4723547	04-24 10:00AM	00' 16"	ECM BC	002/002	[O.K]
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449	4734238	04-24 10:02AM	00' 20"	ECM BC	002/002	[O.K]
449	9691497	04-24 10:03AM	00' 18"	ECM BC	002/002	[O.K]
449	4758805	04-24 10:04AM	00' 18"	ECM BC	002/002	[O.K]
449	4791329	04-24 10:05AM	00' 16"	ECM BC	002/002	[O.K]
449	4752000	04-24 10:06AM	00' 16"	ECM BC	002/002	[O.K]
449	9698357	04-24 10:06AM	00' 38"	G3 BC	002/002	[O.K]
449	4722528	04-24 10:08AM	00' 16"	ECM BC	002/002	[O.K]



Adolpho Palacios <senabpalacios@gmail.com>

Public Hearing - April 28, 2009

1 message

Adolpho Palacios <senabpalacios@gmail.com>**Fri, Apr 24, 2009 at 9:46 AM**

To: mindy@kuam.com, malafunkshun@kuam.com, news@guampdn.com, cmelyan@guampdn.com, amier@mvguam.com, marvic@mvguam.com, jontalk@k57.com, msilva@k57.com, kstone@ite.net, news@spbguam.com

April 24, 2009

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Adolpho Palacios <senabpalacios@gmail.com>

Second Notice - Public Hearing April 28, 2009

1 message

Adolpho Palacios <senabpalacios@gmail.com>**Fri, Apr 24, 2009 at 9:43 AM**

To: speaker@judiwonpat.com, office@senatorada.org, "Senator Frank B. Aguon" <aguon4guam@gmail.com>, Secretary Tina Rose Muna-Barnes <tinamunabarnes@gmail.com>, "Senator Frank F. Blas, Jr." <frank.blasjr@gmail.com>, "Senator Edward J. B. Calvo" <senecalvo@gmail.com>, "Vice Speaker Benjamin J. F. Cruz" <senadotbjcruz@aol.com>, senjim@ite.net, "Asst. Majority Leader Judith P. Guthertz, DPA" <judiguthertz@pticom.com>, "Senator Ben C. Pangelinan" <senbenp@guam.net>, Senator Matt Rector <matt@mattrector.com>, "Majority Leader Rory J. Respicio" <roryforguam@gmail.com>, senatortelo@gmail.com, Senator Ray Tenorio <ray@raytenorio.com>, psantos@guamlegislature.org, sem@guamlegislature.org, cdecastro@guamlegislature.org, yong@guamlegislature.org, malo@guamlegislature.org, tunsio@guamlegislature.org

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Adolpho Palacios <senabpalacios@gmail.com>

Press Release - Notice of Public Hearing

1 message

Adolpho Palacios <senabpalacios@gmail.com>**Tue, Apr 21, 2009 at 9:31 AM**

To: malafunkshun@kuam.com, marvic@mvguam.com, mindy@kuam.com, msilva@k57.com, cmelyan@guampdn.com, jontalk@k57.com, kstone@ite.net, amier@mvguam.com, news@guampdn.com, carlene@guahanmagazine.com

PRESS RELEASE

(For Immediate Release – April 21, 2009)

NOTICE OF PUBLIC HEARING

By Senator Adolpho B. Palacios, Sr.

Tuesday, April 28, 2009 at 9:30 am

I Liheslaturan Guåhan's Public Hearing Room, Hagåtña

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Adolpho Palacios <senabpalacios@gmail.com>

Notice of Public Hearing

1 message

Adolpho Palacios <senabpalacios@gmail.com>**Tue, Apr 21, 2009 at 9:44 AM**

To: "Speaker Judith T. Won Pat, Ed.D" <info@judiwonpat.com>, speaker@judiwonpat.com, "Vice Speaker Benjamin J. F. Cruz" <senadotbjcruz@aol.com>, Secretary Tina Rose Muna-Barnes <tinamunabarnes@gmail.com>, "Majority Leader Rory J. Respicio" <rorryforguam@gmail.com>, "Asst. Majority Leader Judith P. Guthertz, DPA" <judiguthertz@pticom.com>, Senator Tom Ada <tom@senatorada.org>, Senator Matt Rector <matt@mattrector.com>, "Senator Ben C. Pangelinan" <senbenp@guam.net>, "Senator Frank B. Aguon" <aguon4guam@gmail.com>, "Senator Edward J. B. Calvo" <sencalvo@gmail.com>, Senator Ray Tenorio <ray@raytenorio.com>, senator@espaldon.com, senatortelo@gmail.com, "Senator Frank F. Blas, Jr." <frank.blasjr@gmail.com>

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(For Immediate Release – April 21, 2009)

NOTICE OF PUBLIC HEARING

By Senator Adolpho B. Palacios, Sr.

Tuesday, April 28, 2009 at 9:30 am

I Liheslaturan Guåhan's Public Hearing Room, Hagåtña

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COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guåhan

FACSIMILE TRANSMITTAL SHEET

DATE: April 21, 2009

TO: KUAM/Isla 630 637-9865
TV 14 637-8819
PDN 477-3079
Marianas Variety 648-2007
K-57/Power 98 477-3982
Hit Radio 100 472-7663
KStereo/KISH 477-6411

FROM: Office of Senator Adolpho B. Palacios, Sr.

SUBJECT: *PUBLIC HEARING NOTICE – April 28, 2009*

PAGES: 1 (including this sheet)

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

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Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com

MULTI COMMUNICATION REPORT

APR-21-2009 09:32 AM TUE

FAX NUMBER :
NAME :

REF. NAME :
PAGES : 1

1. SUCCESSFUL

FAX NUMBER	NAME
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2. UNSUCCESSFUL

FAX NUMBER	NAME
6378819	

3. MULTI COMMUNICATION JOURNAL

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430	4773982	04-21 09:29AM	00' 14"	ECM BC	001/001	[O.K]
430	4727663	04-21 09:30AM	00' 14"	ECM BC	001/001	[O.K]
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MULTI COMMUNICATION REPORT

APR-21-2009 09:53 AM TUE

FAX NUMBER :
NAME :

REF. NAME :
PAGES : 2

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4733303	
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4791329	
4752000	
9698357	
4722528	

2. UNSUCCESSFUL

FAX NUMBER	NAME
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3. MULTI COMMUNICATION JOURNAL

NO.	NAME/NUMBER	START TIME	TIME	MODE	PAGE	RESULTS
431	4723589	04-21 09:40AM	00' 18"	ECM BC	002/002	[O.K]
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431	9691497	04-21 09:46AM	00' 18"	ECM BC	002/002	[O.K]
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431	4791329	04-21 09:48AM	00' 16"	ECM BC	002/002	[O.K]
431	4752000	04-21 09:49AM	00' 16"	ECM BC	002/002	[O.K]
431	9698357	04-21 09:50AM	00' 38"	G3 BC	002/002	[O.K]
431	4722528	04-21 09:53AM	00' 14"	ECM BC	002/002	[O.K]



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guåhan

FACSIMILE TRANSMITTAL SHEET

DATE: April 21, 2009

TO:

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Senator J. P. Guthertz	472-3547
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Senator Matt Rector	734-8085
Senator v. c. pangelinan	473-4238
Senator F. B. Aguon, Jr.	969-1497
Senator E. J. B. Calvo	475-8805
Senator Ray Tenorio	479-1329
Senator J. V. Espaldon	475-2000
Senator T. Taitague	969-8357
Senator F. Blas, Jr.	472-2528

FROM: Office of Senator Adolpho B. Palacios, Sr.

SUBJECT: *PUBLIC HEARING NOTICE – April 28, 2009*

PAGES: 2 (including this sheet)

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

PLEASE SEE ATTACHED NOTICE.

THANK YOU.



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT
& SENIOR CITIZENS

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

I Mina'Trenta na Liheslaturan Guåhan

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(For Immediate Release – April 21, 2009)

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Telephone No. (671) 472-5047/5048 • Fax No. (671) 472-5022 • Email: SenABPalacios@gmail.com



Adolpho Palacios <senabpalacios@gmail.com>

Notice of Public Hearing

1 message

Adolpho Palacios <senabpalacios@gmail.com>**Tue, Apr 21, 2009 at 1:13 PM**

To: news@spbguam.com, sem@guamlegislature.org, cdecastro@guamlegislature.org, yong@guamlegislature.org, ClerkOfLegis <ClerkofLegis@guamlegislature.com>, psantos@guamlegislature.org

NOTICE OF PUBLIC HEARING

By Senator Adolpho B. Palacios, Sr.**Tuesday, April 28, 2009 at 9:30 am*****I Liheslaturan Guåhan's Public Hearing Room, Hagåtña***

Please be advised that the Committee on Public Safety, Law Enforcement, and Senior Citizens will be conducting a public hearing on the following:

- **Bill No. 97 (COR)** – An act to amend §26101, §26102, §26103, §26104 and §26105 of Title 16, Guam Code Annotated, relative to requiring the use of a seat belt assembly and child restraint system. – by **Senator T. C. Ada**

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Adolpho B. Palacios, Sr., or via fax to 472-5022, or via email to SenABPalacios@gmail.com. Copies of the aforementioned Bills may be obtained at *I Liheslaturan Guåhan's* website at www.guamlegislature.com. Individuals requiring special accommodations or services, please contact Jonathan Diaz or Priscilla Cruz at 472-5047/5048.

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Pacific Daily News, Thursday, April 23, 2009 guampdn.com

GOVERNMENT MEETINGS

Today

Civil Service Commission: Board meeting 5:30 p.m., seventh-floor conference room, ITC Building, Tamuning. Judgments of dismissal: Glenn E. Cruz vs. Guam Power Authority, Josephine Torres vs. Department of Public Works; motion hearing in Donald S.N. Iriarte vs. Guam Fire Department; bills and laws relating to CSC. For special accommodations, call Bianca at 647-1855/7 or TDD 647-1872.

Guam Election Commission: Board meeting 4 p.m., commission's conference room, Suite 200, GCIC Building, Hagåtña. Public invited. For special accommodations, call 477-9791/2.

Guam Visitors Bureau: Board of directors regular meeting 4 p.m., GVB main conference room, Tumon. For special accommodations, call 646-5278.

Port Authority of Guam: Board of directors regular meeting 2 p.m., board conference room, Cabras Island, Piti. For special accommodations, call Simeon Delos Santos, 477-5931/4, ext. 430 or pager 635-1351.

University of Guam Board of Regents: Regular meeting 5:30 p.m., AV room 1, RFK Library, Tan Siu Lin building. Working

session at 4 p.m. in the president's conference room, second floor of Jesus S. and Eugenia A. Leon Guerrero building. For special accommodations, call Elaine Faculo-Gogue, 735-2244 or TTY 735-2243.

Tomorrow

Government of Guam Retirement Fund: Board of trustees regular meeting noon, Retirement Fund conference room, Route 8, Maite. For special accommodations, call 475-8900/1.

April 28

Civil Service Commission: Board meeting 5:30 p.m., seventh-floor conference room, ITC Building, Tamuning. Hearing on merits: Rosana Quintanilla vs. Guam Public School System; signing of judgment of dismissal: Frank J. Troy vs. University of Guam; bills and laws relating to CSC. For special accommodations, call Bianca at 647-1855/7 or TDD 647-1872.

Committee on Public Safety, Law Enforcement and Senior Citizens: Public hearing 9:30 a.m., Legislature's public hearing room, Hagåtña. Bill 97, requiring use of seat belt assembly and child restraint system. For special accommodations, call 472-5047/8.



To our valued customers,
Toh Ka Loh will be closed for Lunch Buffet on
April 24. Dinner hours remain the same.
Please call 646-6811.



Guam Aurora Resort
Villa & Spa

GOVERNMENT MEETINGS

Today

Government of Guam Retirement

Funds: Board of trustees' regular meeting noon. Retirement Fund conference room, Route 8, Maite. For special accommodations, call 475-89001.

April 28

Civil Service Commission: Board meeting

5:30 p.m., seventh floor conference room, TTC Building, Tamuning. Hearing on merits: Rosana Quintanilla vs. Guam Public School System; signing of judgment of dismissal: Frank J. Troy vs. University of Guam; bills and laws relating to CSC. For special accommodations, call Bianca at 647-1855/7 or TDD 647-1872. Committee on Public Safety, Law Enforcement and Senior Citizens: Public

hearing 9:30 a.m., Legislature's public hearing room, Hagåtña. Bill 97, requiring use of seat belt assembly and child restraint system. For special accommodations, call 472-5047/8.

Consolidated Commission on Utilities:

Regular meeting on Guam Power Authority matters 5 p.m., GPA board conference room, Harmon. Agenda copies available. For special accommodations, call Lou Sablan, 648-3002.

Guam Board of Examiners for Optometry:

Regular meeting 8:30 a.m., Health Professional Licensing Office, Suite 9, Legacy Square Commercial Complex, Route 10, Mangilao. For special accommodations, call 735-7406/11.

April 29

A.B. Won Pat Guam International Airport Authority: Board of directors' regular meeting

3 p.m., terminal conference room 3, Tamuning. Agenda copies available. Parking available in public parking lot. For special accommodations, call 646-0300.

Guam Education Policy Board: Regular meeting

6 p.m., Guam Public School System conference room, Hagåtña. For special accommodations, call Joyce Kameshiro, 300-1627.

April 30

Guam Pardon Review Board: Regular meeting

3 p.m., Parole Services Division, fifth floor, Suite 504, DNA Building (formerly Pacific News Building), Hagåtña. For special accommodations, call 473-7001.

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

Bill No. 97 (COR)

Introduced by:

T. C. Ada

2009 APR 4 PM 4:32 M

AN ACT TO AMEND §26101, §26102, §26103, §26104 AND
§26105 OF TITLE 16, GUAM CODE ANNOTATED,
RELATIVE TO REQUIRING THE USE OF A SEAT BELT
ASSEMBLY AND CHILD RESTRAINT SYSTEM.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. **Legislative Findings.** On December 10, 1986, Public Law 18-45 mandated
3 the use of passenger restraint devices. National studies have shown that lives have been saved
4 and numerous injuries rendered less life-threatening by simply buckling up. P.L. 18-45,
5 however, only mandated the use of seat belt assemblies for the driver and front seat passenger.
6 Additionally, P.L. 18-45 no longer meets current federal standards for child restraint systems,
7 particularly in regards to child booster seat requirements. It is the intent of *I Mina' Trenta Na*
8 *Liheslaturan Guåhan* to require the use of appropriate passenger restraining devices for all
9 occupants within a car, van or pickup truck, and to clarify and establish certain restrictions for
10 passengers in the bed of a pickup truck.

11 Section 2. § 26101 of Title 16, Guam Code Annotated, is hereby amended to read as
12 follows:

13 "§ 26101. **Child Restraint: Requirement for Child Restraint System, non-**
14 **Booster Seat.** The driver of a car, van or pickup truck in which a child under ~~two~~ four
15 (4) years of age is being transported shall secure such child during transit ~~by~~ in a child

1 passenger restraint system which meets federal motor vehicle safety standards, is in good
2 working order, and is used in accordance with the manufacturer's operating instructions,
3 ~~provided that if a child under two years of age has outgrown a standard size child~~
4 ~~passenger restraint system, the driver shall secure the child by federally approved safety~~
5 ~~belts or safety harnesses."~~

6 **Section 3.** § 26102 of Title 16, Guam Code Annotated, is hereby amended to read as
7 follows:

8 **"§ 26102. Child Restraint: Standards Requirement for Child Restraint**
9 **System, Booster Seat.** The driver of a car, van or pickup truck in which a ~~child two~~
10 ~~years of age or more but under twelve years of age~~ passenger less than four feet and nine
11 inches tall (4'9") and between four (4) and eleven (11) years of age is being transported
12 shall secure such child during transit in a booster seat which ~~by either a child passenger~~
13 ~~restraint system that meets federal motor vehicle safety standards, is in good working~~
14 order, and is used in accordance with the manufacturer's operating instructions, ~~or by~~
15 ~~federally approved safety belts or safety harness."~~

16 **Section 4.** § 26103 of Title 16, Guam Code Annotated, is hereby amended to read as
17 follows:

18 **"§ 26103. Driver and Passenger(s). Seat Belts Required.** ~~Each Driver and front~~
19 ~~seat passenger of a car, van or pickup truck shall wear a properly adjusted and fastened~~
20 ~~seat safety belt.~~

- 21 a. No driver shall operate a car, van or pickup truck upon any highways, either
22 primary or secondary, unless all passengers taller than four feet and nine inches
23 (4'9") and/or twelve (12) years of age or older are restrained by a seat belt

1 assembly that meets federal motor vehicle safety standards, is in good working
2 order, and is used in accordance with the assembly manufacturer's operating
3 instructions.

4 b. Passengers riding in the bed of a pickup truck are exempted from the requirement
5 to utilize a seat belt assembly, as stated in § 26103.a, provided that the following
6 criteria are met:

7 i. The bed of the pickup truck is surrounded on four sides by a secure vertical
8 body extension, inclusive of a tailgate, that is at least 16-inches high; and,

9 ii. There are no unoccupied seats in the cab of the pickup truck; and,

10 iii. Passengers in the bed of the truck are twelve (12) years of age or older; and,

11 iv. Passengers in the bed of a pickup truck remain seated on the floor of the
12 truck bed at all times; and,

13 v. A speed limit of twenty-five miles per hour (25 mph) or the posted speed
14 limit, whichever is lower, is not exceeded; and,

15 vi. The pickup truck travels in the outermost lane when prudent and safe, unless
16 otherwise directed by an individual lawfully directing traffic; and,

17 vii. Passengers are not leaning against the tailgate of the pickup truck; and,

18 viii. Passengers, when seated, do not cumulatively occupy more than seventy-
19 five percent (75%) of the available floor area of the pickup truck.”

20 **Section 5.** § 26104 of Title 16, Guam Code Annotated, is hereby amended to read as

21 follows:

1 “§ 26104. **Violations and Exemptions.** Any driver of a car, van or pickup truck
2 who violates § 26101, § 26102 and/or § 26103 of this Chapter is shall be guilty of a
3 misdemeanor and subject to penalties pursuant to § 26105 of this Chapter,
4 provided however that no person shall be guilty of violating this statute if:

- 5 a. The motor vehicle being driven is participating in a slow-moving parade, with
6 said motor vehicle not exceeding a speed of ten miles per hour (10 mph); or,
- 7 b. The inadequately restrained individual has a condition that prevents appropriate
8 restraint by the seat belt assembly or child restraint system. Such a condition must
9 be duly certified by a physician who shall state the nature of the condition, as well
10 as the reason such restraint is inappropriate. For a physician’s statement to
11 qualify under this section, the physician giving the statement must state why use
12 of a child restraint system or seat belt assembly by the person would be
13 impractical or harmful to the person by reason of physical condition, medical
14 issue or body size; or,
- 15 c. The inadequately restrained individual is a passenger of an emergency or
16 passenger transport vehicle. As used in this section, unless the context otherwise
17 requires:
- 18 i. Emergency vehicle means an on-duty ambulance, firefighting or rescue
19 vehicle, or law enforcement vehicle;
- 20 ii. Passenger transport vehicle means any vehicle operated to carry
21 passengers en masse with a gross vehicle rate rating over ten thousand
22 (10,000) pounds.
- 23 d. The vehicle being operated was manufactured before January 1, 1967.”

1 **Section 6.** § 26105 of Title 16, Guam Code Annotated, is hereby amended to read as
2 follows:

3 “**§ 26105. Penalties.**

- 4 a. Any ~~operator driver~~ convicted of ~~failing to secure a child with a child passenger~~
5 ~~restraint system in violation~~ violating §26101, §26102, or violates §26103 shall
6 may be fined a sum no greater than Fifty Dollars (\$50.00) for each violation
7 stemming from an initial incident, and a sum no greater than Ninety Dollars (\$90)
8 for each violation stemming from subsequent incidents. For the purposes of this
9 section, a *subsequent incident* means an encounter with a law enforcement officer
10 prior to which a traffic citation was issued to said driver for violating §26101,
11 §26102, or §26103.
- 12 b. With each violation stemming from subsequent incidents, and notwithstanding the
13 Central Accounting Act, any fines collected in excess of Fifty Dollars (\$50) shall
14 be credited to a special fund to be known as the Seat Belt Safety Fund. This Fund
15 shall be kept in a bank licensed to do business on Guam and funds shall be used
16 by Government of Guam law enforcement agencies for the purposes of traffic
17 safety educational programs, traffic safety public awareness campaigns, and to
18 cover capital and operational expenses incurred through seat belt inspection
19 initiatives, inclusive of traffic safety checkpoints. All monies in this Fund shall
20 require legislative appropriation.
- 21 ~~b. The penalty pursuant to subsection (a) of this Section shall be suspended in the~~
22 ~~ease of a person who has never before been convicted of a violation of §26101 or~~
23 ~~§26102 of this Chapter and who did not own a child passenger restraint system~~

1 that met federal safety standards at the time of the violation, provided that such
2 person establishes to the satisfaction of the court, within a reasonable period of
3 time as set by the court, that such person owns such a child passenger restraint
4 system.

5 e. ~~A driver shall be exempted from the penalty pursuant to subsection (a) of this~~
6 ~~Section in the case of a child who for medical or physical reasons is unable to~~
7 ~~utilize a child passenger restraint system.”~~