

EDDIE BAZA CALVO
Governor



RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

2011 APR 20 AM 8:18
MWA

April 19, 2011

31-11-439

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Unu Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

4/19/11
5:05 pm
remd

Dear Madame Speaker:

Transmitted herewith is Substitute Bill No. 61-31 (COR) "AN ACT TO ADD §§1102(c)(1), AND 1102 (vv) AND (ww) TO CHAPTER 1; AND TO ADD NEW DEFINITIONS TO §5101, AMEND §§5109(a), 5109(c) AND 5112(b), AND ADD NEW §§5112(d), 5116(d) AND 5117 TO CHAPTER 5, ALL OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO GRANTING DMV/MCSAP OFFICIALS WITH AUTHORITY TO ISSUE CITATIONS AND EXPAND THE SCOPE OF THE AUTHORITY AND INTRASTATE MOVEMENTS OF CMVS, AND CODIFIES E.O. 87-27 RELATIVE TO CONDUCTING INSPECTION OF CMVS AT OWNER'S PREMISES", which I signed into law on April 18, 2011 as Public Law 31-27.

Senseramente,

EDDIE BAZA CALVO

Attachment: copy of Bill

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

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

This is to certify that Substitute Bill No. 61-31 (COR), "AN ACT TO *ADD NEW §§1102(c)(1), AND 1102(vv) AND (ww) TO CHAPTER 1; AND TO ADD NEW DEFINITIONS TO §5101, AMEND §§5109(a), 5109(c) AND 5112(b), AND ADD NEW §§5112(d), 5116(d) AND 5117 TO CHAPTER 5, ALL OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO GRANTING DMV/MCSAP OFFICIALS WITH AUTHORITY TO ISSUE CITATIONS AND EXPAND THE SCOPE OF THE AUTHORITY TO INTRASTATE MOVEMENTS OF CMVS, AND CODIFIES E.O. 87-27 RELATIVE TO CONDUCTING INSPECTION OF CMVs AT OWNER'S PREMISES*", was on the 4th day of April, 2011, duly and regularly passed.



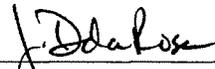
Judith T. Won Pat, Ed.D.
Speaker

Attested:



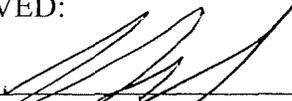
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 7th day of April, 2011, at 09:50 o'clock A.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



EDWARD J.B. CALVO
I Maga'lahaen Guåhan

Date:

APR 18 2011

Public Law No. 31-27

I MINA'TRENTAI UNU NA LIHESLATURAN GUÁHAN
2011 (FIRST) Regular Session

Bill No. 61-31 (COR)

As substituted by the Committee on Public Safety,
Law Enforcement and Judiciary, and amended on the Floor.

Introduced by:

T .C. Ada
Adolpho B. Palacios, Sr.
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Duenas
Sam Mabini, Ph.D.
Judith P. Guthertz, DPA
T. R. Muña Barnes
v. c. pangelinan
R. J. Respicio
Dennis G. Rodriguez, Jr.
M. Silva Taijeron
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* NEW §§1102(c)(1), AND 1102(vv) AND (ww) TO CHAPTER 1; AND TO *ADD* NEW DEFINITIONS TO §5101, *AMEND* §§5109(a), 5109(c) AND 5112(b), AND *ADD* NEW §§5112(d), 5116(d) AND 5117 TO CHAPTER 5, ALL OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO GRANTING DMV/MCSAP OFFICIALS WITH AUTHORITY TO ISSUE CITATIONS AND EXPAND THE SCOPE OF THE AUTHORITY TO INTRASTATE MOVEMENTS OF CMVS, AND CODIFIES E.O. 87-27 RELATIVE TO CONDUCTING INSPECTION OF CMVs AT OWNER'S PREMISES.

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

2 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that the
3 standards established by Guam’s current Motor Vehicle Code need to be updated
4 to support the continued development of Guam’s transportation and other
5 industries, and to enhance the safety of Guam’s roads. Such updates include: (1)
6 the definition of commercial motor vehicle (CMV); and (2) granting the Division
7 of Motor Vehicles/Motor Carrier Safety Assistance Program (MCSAP) officials
8 the authority to: (a) conduct inspections of both interstate and intrastate CMV
9 activity; (b) stop and inspect CMVs traveling on Guam’s highways; (c) inspect
10 passenger vans, including mini-buses and limousines, to determine if safety
11 requirements are being met; and (d) require certain reports from all motor carriers
12 and inspect all equipment of motor carriers, as well as books and documents
13 related to the safety of motor carrier operations. The new requirements will apply
14 to approximately six thousand (6,000) currently registered civilian CMVs
15 weighing ten thousand one (10,001) lbs., and eight hundred (800) registered
16 civilian CMV vans, mini-buses, and limousines intended to transport eight (8) to
17 fifteen (15) passengers.

18 **Section 2.** A new §1102(c)(1) is hereby *added* to Chapter 1 of Title 16,
19 Guam Code Annotated, to read:

20 “(1) A *commercial motor vehicle (CMV)* is a vehicle of a type
21 required to be registered hereunder, used or maintained for the transportation
22 of persons for hire, compensation or profit, or designed, used or maintained
23 primarily for the transportation of property. Additionally, a commercial
24 motor vehicle includes any self-propelled or towed motor vehicle used on a
25 highway in interstate or intrastate commerce to transport passengers or
26 property when the vehicle:

1 (A) has a gross vehicle weight rating (GVWR) as classified
2 by the vehicle manufacturer, or gross combination weight rating
3 (GCWR), or gross vehicle weight (GVW), or gross combination
4 weight (GCW), of 4,536 kg (10,001 pounds) or more, whichever is
5 greater; or

6 (B) is designed or used to transport more than eight (8)
7 passengers, including the driver, for compensation; or

8 (C) is designed or used to transport more than fifteen (15)
9 passengers, including the driver, and is not used to transport
10 passengers for compensation; or

11 (D) is used in transporting material found by the Secretary of
12 Transportation to be hazardous under 49 U.S.C. 5103, and transported
13 in a quantity requiring placarding under regulations prescribed by the
14 Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

15 (E) For intrastate commerce purposes only, a commercial
16 motor vehicle includes a vehicle of a type required to be registered
17 hereunder, and used or maintained for the transportation of nine (9) to
18 fifteen (15) persons.”

19 **Section 3.** New §1102(vv) and (ww) are hereby *added* to Chapter 1 of
20 Title 16, Guam Code Annotated, to read:

21 “(vv) *Interstate commerce* means trade, traffic, or transportation in
22 the United States, which includes the fifty (50) states, District of Columbia,
23 territories and Commonwealths of the United States:

24 (1) between a Guam port of entry/exit (the J.D. Leon
25 Guerrero Commercial Port or the A.B. Won Pat International Airport)
26 and a place outside of such entry/exit; or

1 (2) between two (2) places in Guam as part of trade, traffic,
2 or transportation originating or terminating outside Guam or the
3 United States.

4 (ww) *Intrastate commerce* means any trade, traffic, or transportation
5 within the Territory of Guam which is *not* described in the term ‘interstate
6 commerce’.”

7 **Section 4.** New definitions are hereby *added* to §5101 of Chapter 5 of
8 Title 16, Guam Code Annotated, to read:

9 “*Gross Combination Weight (GCW)*: The total weight of the power
10 unit and the total weight of the towed unit and any load thereon.

11 *Gross Combination Weight Rating (GCWR)*: The value specified by
12 the manufacturer as the loaded weight of a combination (articulated) motor
13 vehicle. In the absence of a value specified by the manufacturer, GCWR
14 will be determined by adding the GVWR of the power unit and the total
15 weight of the towed unit and any load thereon.

16 *Gross Vehicle Weight (GVW)*: The total weight of the loaded vehicle.
17 This includes the vehicle itself and the cargo that is loaded within that
18 vehicle.

19 *Gross Vehicle Weight Rating (GVWR)*: The value specified by the
20 manufacturer as the loaded weight of a single motor vehicle.

21 *Portable Scales*: A movable weighing device.

22 *Static Scales*: An immovable measuring scale, similar to a ruler, that
23 is attached to the edge of an optical comparator screen.

24 *Weigh-in-Motion Scales*: Weighing-in-Motion (WIM) is, as the name
25 implies, the process of weighing a vehicle as it is moving along the highway
26 in an effort to estimate the equivalent static weight of the vehicle.”

1 **Section 5.** §5109(a) of Chapter 5 of Title 16, Guam Code Annotated, is
2 hereby *amended* to read:

3 “(a) For purposes of the enforcement of this part, the Director of
4 Revenue and Taxation (Director) *shall* have such powers of enforcement as
5 may be necessary to implement this part. The Director may delegate the
6 enforcement of this part to the Administrator of the Division of Motor
7 Vehicles/Motor Carrier Safety Assistance Program (DMV/MCSAP). For
8 the purpose of the safety, welfare and health of the general public, and the
9 safe transportation of hazardous materials and waste on any public highway,
10 or primary road, and the enforcement of this part and of all rules adopted
11 pursuant to this part, the Director, and persons appointed by the Director,
12 may (1) inspect lands, buildings, freight and equipment of motor carriers; (2)
13 stop and inspect freight and equipment of motor carriers on any public
14 highway or primary road; (3) inspect shipping papers and hazardous waste
15 manifests of motor carriers and persons subject to this part; and (4) stop and
16 inspect similar documents and equipment status of military vehicles
17 traveling on a Guam public highway or primary road.

18 Every police officer *or* Division of Motor Vehicles/Motor Carrier
19 Safety Assistance Program (DMV/MCSAP) inspector *shall* assist in the
20 enforcement of this part and of all rules adopted pursuant to this part and
21 issue citations for violations as appropriate.”

22 **Section 6.** §5109(c) of Chapter 5 of Title 16, Guam Code Annotated, is
23 hereby *amended* to read:

24 “(c) Every police officer *or* DMV/MCSAP inspector having reason
25 to believe that the weight of a vehicle, either unladen *or* with load, is
26 unlawful, is authorized to require the driver to stop and submit to a weighing
27 of same by means of portable scales, static scales, or weigh-in-motion

1 scales. Violations *shall* be subject to penalties cited in §5112(a) of this
2 Chapter.”

3 **Section 7.** §5112(b) of Chapter 5 of Title 16, Guam Code Annotated, is
4 hereby *amended* to read:

5 “(b) All permit fees and fines *shall* be deposited into the Better
6 Public Service Fund of the Department of Revenue and Taxation, to be used
7 by the Division of Motor Vehicles.”

8 **Section 8.** A new §5112(d) is hereby *added* to Chapter 5 of Title 16,
9 Guam Code Annotated, to read:

10 “(d) The fine schedules of the Superior Court of Guam and the
11 Commercial Vehicle Safety Alliance (CVSA) for violations cited during
12 roadside inspections, and the method for penalty assessment outlined in the
13 Federal Uniform Fine Assessment (UFA) Program, specifically for
14 violations identified as a result of a Compliance Review, are hereby adopted
15 pursuant to fines and fees as applicable to Guam.”

16 **Section 9.** A new §5116(d) is hereby *added* to Chapter 5 of Title 16 Guam
17 Code Annotated, to read:

18 “(d) The regulations adopted in this Section *shall* be applicable to
19 both interstate commerce and intrastate commerce. Furthermore, the
20 Department of Revenue and Taxation, Guam Motor Carrier Safety
21 Assistance Program (MCSAP) personnel *shall* have the authority to enforce
22 the regulations on both intrastate and interstate motor vehicle carriers.”

23 **Section 10.** A new §5117 is hereby *added* to Chapter 5 of Title 16, Guam
24 Code Annotated, to read:

25 **“§5117. Accounts, Records, and Reports. Inspection.**

26 (a) The Director of Revenue and Taxation may require annual,
27 periodic, or special reports from all motor carriers, prescribe the manner and

1 form in which the reports shall be made, and require from the carriers
2 specific and full, true, and correct answers to all questions which the
3 Director may deem necessary for the safety regulation of motor carrier
4 vehicles.

5 (b) The Director may prescribe the forms of any and all records and
6 memoranda to be maintained by motor carriers as related to the safety of
7 motor carrier operations consistent with the guidelines set forth in Title 30,
8 Guam Administrative Rules and Regulations. The Director or Director's
9 duly authorized representative *shall* at all reasonable times and places
10 consistent with §9302, 30 GAR, Division 2, Article 3 have access to and
11 authority, under the Director's or representative's order, to inspect and
12 examine any and all equipment of motor carriers and *shall* have authority to
13 inspect and copy any and all books, records, memoranda, and other
14 documents as are related to the safety of motor carrier operations.

15 (c) Each motor carrier operating vehicle in Guam *shall* keep all
16 records and reports required by this Section at an office or place of business
17 located within Guam."

18 **Section 11. Severability.** *If* any provision of this law *or* its application to
19 any person or circumstance is found to be invalid or contrary to law, such
20 invalidity shall *not* affect other provisions or applications of this law which can be
21 given effect without the invalid provisions *or* applications, and to this end the
22 provisions of this law are severable.

E

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

2011 (FIRST) Regular Session

Date: 4/4/11

VOTING SHEET

SBill No. 61-31(COR)

Resolution No. _____

Question: _____

NAME	<u>YEAS</u>	<u>NAYS</u>	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	<u>ABSENT</u>
ADA, Thomas C.	✓				
ADA, V. Anthony	✓				
BLAS, Frank F., Jr.	✓				
CRUZ, Benjamin J. F.					EA
DUENAS, Christopher M.	✓				
GUTHERTZ, Judith Paulette	✓				
MABINI, Sam	✓				
MUNA-BARNES, Tina Rose	✓				
PALACIOS, Adolpho Borja, Sr.	✓				
PANGELINAN, vicente (ben) cabrera	✓				
RESPICIO, Rory J.	✓				
RODRIGUEZ, Dennis G., Jr.	✓				
SILVA TAIJERON, Mana	✓				
WON PAT, Judith T.	✓				
YAMASHITA, Aline A.	✓				

TOTAL

14 _____ _____ _____ 1

CERTIFIED TRUE AND CORRECT:



Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



Thirty-First
Guam Legislature

COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina'Trentai Uno Na Liheslaturan Guahan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

March 15, 2011

The Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'Trentai Unu na Liheslaturan Guahan
155 Hesler Place
Hagatña, Guam 96910

VIA: The Honorable Rory J. Respicio
Chairman, Committee on Rules

RE : Committee Report – Bill No. 61-31 (COR) as Substituted.

The Committee on Public Safety, Law Enforcement and Judiciary, to which was referred, **Bill No. 61-31 (COR) – AN ACT TO ADD §1102(c)(1), §1102(vv), §1102(ww), TO ADD NEW DEFINITIONS TO §5101, TO AMEND §5109(a), §5109(c), §5112(b) AND TO ADD §5112(d), §5116(d), §5117 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO GRANTING DMV/MCSAP OFFICIALS WITH AUTHORITY TO ISSUE CITATIONS AND EXPAND THE SCOPE OF THE AUTHORITY TO INTRASTATE MOVEMENTS OF CMVS, AND CODIFIES E.O. 87-27 RELATIVE TO CONDUCTING INSPECTION OF CMVS AT OWNER'S PREMISES,**" hereby reports out with the recommendation **TO PASS**.

Committee Votes are as follows:

<u>8</u>	TO PASS
<u>0</u>	NOT TO PASS
<u>0</u>	TO REPORT OUT ONLY
<u>0</u>	ABSTAIN
<u>0</u>	INACTIVE FILE

Sincerely,

ADOLPHO B. PALACIOS, MPA, BS/CJA
Chairman

Attachments

Committee Members:

- Senator Thomas C. Ada
Vice Chairman
- Speaker Judith T. Won Pat, Ph.D.
Member
- Senator Tina R. Munz Barnes
Member
- Senator Judith P. Guthertz, DPA
Member
- Senator Rory J. Respicio
Member
- Senator Dennis G. Rodriguez, Jr.
Member
- Senator V. Anthony Ada
Member
- Senator Christopher M. Duenas
Member
- Senator Mana Silva-Tajerón
Member
- Senator Aline A. Yamashita, Ph.D.
Member

Other Committee Membership:

- Vice Chairman, Committee on Utilities, Transportation, Public Works and Veterans Affairs
- Vice Chairman, Committee on Health and Human Services, Senior Citizens, Economic Development and Election Reform
- Member, Committee on Rules, Federal, Foreign & Micronesian Affairs and Human & Natural Resources
- Member, Committee on Education and Public Libraries
- Member, Committee on Guam Military Buildup and Homeland Security
- Member, Committee on Municipal Affairs, Tourism, Housing and Recreation

MAR 17 2011 10:05

Office/Mailing Address: 155 Hesler 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 & JUDICIARY
I Mina'Trentai Uno Na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

COMMITTEE REPORT
ON
BILL NO. 61-31 (COR)
As Substituted by the Committee on Public Safety,
Law Enforcement, and Judiciary

AN ACT TO ADD §1102(c)(1), §1102(vv), §1102(ww), TO ADD A NEW DEFINITIONS TO §5101, TO AMEND §5109(a), §5109(c), §5112(B) AND TO ADD §5112(d), §5116(d), §5117 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE SAFETY ON GUAM'S ROADS BY GRANTING DIVISION OF MOTOR VEHICLES/MOTOR CARRIER SAFETY ASSISTANCE PROGRAM OFFICIALS WITH CITATION AUTHORITY.



Thirty-First
Guam Legislature

COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina'Trentai Uno Na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

March 14, 2011

MEMORANDUM

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

FROM: Senator Adolpho B. Palacios, Sr. 
Committee Chairman

SUBJECT: Committee Report on Bill No. 61-31 (COR) as Substituted.

Transmitted herewith for your consideration is the Committee Report on Bill No. 61-31 (COR) as Substituted – AN ACT TO ADD §1102(c)(1), §1102(vv), §1102(ww), TO ADD A NEW DEFINITIONS TO §5101, TO AMEND §5109(a), §5109(c), §5112(b) AND TO ADD §5112(d), §5116(d), §5117 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE SAFETY ON GUAM'S ROADS BY GRANTING DIVISION OF MOTOR VEHICLES/MOTOR CARRIER SAFETY ASSISTANCE PROGRAM OFFICIALS WITH CITATION AUTHORITY. – sponsored by Senator Thomas C. Ada.

This report includes the following:

- Committee Voting Sheet
- Committee Report Digest
- Copy of Bill No. 61-31 (COR) as Substituted
- Copy of Bill No. 61-31 (COR) as introduced
- Public Hearing Sign-in Sheets
- Copies of testimony submitted and supporting documents
- Copy of COR Referral of Bill No. 61-31 (COR)
- Notices of Public Hearing
- Copy of the Public Hearing Agenda
- Miscellaneous related documents

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please contact this office.

Si Yu'os ma'åse!

Committee Members:

Senator Thomas C. Ada
Vice Chairman

Speaker Judith T. Won Pat, Ph.D.
Member

Senator Tina R. Muna-Barnes
Member

Senator Judith P. Guthert, DPA
Member

Senator Rory J. Respicio
Member

Senator Dennis G. Rodriguez, Jr.
Member

Senator V. Anthony Ada
Member

Senator Christopher M. Duenas
Member

Senator Mana Silva-Tajeron
Member

Senator Aline A. Yamashita, Ph.D.
Member

*Other Committee
Membership:*

Vice Chairman, Committee on
Utilities, Transportation, Public
Works and Veterans Affairs

Vice Chairman, Committee on
Health and Human Services,
Senior Citizens, Economic
Development and Election
Reform

Member, Committee on Rules,
Federal, Foreign & Micronesian
Affairs and Human & Natural
Resources

Member, Committee on
Education and Public Libraries

Member, Committee on Guam
Military Buildup and Homeland
Security

Member, Committee on
Municipal Affairs, Tourism,
Housing and Recreation

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COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina Trentai Uno Na Liheslaturan Guahan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

VOTING SHEET ON:

Bill No. 61-31 (COR) as Substituted – AN ACT TO ADD §1102(c)(1), §1102(vv), §1102(ww), TO ADD A NEW DEFINITIONS TO §5101, TO AMEND §5109(a), §5109(c), §5112(b) AND TO ADD §5112(d), §5116(d), §5117 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE SAFETY ON GUAM'S ROADS BY GRANTING DIVISION OF MOTOR VEHICLES/MOTOR CARRIER SAFETY ASSISTANCE PROGRAM OFFICIALS WITH CITATION AUTHORITY.

SENATOR	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
Adolpho B. Palacios, Sr. Chairman		3/15/11 ✓				
Thomas C. Ada Vice Chairman		3/15/11 ✓				
Tina R. Muña-Barnes Member						
Judith P. Guthertz, DPA Member		W ✓				
Rory J. Respicio Member						
Dennis G. Rodriguez, Jr. Member		3/15/11 ✓				
Judith T. Won Pat, Ed.D. Member		3/15/11 ✓				
V. Anthony Ada Member		3/15/11 ✓				
Christopher M. Duenas Member		3/15/11 ✓				
Mana Silva Taijeron Member		3/15/11 ✓				
Aline A. Yamashita, Ph.D. Member						



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY

I Mina'Trentai Uno Na Liheslaturan Guahan

SENATOR ADOLPHO B. PALACIOS, SR.

Chairman

COMMITTEE REPORT DIGEST

Bill No. 61-31 (COR) – “An act to add §1102(c)(1), §1102(vv), §1102(ww), to add a new definitions to §5101, to amend §5109(a), §5109(c), §5112(b) and to add §5112(d), §5116(d), §5117 of Title 16, Guam Code Annotated, relative to increasing the safety on Guam's roads by granting division of motor vehicles/motor carrier safety assistance program officials with citation authority.” – sponsored by Senator Thomas C. Ada.

I. OVERVIEW

The Committee on Public Safety, Law Enforcement and Judiciary convened the public hearing on March 1, 2010 at 9:05 a.m. in I Liheslatura's Public Hearing Room. Among the items on the agenda was the consideration of Bill No. 61-31 (COR) - “An act to add §1102(c)(1), §1102(vv), §1102(ww), to add a new definitions to §5101, to amend §5109(a), §5109(c), §5112(b) and to add §5112(d), §5116(d), §5117 of Title 16, Guam Code Annotated, relative to increasing the safety on Guam's roads by granting division of motor vehicles/motor carrier safety assistance program officials with citation authority,” sponsored by Senator Thomas C. Ada.

Public Hearing Requirements

Notices of the hearing were disseminated via facsimile and email to all senators and all main media broadcasting outlets on February 21, 2011 (5-day Notice) and on February 28, 2011 (48-Hour notice), pursuant to meeting the requirements of the Open Government Law. Notice of the hearing was also posted on the Guam Legislature's website.

Senators Present:

Senator Adolpho B. Palacios, Sr., Chairman

Senator Thomas C. Ada, Vice-Chairman

Senator V. Anthony Ada, Member

Senator Mana Silva Taijeron, Member

Senator Christopher M. Duenas, Member

Senator vicente “ben” pangelinan

Senator Sam Mabini, Ph.D.

II. SUMMARY OF TESTIMONY AND DISCUSSION

The public hearing was Called-to-Order at 9:05 am.

Paje Butler

Provided oral testimony

Mr. Butler is with DGX Ocean/Air Freight Service and also the Chair of the Chamber, Maritimes Affair Committee (MAC), Trucking & Transportation Subcommittee. States that they are in favor of the proposed legislation, but wants to mention that bill is intended for safety, not for revenue generation for DOT. Believes that public sector should be included in the inspections, with the inspection of records at facilities, including maintenance and drivers' records, along with the citation of vehicles if found unsafe for Guam's roadways. All private businesses should be included in inspections, not just a select few to meet the criteria. Re-states his support for bill and emphasizes concern for safe roads.

Phil Tydingco

Provided oral testimony

Mr. Tydingco is Chief Deputy Attorney General and, on behalf of Attorney General's Office, supports the intent of the bill as it relates to the safety of Guam's streets. States that he is unable to address the more technical concerns outlined in the bill (e.g., commercial vehicles vs. larger vehicles, penalty enhancements), but AG Office supports intent of legislation.

John P. Camacho

Provided oral and written testimony (see attached)

Mr. Camacho is the Director of the Department of Revenue and Taxation (DRT), and states that DRT is in support of the bill. Introduces Maria Flores (Interim Coordinator for Motor Carrier Safety Assistance Program), Marie Benito (DRT Deputy Director) and Ben Guerrero (Safety Officer).

Provides brief overview of Guam's Motor Carrier Safety Assistance Program (MCSAP) – initiated through Executive Order 87-27 (by Gov. Joseph F. Ada, 7/30/87) – and identifies the federal regulations incorporated into GCA Title 16, including the Federal Motor Carrier Safety Regulations (49 CFR Parts 390-399) and the Hazardous Material Regulations (49 CFR Parts 107, 171-173, 177 and 178). States that since 1987, only two other pieces of legislation were incorporated into Title 16 to support MCSAP: 1) P.L. 27-66 – provided authority to perform safety audits and/or safety ratings that

paved way for Compliance Review Program; 2) P.L. 29-27 – provided limited authority to issue citations on overweight or oversized commercial motor vehicles. Notes that Program can only perform function in conjunction with an actual safety inspection in order to be recognized as an eligible and reimbursable MCSAP activity. Primary mission of Program is to ensure through the detection and correction of commercial motor vehicle (CMV) safety defects and CMV driver deficiencies, that large trucks and buses are operated safely on Guam’s roads.

Specifies how bill expands and clarifies MCSAP’s statutory authority. States that statistics have been provided to Committee showing the number of commercial motor vehicles (CMVs) registered with the Division of Motor Vehicles, as well as statistics of CMVs inspected by the MCSAP, which highlights the number of drivers and vehicles placed out-of-service as a result of improper maintenance. Highlights that the statistics show an increase now and in the future of CMV activity, and the timeliness of this legislation to strengthen inspection and enforcement authority.

Marie Benito

Provided oral testimony

Ms. Benito is Deputy Director the Department of Revenue & Taxation, and in support of Bill 61-31. States that the bill will address a number of issues: 1) saves time and resources with the Guam Police Department (GPD); 2) attends to public safety and; 3) ensures that inspectors are trained in accordance with GPD citation procedures.

Paul Suba

Provided oral testimony

Capt. Suba is with the Guam Police Department (GPD) Highway Patrol Division. States support for bill – it allows GPD to accomplish its mission and also allows GPD to focus on a program started ten (10) years ago, Operation Blue Fire, to address the rising number of fatalities on the island. GPD conducted a study and found that there were over ten thousand vehicle crashes annually, and prior to that in 2001, there were 20-30 fatalities. States that by implementing changes in the laws that prevent traffic crashes, the safety of Guam’s highway will be best ensured. Restates support for bill, and offers documentation from GPD if required. Describes that there are only five (5) officers, one supervisor and four (4) officers at Highway Patrol during the day; to implement Blue Fire it will take everyone’s support. Explains that two (2) of the officers during the day shift go to the Motor Carrier inspection location. When these officers do enforcement, they have to go to traffic and criminal court, as well as meetings with the Attorney General’s Office, which takes them away from their duties.

Marie Flores

Provided oral testimony

Ms. Flores is the Motor Vehicles Program Administrator serving as the Interim MCSAP Coordinator for MCSAP, a one hundred percent (100%) federally funded program. States that she is present with the Director and Deputy Director to provide testimony and answer any questions the senators may have regarding Bill 61-31.

Carl Dominguez

Provided written testimony (see attached)

Mr. Dominguez is Deputy Director of the Department of Public Works (DPW). States that DPW will submit testimony by March 4, 2011. Highlights that Bills 61-31 and 67-31 are timely, especially when alternative routes used for traffic flow are the village, or secondary, roads which are not meant to be traversed by heavy trucks, buses, or large vehicles.

Question & Answer

Senator Tom Ada: States that bill was worked on for a number of months with Ms. Flores of MCSAP, the Federal Administrator of Motor Carriers (Hawaii), and an Assistant Attorney General, and also discussed with members of the Chamber's Maritimes Affair Committee (MAC) who provided input for the amendments made to the bill.

To Ms. Flores: Can you clarify the importance of the distinction between interstate and intrastate?

Ms. Flores: Interstate allows for the transportation of passengers or commodities from a port of entry, whether it is from the Airport or the Port Authority of Guam. Intrastate is the transportation of commodities or passengers within the island. Important to incorporate this language because when Executive Order was first adopted it did not include intrastate activity, only interstate activity.

Senator Tom Ada: So violations of these heavy motor vehicles going from warehouse to warehouse was not covered under your program?

Ms. Flores: Technically, yes.

Senator Tom Ada: Only those movements from the PAG, for example, to a warehouse?

Ms. Flores: Yes, sir.

Senator Tom Ada: And that in fact was challenged earlier in court?

Ms. Flores: That is why we are here today, to make corrections on the deficiencies of our regulations.

Senator Tom Ada: Section 5, page 4 of the bill indicates that inspections can be performed of lands, buildings, freight and equipment of motor carriers. But more specifically, inspectors can go to, for example, Mr. Butler's facility, where his trucks are parked and his vehicle and drivers' records are stored...What guidelines are established for inspections?

Ms. Flores: There are two provisions that cover this activity. One is covered under G.A.R. under the Right-of-Entry, which grants authority to enter such establishments and conduct such inspections. The other activity is through a Compliance Review, a more complex and detailed inspection of the overall operation of the carrier that aids in determining their compliance and the safety rating of the company.

Senator Tom Ada: What are some of the things you would look for in the Compliance Review?

Ms. Flores: It involves checking the driver qualifications, the hours of service of the carriers, their driver vehicle maintenance program, as well many other requirements based on Parts 385 & 386 of our regulations....

Senator Tom Ada: To include compliance with drug testing requirements?

Ms. Flores: With the drug testing, Guam has not adopted Part 40 of CFR, however grant requires that a drug intervention program be conducted. If on the roadway doing inspections, for example, a driver-focused inspection, this means that the focus is on the driver qualifications—that license is current, medical certificate is current. Attention is also paid to any change in driver's behavior, as well as any drug paraphernalia in the vehicle, which would indicate that drug use may be a problem. In a situation such as

this, GPD is called upon for assistance. This is the extent of the drug and alcohol program we enforce.

Senator Tom Ada: On page 4, line 26, it indicates that these inspection activities are applicable to military vehicles traveling on Guam's public highways or primary roads. Have you had any kind of communication or interaction with the military insofar as being able to pull over military vehicles?

Ms. Flores: No we have not. We basically patterned this regulation after Hawai'i. We thought it would be beneficial to us because of the impending military build-up and the flow of traffic coming from the military installations, specifically their vehicles. We thought we'd incorporate them into our regulations.

Senator Tom Ada: What sort of training do your inspectors undergo to qualify them to conduct these kind of inspections and be able to subsequently issue citations?

Ms. Flores: There are various levels/types of inspection training that inspectors go through. It starts with the North American Standards (NAS), Level 1, Parts A & B that entails the driver and vehicle inspection. There is the Hazardous Material, which is both bulk packaging, cargo tax, passenger vehicle training that deals with buses (9-15 passengers or MCIs, the larger buses). Then there is the more extensive training that is geared to Compliance Review—a more comprehensive training that involves all the other trainings that inspector has to go through.

Senator Tom Ada: Have all your inspectors gone through a certain level of training that they're able to conduct at least that level of inspection?

Ms. Flores: I have one inspector currently certified on all levels of inspections and training. I think this would be the opportune time to say that the inspector is Mr. Guerrero. With that caliber and expertise in training, it merits more than an inspector level. It's actually an investigator level, a higher position title.

Senator Tom Ada: How many inspectors do you have in your division?

Ms. Flores: As of now, there are seven (7). But only one (1) has been trained with the Compliance Review.

Senator Tom Ada: How about the other inspectors? Have they, in fact, received some level of training?

Ms. Flores: They have received everything with the exception of the Compliance Review.

Senator Tom Ada: So their competency in conducting inspections, whether it'd be on the roadside inspections or what not, would hold up in that they are in fact competent and have been trained and certified?

Ms. Flores: Yes, sir.

Senator Tom Ada: Ok. Thank you very much, Mr. Chairman.

Senator Palacios: You're welcome. At this time I'd like to recognize Speaker Ben.

Senator pangelinan: Thank you very much, Mr. Chair. Just a couple of technical questions on the report, John. What are Non-HM vehicles in the second chart? You have Non-HM vehicles, HM vehicles, and buses.

Ms. Flores: May I answer that?

Senator pangelinan: Sure.

Ms. Flores: To distinction between the vehicles—there are regular trucks, flatbeds, box trucks, tractors which are Non-HM. HMs could be vehicles that don't meet the GVWR. It could be under 10,001 lbs and over but can be considered a commercial vehicle and at the same time an HM vehicle. Do you need further clarification?

Senator pangelinan: Yes, I'm still trying to understand.

Mr. Guerrero: I'm Ben Guerrero with Motor Carrier.

Senator pangelinan: Is that like the difference between a bobcat and a backhoe?

Mr. Guerrero: Basically, what it is—an HM vehicle can be any vehicle given at any time, but it is required to be placarded. At any time, a regular flatbed truck can be

carrying just regular materials on the road. Tomorrow, he could be carrying hazardous materials, at which time he would need to be placarded. It's the cargo being transported at the time.

Senator pangelinan: So it's not the type of vehicle, it's the cargo of the vehicle. Okay. And what is OSS?

Mr. Guerrero: OSS is a terminology we use; it means "Out of Service." A certain criteria must be met in order for a vehicle to be determined OSS. If a vehicle is OSS, this means the vehicle cannot be driven, unless repaired or towed back to the company shop.

Senator pangelinan: So according to this report, in 2010, there were 497 OSS vehicles, but you have 1091 OSS violations. Would the numbers be the same?

Mr. Guerrero: No. The reason is that in 2010, we placed 497 vehicles out of service. The number of OSS violations is the total number of violations we found for all of those vehicles. So you can have one vehicle that has three or four OSS violations.

Senator pangelinan: In order to declare a vehicle OSS is there just one violation, then it's OSS, or does it have to be four out of five? Seven out of ten?

Mr. Guerrero: CVSA write up the OSS book. For example, if the steering gear box is loose, one of the bolts is loose, we can declare it OSS because it can at any given time break off.

Senator pangelinan: But if it's one bald tire, is that an OSS violation, but not enough to put the vehicle OSS?

Mr. Guerrero: If it's bald tire in the front axel, the steering axel, yes, it is. We can place it out of service. If that's the only problem, and the rest of the vehicle is fine, we can still place it OSS because of the bald tire in the front.

Senator pangelinan: Is it an OSS violation, or completely OSS, you can't park it.

Mr. Guerrero: It's completely OSS until that tire is replaced.

Senator pangelinan: So when you say OSS violations, does this include people whose vehicles you put at OSS, and then you find out a week later they're back on the road without being fixed, or, no, is this just the number of violations in the vehicles?

Mr. Guerrero: Yes, we have, and that's why we are really pushing for this bill. With regard to the Compliance Review, this is when we can go in and determine whether the company is actually doing their maintenance work.

Senator pangelinan: When this bill was first introduced, it was said that the bill was to allow the Motor Carrier Vehicle inspectors to issue citations at the roadside inspections. It seems to be a lot more than that. Would you say that's a correct characterization of this bill? That it's not just for the purpose of allowing the inspectors to issue citations? Quite a bit more, right?

Ms. Flores: (Nods yes.)

Senator pangelinan: Ok. "Inspects the lands, buildings, freight and equipment of the Motor Vehicle Carriers" — is that completely new?

Ms. Flores: No, it's not new, Senator, it's just adding on to the right of entry, making it more specific as to what we're looking for.

Mr. Guerrero: In regards to that section, the reason we want to go in is to see if a company is not maintaining their property well, then likely they're not maintaining their vehicles. It serves as an indicator to us when we do the Compliance Review.

Senator pangelinan: Are you telling me that you do go in and inspect lands, buildings, freight and equipment of motor carriers at their yard? You do that now?

Mr. Guerrero: Under the right of entry, yes.

Senator pangelinan: That's a current program?

Mr. Guerrero: We've just started. Yes.

Senator pangelinan: When did you start?

Ms. Flores: Sir, it's actually in place, when the Executive Order was passed, under Section 9302.

Senator pangelinan: Ok. So this is not new powers? Or a new program?

Ms. Flores: No.

Senator pangelinan: When it was explained, we didn't want to take the police officer off the street and issue a ticket, and the bill was introduced so we don't have to do that. The person who inspects the truck finds a violation and can issue a ticket, but it also enhances some of the programs and places the powers and programs in statutory authority versus executive order authority, and enhances that.

If you go into a business and you look at his compliance and he gets an "A" for safety, can you give him an "A" sticker for all his trucks so he doesn't have to be stopped on the road, and be inspected twice?

Ms. Flores: Funny you mention that. We were just recently visited by Hawai'i's State Program Manager. He was providing Compliance Review training to Ben. FMCSA is not in the business of giving out report cards showing an "A." So the answer to your question is 'No' we do not give out, like Public Health, an A, B, or C rating.

Senator pangelinan: So what's the purpose of doing that if you're going to stop them on the road too?

Ms. Flores: Because of a new safety initiative called CSA 2010, which is a Comprehensive Safety Analysis which Congress had put together. It is a whole new ball game as far as safety is concerned. There are actually seven basic criteria—it's actually called BASICS, and I don't remember what the acronym stands for off the top of my head, but it's very intensive and geared more toward safety of commercial vehicles.

Senator pangelinan: I understand, and certainly appreciate the drive for safety. I just don't want to put...if we're going to go through all these different types of inspections then there's got to be a benefit to it in addition to the safety aspect...I mean that's the overall benefit...There's got to be a trade off for some kind of...

Ms. Flores: Can I interject something here for a minute? When you do a Compliance Review, at least the training I went through, through our planning meetings, whenever you deal with a Compliance Review, it basically gives you a clear indication of that carrier's safety profile. As a carrier, you treasure that you have a good safety rating. Why? Because if you are involved in any federal contracts, if you don't have a good safety rating, you won't be a potential candidate for those contracts. So it does have its advantages if you maintain your vehicles, and everything's up to par. It can mean a contract with the federal government or not?

Senator pangelinan: Can you give them a rating for compliance so that they can get a discount from their insurance company or something? Maybe you can't give it...I understand...and I certainly understand what the bill wants to do, and to make sure that in all of the regulations that everybody benefits including, of course, the first objective is the motoring public benefits from increased safety of the vehicles traveling the roads by compliance with the applicable motor vehicle codes.

Just one final question, you distinguished between the interstate and intrastate, but we always had the ability to cite a truck even though it was intrastate or interstate for motor vehicle safety violations, right? Or we didn't have that ability at all?

Ms. Flores: That's why we were challenged.

Senator pangelinan: So a broken tail light on a truck, under interstate, we could not cite him?

Ms. Flores: It's more of different parts within our regulation—one covers intrastate, one doesn't. We were caught in between and blind-sighted because we did have authority to perform that activity as far as intrastate commerce was concerned.

Mr. Butler: I did want to offer some clarification on the inspections that they're performing. The way I understand it is you do have the inspections done out on the public roads, where they're going through the vehicle, making sure it's in safe and sound condition to be able to operate on the streets. And then the on-site inspections, it's more of a documentation type of inspection ensuring that the maintenance records are up-to-date, insurance is up-to-date, the mechanic has any training that he needs, to ensure that we're operating safely at our facilities and also the random drug testing that we have to undergo, to ensure that's being maintained properly and being performed. It

does offer us a level playing field in our industry, because there are some of that are up to par and there are operators out there that are not keeping a well-maintained fleet or operating safely, and by doing that they're able to undercut rates, which is not fair in our industry. We want to ensure that everybody is doing the same thing. That we're all operating safe, that the rates are all fair because we're having to ensure the safety of the public.

Senator pangelinan: How many businesses, would you say—the total number of vehicles registered for 2010 is 5,430—this represents?

Ms. Flores: I'm apologize, Senator, I don't have the statistics. But I can get that to you at another time.

Senator pangelinan: Thank you very much, Mr. Chair. Si Yu'us Ma'ase for your response.

Senator Palacios: And, please provide a copy of that to the Committee so we can include that in the Committee Report. Just a follow-up on "intrastate" and "interstate." Does that mean that a dump truck, for example, that picks up trash from hotels, then heads to the landfill, cannot be stopped and inspected because that is intrastate? I just want to know whether your authority is limited? So this will make it clearer?

Ms. Flores: Yes.

Senator Palacios: The way I understand it is if the vehicle is going to the Port Authority or the Airport...no wonder many of these inspections are closer to Piti, Asan and down here, and never Chalan Pago. I didn't know that, so perhaps that is the addition to the current law. At this time, I recognize, Senator Tony Ada.

Senator Tony Ada: Currently, do you do emissions inspections? Are you authorized to do this?

Ms. Flores: That actually falls under the purview of EPA.

Senator Tony Ada: So you're not able to inspect commercial motor vehicles on the roadsides? You don't have that ability or authority?

Ms. Flores: We don't have the equipment.

Senator Tony Ada: Do you have the authority?

Ms. Flores: If you're looking at the basic inspection of the exhaust system, whether or not it's funneling into the cab of the vehicle....

Senator Tony Ada: Or if it's blowing out extremely black smoke?

Ms. Flores: We don't have that equipment to determine the level of pollutants. And I don't believe that's prescribed in the FMCSR.

Senator Tony Ada: They don't have the federal funds to cover that type of equipment for you to carry out for your roadside inspections?

Ms. Flores: Unfortunately, our budget is limited to \$350K/year. We have to live within our means, so, no, we don't have money to purchase such equipment. That's why we rely on EPA to provide that service, and I believe they do. As a matter of fact, the bus company let us know that they are doing it more frequently. They go to their terminals and do the inspections there. They don't wait for them to be on the road.

Senator Tony Ada: Thank you, Mr. Chair.

Senator Palacios: Senator Mabini? Thank you for your presence.

Senator Mabini: Could you tell me a little bit about the weight stations and where?

Ms. Flores: The weight stations actually is still in progress, through the Route 11 expansion project, through a grant with the Department of Public Works. I'm sure Senator Tom Ada is familiar with the grant. It provides a weigh and inspection down at the Port. From my understanding, they should be installing static scales and a WIM scale, weigh-in-motion as you're entering the Port, to capture any vehicles traversing the roadways who are over sight, and it tags any vehicles that are overweight, the station themselves, warning the inspectors that there are potential overweight vehicles that need to be addressed.

Senator Tom Ada: With regards to the weight, how would you inspect those trucks that are going to Hawaiian Rock that are picking up aggregate, and if they can make it in one less trip, how would you handle that? You'll capture the ones coming out of the Port because you have a scale there, but most of the weight questions will come from, say, Hawaiian Rock that takes aggregate and what not. How would you capture those ones?

Ms. Flores: I would mitigate that problem with the portable scales. We do have portable scales, but the scales are limited by capacity, unlike the proposed WIM and static scales that's going to be implemented at the Port.

Senator Tom Ada: So is this the case that you're going to have a scale that, although not calibrated, will give you a good indication of whether it's 10K lbs or 15K lbs.

Ms. Flores: Yes, it would be a close estimate.

Senator Tom Ada: When that question arises, do you have designated areas with scales where trucks are sent to for weighing?

Ms. Flores: Yes. In the event that a carrier should dispute our findings they have the option of going to Hawaiian Rock or Smithbridge, and those are the two scales recognized by the Government as official scales.

Senator Tom Ada: Okay. Thank you.

Senator pangelinan: There's a fine for the overload, correct?

Ms. Flores: Yes

Senator pangelinan: So couldn't you just require all the trucks to have a record, in terms of their trip, that leave Hawaiian Rock, for example, that have the scales?

Mr. Butler: You would force everybody to have to drive all the way out to Mangilao.

Senator pangelinan: No. Just those guys, from their yard. If they have a weight ticket, and then you can check.

Mr. Butler: I'm curious though why you're scales aren't calibrated for the portable scales.

Ms. Flores: Funding.

Mr. Butler: Because without the scales, it's like a tiger with no teeth. They have the ability to weigh the trucks and find out if someone is in violation, but they have no means to weigh it. I'm concerned about the increasing of fines for overweight vehicles because there was concern that a lot of the scrap yards, the material they're hauling to the Port was overweight. It was then brought to our attention that independent truckers operating with aggregate or dirt and they're severely overweight. They're operating in areas where these guys don't exist, where they're not performing inspections. That was our concern in the trucking industry, that there are a lot of violations in the trucking industry that deteriorate the roads more quickly. We're concerned with DPW not having the resources or funds to repair these roads because of the overweight trucks. The trucking industry has a major concern of getting the portable scales up and operational, and accurately working so that we can stop some of these violations. The transportation industry is being targeted, but we're not so much the people out there causing the deterioration of the roads or violating the weight laws.

Senator pangelinan: And the cost to calibrate your scales?

Ms. Flores: I cannot give you an estimate right now, Senator.

Senator pangelinan: You only have one portable scale?

Ms. Flores: No, we have several sets. Three sets.

Senator pangelinan: So three portable scales that can measure all the dump trucks, low boys that carry heavy equipment?

Ms. Flores: Ben was just reminding me that the Federal Motor Carrier is not solely responsible or funded to strictly do weight enforcement. It has to be in conjunction with the safety inspection. It has to work hand in hand, otherwise our grantor will not cover the expense of that inspection.

Senator pangelinan: But every overweight vehicle is a safety hazard?

Ms. Flores: Right.

Senator pangelinan: We can write that grant. Thank you very much.

Senator Tom Ada: Mr. Chair, I just wanted to say in the discussions had with the MAC and Ms. Flores' unit, the question about weighing was certainly an issue, and I think the non-calibrated scales that you have really was not about whether 10,000 lbs or 10,001 lbs. It's more so that it's 10,000 or something really wide-ranging, enough to warrant sending a truck to Hawaiian Rock.

Mr. Butler: Within 5%, give it to them. If it's over 5% - 10%, then that's a violation. If you suspect someone's overweight and you send them to Hawaiian Rock, or Hansen's or Smithbridge or wherever, they're just doing more damage and putting the public at more risk, to have to drive that extra distance.

Senator Palacios: Thank you very much. I have no question there. I believe this bill would improve the current statute and regulations and put more clarity. There being no more sign-ups, Bill 61-31 has been duly heard. The Committee will continue to receive written testimony, or texting, or email to the legislature for the next ten days.

Chairman Adolpho B. Palacios, Sr., declared that Bill No. 61-31(COR) is duly heard. The Chairman concluded the hearing and requested that written testimony be submitted within the next ten (10) days. He adjourned the hearing at 11:05 a.m.

IV. FINDINGS AND RECOMMENDATIONS

The Committee on Public Safety, Law Enforcement and Judiciary hereby reports out **Bill No. 61-31 (COR), as Substituted by the Committee**, with the recommendation **TO PASS**.

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

SBill No. 61-31 (COR)

As Substituted by the Committee on Public Safety,
Law Enforcement and Judiciary

Introduced by:

T. C. Ada
Adolpho Borja Palacios, Sr.

AN ACT TO ADD §1102(C)(1), §1102(VV), §1102(WW), TO ADD NEW DEFINITIONS TO §5101, TO AMEND §5109(A), §5109(C), §5112(B) AND TO ADD §5112(D), §5116(D), §5117 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO GRANTING DMV/MCSAP OFFICIALS WITH AUTHORITY TO ISSUE CITATIONS AND EXPAND THE SCOPE OF THE AUTHORITY TO INTRASTATE MOVEMENTS OF CMVS, AND CODIFIES E.O. 87-27 RELATIVE TO CONDUCTING INSPECTION OF CMVs AT OWNER'S PREMISES.

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

2 **Section 1.** Legislative Findings. *I Liheslaturan Guåhan* finds that the
3 standards established by Guam's current Motor Vehicle Code need to be updated
4 to support the continued development of Guam's transportation and other
5 industries, and to enhance the safety of Guam's roads. Such updates include: 1)
6 definition of commercial motor vehicle (CMV); 2) granting the Division of Motor
7 Vehicles/Motor Carrier Safety Assistance Program (MCSAP) officials the
8 authority to: (a) conduct inspections of both interstate and intrastate CMV activity;
9 (b) stop and inspect CMVs traveling on Guam's highways; (c) inspect passenger

1 vans, including mini-buses and limousines, to determine if safety requirements are
2 being met; and (d) require certain reports from all motor carriers and inspect all
3 equipment of motor carriers as well as books and documents related to the safety
4 of motor carrier operations. The new requirements will apply to approximately six
5 thousand (6,000) currently registered civilian CMVs weighing $\geq 10,001$ lbs and
6 eight hundred (800) registered civilian CMV vans, mini-buses, and limousines
7 intended to transport 8-15 passengers.

8 **Section 2.** A new 16 GCA §1102(c)(1) is *added* to read:

9 “§1102(c)(1). A *commercial motor vehicle (CMV)* is a vehicle of a
10 type required to be registered hereunder, used or maintained for the
11 transportation of persons for hire, compensation or profit, or designed,
12 used or maintained primarily for the transportation of property.

13 Additionally, a commercial motor vehicle includes any self-propelled or
14 towed motor vehicle used on a highway in interstate or intrastate
15 commerce to transport passengers or property when the vehicle—

16 (a) Has a gross vehicle weight rating (GVWR; as classified by the
17 vehicle manufacturer) or gross combination weight rating (GCWR), or gross
18 vehicle weight (GVW) or gross combination weight (GCW), of 4,536 kg
19 (10,001 pounds) or more, whichever is greater; or

20 (b) Is designed or used to transport more than 8 passengers (including
21 the driver) for compensation; or

22 (c) Is designed or used to transport more than 15 passengers, including
23 the driver, and is not used to transport passengers for compensation; or

24 (d) Is used in transporting material found by the Secretary of
25 Transportation to be hazardous under 49 U.S.C. 5103 and transported in a

1 quantity requiring placarding under regulations prescribed by the Secretary
2 under 49 CFR, subtitle B, chapter I, subchapter C.

3 (e) For intrastate commerce purposes only, a commercial motor
4 vehicle includes a vehicle of a type required to be registered hereunder, and
5 used or maintained for the transportation of 9 to 15 persons.

6 **Section 3.** New definitions (vv) and (ww) are *added* to 16 GCA §1102 to
7 read:

8 “§1102(vv). *Interstate commerce* means trade, traffic, or transportation in
9 the United States, which includes the 50 states, District of Columbia, territories and
10 Commonwealths of the United States -:

11 (1) Between a Guam port of entry/exit (Jose D. Leon Guerrero Port
12 Authority or the Antonio B. Won Pat Guam International Airport) and a
13 place outside of such entry/exit; or

14 (2) Between two places in Guam as part of trade, traffic, or
15 transportation originating or terminating outside Guam or the United
16 States.

17 **§1102(ww).** *Intrastate commerce* means any trade, traffic, or
18 transportation within the territory of Guam which is not described in the
19 term ‘interstate commerce’.”

20 **Section 4.** New definitions are *added* to 16 GCA §5101 to read:

21 “*Gross Combination Weight (GCW)*: The total weight of the
22 power unit and the total weight of the towed unit and any load thereon.

23 *Gross Combination Weight Rating (GCWR)*: The value
24 specified by the manufacturer as the loaded weight of a combination
25 (articulated) motor vehicle. In the absence of a value specified by the

1 manufacturer, GCWR will be determined by adding the GVWR of the
2 power unit and the total weight of the towed unit and any load thereon.

3 *Gross Vehicle Weight (GVW):* The total weight of the loaded
4 vehicle. This includes the vehicle itself and the cargo that is loaded within
5 that vehicle.

6 *Gross Vehicle Weight Rating (GVWR):* The value specified by
7 the manufacturer as the loaded weight of a single motor vehicle.

8 *Portable Scales:* A movable weighing device.

9 *Static Scales:* An immovable measuring scale, similar to a
10 ruler, that is attached to the edge of an optical comparator screen.

11 *Weigh-in-Motion Scales:* Weighing-in-Motion (WIM) is, as the
12 name implies, the process of weighing a vehicle as it is moving along the
13 highway in an effort to estimate the equivalent static weight of the vehicle.”

14 **Section 5.** 16 GCA §5109(a) is *amended* to read:

15 **“§5109(a).** For purposes of the enforcement of this part, the Director
16 of Revenue and Taxation (“Director”) shall have such powers of
17 enforcement as may be necessary to implement this part. The Director
18 may delegate the enforcement of this part to the Administrator of the
19 Division of Motor Vehicles/Motor Carrier Safety Assistance Program
20 (DMV/MCSAP). For the purpose of the safety, welfare and health of the
21 general public, and the safe transportation of hazardous materials and
22 waste on any public highway, or primary road, and the enforcement of this
23 part and of all rules adopted pursuant to this part, the Director and persons
24 appointed by the Director, may (1) inspect lands, buildings, freight and
25 equipment of motor carriers; (2) stop and inspect freight and equipment of
26 motor carriers on any public highway or primary road; (3) inspect shipping

1 papers and hazardous waste manifests of motor carriers and persons
2 subject to this part; and (4) stop and inspect similar documents and
3 equipment status of military vehicles traveling on a Guam public highway
4 or primary road.

5 ~~Any~~ Every police officer *or* Division of Motor Vehicles/Motor
6 Carrier Safety Assistance Program (DMV/MCSAP) inspector shall assist
7 in the enforcement of this part and of all rules adopted pursuant to this part
8 and issue citations for violations as appropriate.” ~~observing conditions of~~
9 ~~vehicle appearance, operation~~ *or* ~~cargo storage which might represent a~~
10 ~~potential~~ *or* ~~actual hazard is authorized to stop the driver and submit the~~
11 ~~vehicle to an immediate inspection.~~

12 **Section 6.** 16 GCA §5109(c) is *amended* to read:

13 “**§5109(c).** ~~Any~~ Every police officer *or* DMV/MCSAP inspector
14 having reason to believe that the weight of a vehicle, either unladen *or* with
15 load, is unlawful, is authorized to require the driver to stop and submit to a
16 weighing of same by means of portable scales, static scales, or weigh-in-
17 motion scales. ~~and should a question of weight arise, the officer~~ *or*
18 ~~DMV/MCSAP inspector will require that such vehicles be driven to the~~
19 ~~nearest official scales.”~~ Violations shall be subject to penalties cited in
20 §5112(a) of this Chapter.”

21 **Section 7.** 16 GCA §5112(b) is *amended* to read:

22 “**§5112(b).** All permit fees and fines *shall* be deposited into the Better
23 Public Service Fund at the Department of Revenue and Taxation, to be
24 used by the Division of Motor Vehicles/~~Motor Carrier Safety Assistance~~
25 ~~Program.”~~

1 **Section 8.** 16 GCA §5112(d) is *added* to read:

2 “**§ 5112(d).** The fine schedules of the Superior Court of Guam and
3 the Commercial Vehicle Safety Alliance (CVSA) for violations cited
4 during roadside inspections, and the method for penalty assessment
5 outlined in the Federal Uniform Fine Assessment (UFA) Program,
6 specifically for violations identified as a result of a Compliance Review,
7 are hereby adopted pursuant to fines and fees as applicable to Guam.”

8 **Section 9.** 16 GCA §5116(d) is *added* to read:

9 **§5116. Carrier Safety and Hazardous Material Regulations.**

10 “(d) The regulations adopted in this section shall be applicable to both
11 interstate commerce and intrastate commerce. Furthermore, the Department
12 of Revenue and Taxation, Guam Motor Carrier Safety Assistant Program's
13 (MCSAP) personnel shall have authority to enforce the regulations on both
14 intrastate and interstate motor vehicle carriers.”

15 **Section 10.** 16 GCA §5117 is *added* to read:

16 “**§5117. Accounts, records, and reports. Inspection.**

17 (a) The Director of Revenue and Taxation may require annual,
18 periodic, or special reports from all motor carriers, prescribe the manner
19 and form in which the reports shall be made, and require from the carriers
20 specific and full, true, and correct answers to all questions which the
21 Director may deem necessary for the safety regulation of motor carrier
22 vehicles.

23 (b) The Director may prescribe the forms of any and all records and
24 memoranda to be maintained by motor carriers as related to safety of motor
25 carrier operations consistent with the guidelines set forth in Title 30, Guam
26 Administrative Rules and Regulations. The Director or Director’s duly

1 authorized representative shall at all reasonable times and places consistent
2 with §9302, 30 GAR, Division 2, Article 3 have access to and authority,
3 under the Director's or representative's order, to inspect and examine any
4 and all equipment of motor carriers and shall have authority to inspect and
5 copy any and all books, records, memoranda, and other documents as are
6 related to the safety of motor carrier operations.

7 (c) Each motor carrier operating vehicle in Guam shall keep all
8 records and reports required by this section at an office or place of business
9 located within Guam.”

10 **Section 11. Severability.** *If any provision of this law or its application to*
11 *any person or circumstance is found to be invalid or contrary to law, such*
12 *invalidity shall not affect other provisions or applications of this law which can be*
13 *given effect without the invalid provisions or applications, and to this end the*
14 *provisions of this law are severable.*

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 61-31 (COR)

Introduced by:

T. C. Ada
Adolpho Borja Palacios, Sr.



**AN ACT TO ADD §1102(c)(1), §1102(vv), §1102(ww), TO ADD
NEW DEFINITIONS TO §5101, TO AMEND §5109(a), §5109(c),
§5112(b) AND TO ADD §5112(d), §5116(d), §5117 OF TITLE 16,
GUAM CODE ANNOTATED, RELATIVE TO INCREASING
THE SAFETY ON GUAM'S ROADS BY GRANTING
DIVISION OF MOTOR VEHICLES/MOTOR CARRIER
SAFETY ASSISTANCE PROGRAM OFFICIALS WITH
CITATION AUTHORITY.**

2011 JAN 31 PM 3:33

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

2 **Section 1.** Legislative Findings. *I Liheslaturan Guåhan* finds that the
3 standards established by Guam's current Motor Vehicle Code need to be updated
4 to support the continued development of Guam's transportation and other
5 industries, and to enhance the safety of Guam's roads. Such updates include: 1)
6 definition of commercial motor vehicle (CMV); 2) granting the Division of Motor
7 Vehicles/Motor Carrier Safety Assistance Program (MCSAP) officials the
8 authority to: (a) conduct inspections of both interstate and intrastate CMV activity;
9 (b) stop and inspect CMVs traveling on Guam's highways; (c) inspect passenger
10 vans, including mini-buses and limousines, to determine if safety requirements are
11 being met; and (d) require certain reports from all motor carriers and inspect all
12 equipment of motor carriers as well as books and documents related to the safety

1 of motor carrier operations. The new requirements will apply to approximately six
2 thousand (6,000) currently registered civilian CMVs weighing $\geq 10,001$ lbs and
3 eight hundred (800) registered civilian CMV vans, mini-buses, and limousines
4 intended to transport 8-15 passengers.

5 **Section 2.** A new 16 GCA §1102(c)(1) is *added* to read:

6 **“§1102(c)(1).** A *commercial motor vehicle (CMV)* is a vehicle of a
7 type required to be registered hereunder, used or maintained for the
8 transportation of persons for hire, compensation or profit, or designed,
9 used or maintained primarily for the transportation of property.

10 Additionally, a commercial motor vehicle includes any self-propelled or
11 towed motor vehicle used on a highway in interstate or intrastate
12 commerce to transport passengers or property when the vehicle—

13 (a) Has a gross vehicle weight rating (GVWR; as classified by the
14 vehicle manufacturer) or gross combination weight rating (GCWR), or gross
15 vehicle weight (GVW) or gross combination weight (GCW), of 4,536 kg
16 (10,001 pounds) or more, whichever is greater; or

17 (b) Is designed or used to transport more than 8 passengers (including
18 the driver) for compensation; or

19 (c) Is designed or used to transport more than 15 passengers, including
20 the driver, and is not used to transport passengers for compensation; or

21 (d) Is used in transporting material found by the Secretary of
22 Transportation to be hazardous under 49 U.S.C. 5103 and transported in a
23 quantity requiring placarding under regulations prescribed by the Secretary
24 under 49 CFR, subtitle B, chapter I, subchapter C.

1 (e) For intrastate commerce purposes only, a commercial motor
2 vehicle includes a vehicle of a type required to be registered hereunder, and
3 used or maintained for the transportation of 9 to 15 persons.

4 **Section 3.** New definitions (vv) and (ww) are *added* to 16 GCA §1102 to
5 read:

6 “§1102(vv). *Interstate commerce* means trade, traffic, or transportation in
7 the United States, which includes the 50 states, District of Columbia, territories and
8 Commonwealths of the United States -:

9 (1) Between a Guam port of entry/exit (Jose D. Leon Guerrero Port
10 Authority or the Antonio B. Won Pat Guam International Airport) and a
11 place outside of such entry/exit; or

12 (2) Between two places in Guam as part of trade, traffic, or
13 transportation originating or terminating outside Guam or the United
14 States.

15 §1102(ww). *Intrastate commerce* means any trade, traffic, or
16 transportation within the territory of Guam which is not described in the
17 term ‘interstate commerce’.”

18 **Section 4.** New definitions are *added* to 16 GCA §5101 to read:

19 “*Gross Combination Weight (GCW)*: The total weight of the
20 power unit and the total weight of the towed unit and any load thereon.

21 *Gross Combination Weight Rating (GCWR)*: The value
22 specified by the manufacturer as the loaded weight of a combination
23 (articulated) motor vehicle. In the absence of a value specified by the
24 manufacturer, GCWR will be determined by adding the GVWR of the
25 power unit and the total weight of the towed unit and any load thereon.

1 *Gross Vehicle Weight (GVW)*: The total weight of the loaded
2 vehicle. This includes the vehicle itself and the cargo that is loaded within
3 that vehicle.

4 *Gross Vehicle Weight Rating (GVWR)*: The value specified by
5 the manufacturer as the loaded weight of a single motor vehicle.

6 *Portable Scales*: A movable weighing device.

7 *Static Scales*: An immovable measuring scale, similar to a
8 ruler, that is attached to the edge of an optical comparator screen.

9 *Weigh-in-Motion Scales*: Weighing-in-Motion (WIM) is, as the
10 name implies, the process of weighing a vehicle as it is moving along the
11 highway in an effort to estimate the equivalent static weight of the vehicle.”

12 **Section 5.** 16 GCA §5109(a) is *amended* to read:

13 “§5109(a). For purposes of the enforcement of this part, the Director
14 of Revenue and Taxation (“Director”) shall have such powers of
15 enforcement as may be necessary to implement this part. The Director
16 may delegate the enforcement of this part to the Administrator of the
17 Division of Motor Vehicles/Motor Carrier Safety Assistance Program
18 (DMV/MCSAP). For the purpose of the safety, welfare and health of the
19 general public, and the safe transportation of hazardous materials and
20 waste on any public highway, or primary road, and the enforcement of this
21 part and of all rules adopted pursuant to this part, the Director and persons
22 appointed by the Director, may (1) inspect lands, buildings, freight and
23 equipment of motor carriers; (2) stop and inspect freight and equipment of
24 motor carriers on any public highway or primary road; (3) inspect shipping
25 papers and hazardous waste manifests of motor carriers and persons
26 subject to this part; and (4) stop and inspect similar documents and

1 equipment status of military vehicles traveling on a Guam public highway
2 or primary road.

3 ~~Any~~ Every police officer *or* Division of Motor Vehicles/Motor
4 Carrier Safety Assistance Program (DMV/MCSAP) inspector shall assist
5 in the enforcement of this part and of all rules adopted pursuant to this part
6 and issue citations for violations as appropriate.” ~~observing conditions of~~
7 ~~vehicle appearance, operation or cargo storage which might represent a~~
8 ~~potential or actual hazard is authorized to stop the driver and submit the~~
9 ~~vehicle to an immediate inspection.~~

10 **Section 6.** 16 GCA §5109(c) is *amended* to read:

11 “**§5109(c).** ~~Any~~ Every police officer *or* DMV/MCSAP inspector
12 having reason to believe that the weight of a vehicle, either unladen *or* with
13 load, is unlawful, is authorized to require the driver to stop and submit to a
14 weighing of same by means of portable scales, static scales, or weigh-in-
15 motion scales. ~~and should a question of weight arise, the officer or~~
16 ~~DMV/MCSAP inspector will require that such vehicles be driven to the~~
17 ~~nearest official scales.”~~ Violations shall be subject to penalties cited in
18 §5112(a) of this Chapter.”

19 **Section 7.** 16 GCA §5112(b) is *amended* to read:

20 “**§5112(b).** All permit fees and fines *shall* be deposited into the Better
21 Public Service Fund at the Department of Revenue and Taxation, to be
22 used by the Division of Motor Vehicles/~~Motor Carrier Safety Assistance~~
23 ~~Program.”~~

24 **Section 8.** 16 GCA §5112(d) is *added* to read:

1 “§ 5112(d). The fine schedules of the Superior Court of Guam and
2 the Commercial Vehicle Safety Alliance (CVSA) for violations cited
3 during roadside inspections, and the method for penalty assessment
4 outlined in the Federal Uniform Fine Assessment (UFA) Program,
5 specifically for violations identified as a result of a Compliance Review,
6 are hereby adopted pursuant to fines and fees as applicable to Guam.”

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8 **§5116. Carrier Safety and Hazardous Material Regulations.**

9 “(d) The regulations adopted in this section shall be applicable to both
10 interstate commerce and intrastate commerce. Furthermore, the Department
11 of Revenue and Taxation, Guam Motor Carrier Safety Assistant Program's
12 (MCSAP) personnel shall have authority to enforce the regulations on both
13 intrastate and interstate motor vehicle carriers.”

14 **Section 10.** 16 GCA §5117 is *added* to read:

15 **“§5117. Accounts, records, and reports. Inspection.**

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17 periodic, or special reports from all motor carriers, prescribe the manner
18 and form in which the reports shall be made, and require from the carriers
19 specific and full, true, and correct answers to all questions which the
20 Director may deem necessary for the safety regulation of motor carrier
21 vehicles.

22 (b) The Director may prescribe the forms of any and all records and
23 memoranda to be maintained by motor carriers as related to safety of motor
24 carrier operations consistent with the guidelines set forth in Title 30, Guam
25 Administrative Rules and Regulations. The Director or Director’s duly
26 authorized representative shall at all reasonable times and places consistent

1 with §9302, 30 GAR, Division 2, Article 3 have access to and authority,
2 under the Director's or representative's order, to inspect and examine any
3 and all equipment of motor carriers and shall have authority to inspect and
4 copy any and all books, records, memoranda, and other documents as are
5 related to the safety of motor carrier operations.

6 (c) Each motor carrier operating vehicle in Guam shall keep all
7 records and reports required by this section at an office or place of business
8 located within Guam.”

9 **Section 11. Severability.** *If* any provision of this law *or* its application to
10 any person or circumstance is found to be invalid or contrary to law, such
11 invalidity shall *not* affect other provisions or applications of this law which can be
12 given effect without the invalid provisions *or* applications, and to this end the
13 provisions of this law are severable.



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY

I Mina'Trentai Uno na Liheslaturan Guahan

SENATOR ADOLPHO B. PALACIOS, SR.
CHAIRMAN

Tuesday, March 1, 2011

Bill No. 61-31 (COR) - AN ACT TO ADD §1102(c)(1), §1102(vv), §1102(ww), TO ADD NEW DEFINITIONS TO §5101, TO AMEND §5109(a), §5109(c), §5112(b) AND TO ADD §5112(d), §5116(d), §5117 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE SAFETY ON GUAM'S ROADS BY GRANTING DIVISION OF MOTOR VEHICLES/MOTOR CARRIER SAFETY ASSISTANCE PROGRAM OFFICIALS WITH CITATION AUTHORITY. - by Senator Thomas C. Ada

NAME (Please Print)	AGENCY/ORGANIZATION	CONTACT NUMBER	ORAL TESTIMONY	WRITTEN TESTIMONY	IN FAVOR	NOT IN FAVOR
✓ John Connel	Rev 9 TAX		✓	✓	✓	
✓ Marie Benito	DRT		✓		✓	
✓ Paul SUBIA	CPD		✓		✓	
✓ Marie Jones	Rev 9 TAX					



Dipáttamenton Kontribusion yan Adu'ána

DEPARTMENT OF

REVENUE AND TAXATION

GOVERNMENT OF GUAM

Gubetnamenton Guåhan

EDDIE BAZA CALVO, Governor Maga'åhi
RAY TENORIO, Lt. Governor Tifente Gubetnadot

JOHN P. CAMACHO, Director
Direktot
MARIE M. BENITO, Deputy Director
Sigundo Direktot

March 1, 2011

Honorable Adolpho B. Palacios

31st Guam Legislature
Senator and Chairman Committee on
Public Safety, Law Enforcement & Judiciary
Ste 104, 155 Hesler Place
Hagatna, Guam 96910

Reference: Bill 61-31

Dear Senator Palacios & Committee Members:

My name is John Camacho, Director of the Department of Revenue and Taxation. With me is Ms. Marie Flores who is currently serving as the Interim Coordinator for the Motor Carrier Safety Assistance Program (MCSAP) and Mr. Vincent Guerrero, Motor Carrier Safety Inspector. The MCSAP is 100% federally funded through a grant authorized by the Surface Transportation Assistance Act of 1982, with the Federal Motor Carrier Safety Administration (FMCSA) under the auspices of the United States Department of Transportation (USDOT).

The statutory authority for Guam's MCSAP program was initiated through Executive Order 87-27, signed by then Governor Joseph F. Ada, on July 30, 1987. The Federal Motor Carrier Safety Regulations (49 CFR Parts 390 through 399), and Hazardous Material Regulations (49 CFR Parts 107, 171-173, 177, and 178), were incorporated into Title 16 and served as interim and final territorial regulations.

Since 1987, only two other pieces of legislation were incorporated into Title 16 supporting our inspection program, which are:

1. Public Law 27-66 enacted on February 4, 2004, provided our program the authority to perform safety audits and/or safety ratings that paved the way for our Compliance Review (CR) program. The CR process is a critical and complex element of our inspection program that determines a carriers overall safety profile.
2. Public Law 29-27 enacted on October 24, 2007, provided limited authority to issue citations specifically on overweight or oversized commercial motor vehicles. This law failed to identify a funding source to support and sustain the activity by including language that provided for training of personnel, procurement and maintenance of equipment. It further lacked a designation of official scales to be utilized when weight disputes are made by carriers.

It should be noted that our Program can only perform this function in conjunction with an actual safety inspection to be recognized by our Grantor as an eligible and reimbursable MCSAP activity. Otherwise, the local government would have to bear the cost.

The primary mission of our Program is to reduce crashes, injuries, fatalities, and property damage involving large trucks and buses, through the detection and correction of commercial motor vehicle (CMV) safety defects and CMV driver deficiencies.

In an effort to maintain and support our mission, I am here today to testify in favor of Bill 61-31. The provision of this Bill expands and clarifies our statutory authority which includes the following:

1. Clarifies the current definition of “commercial motor vehicle” (CMV) allowing for both *interstate* and *intrastate* CMV activities.

Updating our current definition by specifying type of inspection activity will reinforce applicable federal regulations affecting driver qualification and the inspection of 9-15 passenger vehicles.

2. The authority to conduct inspections of both *interstate* and *intrastate* CMV activities. Presently, both federal and local provisions lack clear guidance on the authority that covers both *interstate* and *intrastate* inspection activities.

3. The authority to inspect 9-15 passenger vehicles including mini buses and limousines engaged in *interstate* and/or *intrastate* activities.

Incorporating this section will mirror and complement FMCSA Final Rule Docket No. 2009-0127 effectuated on May 3, 2010, which our program has adopted.

4. The authority to issue driver or vehicle related citations on applicable Federal Motor Carrier Safety Regulation (FMCSR) violations & Title 16 Vehicle Code of Guam.

We currently have limited statutory authority to issue citations on violation cited under local law for violation of overweight or oversized vehicles.

5. The authority to require various reports, and random inspection of equipment related to motor carrier operations to determine the carriers driver/vehicle maintenance program. This new addition will expand and strengthen our current authority provided by 30 GAR Article 3 Section 9302 - Right of Entry and Inspection, it will serve as an additional source for assessing the selection criteria for Compliance Reviews.

It is without a doubt that we need to incorporate these changes to our current laws to empower our inspectors with reasonable authority to carry out their duties and responsibilities. Having good legal definitions and sound statutory guidance is necessary to safeguard our inspections from potential legal challenges. Another added benefit that the propose changes will provide is a new source of revenue that will help supplement our governments’ depleting financial resources.

To further support our position, we have provided you with statistics of CMVs registered with the Motor Vehicle Division, along with statistics of CMVs inspected by our MCSAP program highlighting the number of drivers and vehicles placed out-of-service as a result of improper maintenance.

The numbers clearly illustrates an increase in CMV activity which is expected to rise even higher as our island prepares for the impending military buildup. This merits your consideration in the passage of this Bill in order to strengthen our inspection and enforcement authority.

As public servants we are bound by the call of duty, to promote and safeguard the safe transportation of passengers and commodities traversing our island's highway, by maintaining a proactive approach in the prevention of commercial vehicle crashes.

Thank you for this opportunity to testify in favor of Bill 61-3.


JOHN P. CAMACHO
Director



The Honorable
Eddie Baza Calvo
Governor

The Honorable
Ray Tenorio
Lieutenant Governor



JOANNE M.S. BROWN
Acting Director

CARL V. DOMINGUEZ
Deputy Director

March 1, 2011

The Honorable Adolpho B. Palacios, Sr. 
Chairperson
Committee on Public Safety, Law Enforcement and Judiciary
I Mina'trentai Unu Na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

Re: Bill No. 61-31 (COR), An Act to Add §1102(c)(1), §1102(ww), To Add New Definitions to §5101, To Amend §5109(a), §5109(c), §5112(b), §5116(d), §5117 of Title 16, Guam Code Annotated, Relative to Increasing the Safety of Guam's Roads by Granting Division of Motor Vehicles/Motor Carrier Safety Assistance Program Officials With Citation Authority

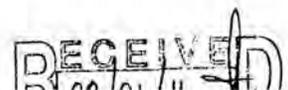
Bill No. 67-31 (COR), An Act to Add A New §3347 to Chapter 3 of Article 3 and a New §7177 to Chapter 7 of 17GCA Relative to Enhancing the Penalties for Moving Violations Involving Large Vehicles

Dear Senator Palacios:

The Department of Public Works will submit written testimony on Bill No. 61-31 and Bill No. 67-31 by Friday, March 4, 2011. In light of the road construction projects throughout the island, these bills are timely, especially when alternative routes used for traffic flow are the village, or secondary, roads which are not meant to be traversed by heavy trucks, buses, or large vehicles.

Sincerely,

CARL V. DOMINGUEZ
Deputy Director





COMMITTEE ON RULES

I Miná'trentai Unu na Libeslaturan Guáhan • The 31st Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

2011 FEB 25 AM 9:29
EPM

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

February 24, 2011

Memorandum

Senator
Judith P. Guthertz
VICE CHAIRPERSON
ASST. MAJORITY LEADER

To: Pat C. Santos
Clerk of the Legislature

MAJORITY
MEMBERS:

From: Senator Rory J. Respicio
Chairperson, Committee on Rules

Speaker
Judith T. Won Pat

Subject: Fiscal Notes

Vice Speaker
Benjamin J. F. Cruz

Hafa Adai!

Senator
Tina Rose Muña Barnes
LEGISLATIVE SECRETARY
MAJORITY WHIP

Attached please find the fiscal notes for the bill numbers listed below. Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

Senator
Dennis G. Rodriguez, Jr.
ASST. MAJORITY WHIP

Bill Nos.:	28-31 (COR)	63-31 (COR)
	54-31 (COR)	67-31 (COR)
	56-31 (COR)	75-31 (COR)
	59-31 (COR)	
	60-31 (COR)	
	61-31 (COR)	
	62-31 (COR)	

Senator
Thomas C. Ada

Senator
Adolpho B. Palacios, Sr.

Senator
vicente c. pangelinan

MINORITY
MEMBERS:

Senator
Aline A. Yamashita
ASST. MINORITY LEADER

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Senator
Christopher M. Duenas

Si Yu'os ma'áse'!

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR

RAY TENORIO
LIEUTENANT GOVERNOR

BENITA A. MANGLONA
DIRECTOR

STEPHEN J. GUERRERO
DEPUTY DIRECTOR

FEB 24 2011

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hester Place
Hagåtña, Guam 96910

Hafa Adai Senator Respicio:

Transmitted herewith are Fiscal Notes on the following Bill Nos.: 28-31(COR), 54-31(COR), 60-31(COR), 61-31(COR), 62-31(COR), 63-31(COR), 67-31(COR) and 75-31(COR).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.

Handwritten signature of Benita A. Manglona in cursive script.
BENITA A. MANGLONA
Director

Enclosures

cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 61-31 (COR)**

AN ACT TO ADD §1102(c)(1), §1102(vv), §1102(ww), TO ADD NEW DEFINITIONS TO §5101, TO AMEND §5109(a), §5109(c), §5112(b) AND TO ADD §5112(d), §5116(d), §5117 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE SAFETY ON GUAM'S ROADS BY GRANTING DIVISION OF MOTOR VEHICLES/MOTOR CARRIER SAFETY ASSISTANCE PROGRAM OFFICIALS WITH CITATION AUTHORITY.

Department/Agency Appropriation Information

Dept./Agency Affected: Department of Revenue and Taxation		Dept./Agency Head: John P. Camacho, Acting	
Department's General Fund (GF) appropriation(s) to date:		9,318,618	
Department's Other Fund (Specify) appropriation(s) to date: Better Public Service Fund		2,403,358	
Total Department/Agency Appropriation(s) to date:		11,721,976	

Fund Source Information of Proposed Appropriation

	General Fund:	(Specify Special Fund):	Total:
FY 2010 Unreserved Fund Balance ¹		\$0	\$0
FY 2011 Adopted Revenues	\$0	\$0	\$0
FY 2011 Appr. (P.L. 30-196)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2011 (if applicable)	FY 2012	FY 2013	FY 2014	FY 2015
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

1. Does the bill contain "revenue generating" provisions? /x/ Yes // No
If Yes, see attachment
2. Is amount appropriated adequate to fund the intent of the appropriation? /x/ N/A // Yes // No
If no, what is the additional amount required? \$ _____
/x/ N/A
3. Does the Bill establish a new program/agency? // Yes /x/ No
If yes, will the program duplicate existing programs/agencies? // N/A // Yes /x/ No
Is there a federal mandate to establish the program/agency? // Yes /x/ No
4. Will the enactment of this Bill require new physical facilities? // Yes /x/ No
5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: // Yes /x/ No
// Requested agency comments not received by due date // Other: _____

2/21/11

Analyst: M. Quinata Date: _____ Director: Benita A. Mangiona Date: 2/21/11
Benita A. Mangiona, Acting Director

Footnotes:
The Bill, with its proposed new requirements, will increase the workload for DRT. This increase may require the need to tap on local funds for additional personnel. With additional enforcement powers, there may be an increase in imposed fines and penalty revenues. However, in its present form, that impact can not be determined at this time.



COMMITTEE ON RULES

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155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
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vicente c. pangelinan

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Aline A. Yamashita
ASST. MINORITY LEADER

Senator
Christopher M. Duenas

February 1, 2011

MEMORANDUM

To: Pat Santos
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Chairperson, Committee on Rules

Subject: Referral of Bill Nos. 60-31 (COR) and 61-31 (COR)

As Chairperson of the Committee on Rules, I am forwarding my referral of Bill Nos. 60-31 (COR) and 61-31 (COR).

Please ensure that the subject bills are referred, in my name, to the respective committees, as shown on the attachment. I also request that the same be forwarded to all Senators of *I Mina'trentai Unu na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os ma'åse!

(2) Attachments

2011 FEB - 1 PM 3:00
RJR

I Mina'Trentai Unu Na Liheslaturan Guåhan

Bill Log Sheet

January 31, 2011

Page 1 of 1

Bill No.	Sponsor(s)	Title	Date Introduced	Date Referred	120 Day Deadline	Committee Referred	Public Hearing Date	Date Committee Report Filed	Status (Date) Passed? Failed? Vetoed? Overridden? Public Law?
61-31 (COR)	T. C. Ada, A.	AN ACT TO ADD §1102(c)(1), §1102(vv), §1102(ww), TO ADD NEW DEFINITIONS TO §5101, TO AMEND §5109(a), §5109(c), §5112(b) AND TO ADD §5112(d), §5116(d), §5117 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE SAFETY ON GUAM'S ROADS BY GRANTING DIVISION OF MOTOR VEHICLES/MOTOR CARRIER SAFETY ASSISTANCE PROGRAM OFFICIALS WITH CITATION AUTHORITY.	1/31/11 3:33 p.m.	2/1/11		Committee on Public Safety, Law Enforcement and Judiciary.			



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY

I Mina'Trentai Unu Na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.

Chairman

February 21, 2011

(Pursuant to §8107, Title 5 GCA – 5 day notice prior to hearing date)

The Committee on Public Safety, Law Enforcement, and Judiciary has scheduled a public hearing starting at 9:00 am, **Tuesday, March 1, 2011**, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 75-31 (COR) – AN ACT RELATIVE TO PROVIDING THE GUAM COMMUNITY POLICE REVIEW COMMISSION WITH ADMINISTRATIVE AND CLERICAL SUPPORT NECESSARY FOR THE CONDUCT OF ITS ACTIVITIES, AND ALLOWING FOR THE APPOINTMENT OF AN INTERIM CHAIRPERSON; THROUGH ADDING A NEW SECTION “§78103.1” AND NEW SUBSECTIONS “(A.1)” AND “(D.1)” TO SECTION §78103 ALL TO CHAPTER 78 OF TITLE 10, GUAM CODE ANNOTATED. – by Senator Adolpho B. Palacios, Sr.**
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- **Bill No. 67-31 (COR) – AN ACT TO ADD A NEW §3347 TO CHAPTER 3 OF ARTICLE 3 AND A NEW §7177 TO CHAPTER 7 OF 17GCA RELATIVE TO ENHANCING THE PENALTIES FOR MOVING VIOLATIONS INVOLVING LARGE VEHICLES. – by Senator V. Anthony 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 Bill(s) may be obtained at *I Liheslaturan Guåhan's* website at www.guamlegislature.com. Individuals requiring special accommodations or services, please contact Julian Janssen or Jennifer Dulla at 472-5047/5048.

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

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



Adolpho Palacios <senabpalacios@gmail.com>

1st Notice of Public Hearing scheduled for March 1, 2011

1 message

Adolpho Palacios <senabpalacios@gmail.com>

Mon, Feb 21, 2011 at 8:53 AM

To: speaker@judiwonpat.com, senator@senatorbjcruz.com, Secretary Tina Rose Muna-Barnes <tinamunabarnes@gmail.com>, "Majority Leader Rory J. Respicio" <roryforguam@gmail.com>, Senator Tom Ada <tom@senatorada.org>, senatortonyada@guamlegislature.org, "Senator Frank F. Blas, Jr." <frank.blasjr@gmail.com>, duenasenator@gmail.com, "Asst. Majority Leader Judith P. Guthertz, DPA" <judiguthertz@pticom.com>, senatorsam@senatormabini.com, "Senator Ben C. Pangelinan" <senbenp@guam.net>, senatordrodriguez@gmail.com, senatormana@gmail.com, Aline4families@gmail.com, "Atty. Therese Terlaje" <tterlaje@guam.net>

February 21, 2011

(Pursuant to §8107, Title 5 GCA – 5-day notice prior to hearing date)

PUBLIC HEARING NOTICE

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- Bill No. 75-31 (COR) – AN ACT RELATIVE TO PROVIDING THE GUAM COMMUNITY POLICE REVIEW COMMISSION WITH ADMINISTRATIVE AND CLERICAL SUPPORT NECESSARY FOR THE CONDUCT OF ITS ACTIVITIES, AND ALLOWING FOR THE APPOINTMENT OF AN INTERIM CHAIRPERSON; THROUGH ADDING A NEW SECTION "§78103.1" AND NEW SUBSECTIONS "(A.1)" AND "(D.1)" TO SECTION §78103 ALL TO CHAPTER 78 OF TITLE 10, GUAM CODE ANNOTATED. – by Senator Adolpho B. Palacios, Sr.
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Adolpho Palacios <senabpalacios@gmail.com>

1st Notice of Public Hearing scheduled for March 1, 2011

1 message

Adolpho Palacios <senabpalacios@gmail.com>

Mon, Feb 21, 2011 at 8:59 AM

To: clerks@guamlegislature.org, Pat Santos <psantos@guamlegislature.org>, rtaiguague@guamlegislature.org, Rennae Perez <rennae@guamlegislature.org>, sgtarms@guamlegislature.org, yong@guamlegislature.org, mark@judiwonpat.com, garrett.duenas@senatorbjcruz.com, cmunabrecht@guamlegislature.org, Stephanie Mendiola <sem@guamlegislature.org>, nsantos@senatorada.org, cyrus@senatorada.org, louise_atalig@yahoo.com, Mary Fejeran <maryfejeran@gmail.com>, leslie.g@senatormabini.com, cipo@guamlegislature.org, alerta.jermaine@gmail.com, evelyn4families@gmail.com

February 21,
March 1, 2011

(Pursuant to §8107, Title 5 GCA – 5-day notice prior to hearing date)

PUBLIC HEARING NOTICE

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Adolpho Palacios <senabpalacios@gmail.com>

1st Notice of Public Hearing scheduled for March 1, 2011

2 messages

Adolpho Palacios <senabpalacios@gmail.com>

Mon, Feb 21, 2011 at 8:56 AM

To: sabrina@kuam.com, jason@kuam.com, mindy@kuam.com, news@kuam.com, news@spbguam.com, news@guampdn.com, kstone@ite.net, parroyo@spbguam.com, rgibson@k57.com, dmgeorge@guampdn.com, dmgeorge@guam.gannett.com, Catriona Melyan <cmelyan@guampdn.com>, amier@mvguam.com, marvic@mvguam.com, ads@mvguam.com, zytaitano@gmail.com, jtyquiengco@spbguam.com, clynt@spbguam.com

February 21,
March 1, 2011

(Pursuant to §8107, Title 5 GCA – 5-day notice prior to hearing date)

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special accommodations or services, please contact Julian Janssen or Jennifer Dulla at 472-5047/5048.

Mail Delivery Subsystem <mailer-daemon@googlemail.com>

Mon, Feb 21, 2011 at 8:56 AM

To: senabpalacios@gmail.com

Delivery to the following recipient failed permanently:

news@kuam.com

Technical details of permanent failure:

Google tried to deliver your message, but it was rejected by the recipient domain. We recommend contacting the other email provider for further information about the cause of this error. The error that the other server returned was: 550 550-5.1.1 The email account that you tried to reach does not exist. Please try 550-5.1.1 double-checking the recipient's email address for typos or 550-5.1.1 unnecessary spaces. Learn more at 550 5.1.1 <http://mail.google.com/support/bin/answer.py?answer=6596> g7si13115733bkg.32 (state 17).

----- Original message -----

MIME-Version: 1.0

Received: by 10.223.86.196 with SMTP id t4mr985783fal.34.1298242592067; Sun, 20 Feb 2011 14:56:32 -0800 (PST)

Received: by 10.223.164.11 with HTTP; Sun, 20 Feb 2011 14:56:32 -0800 (PST)

Date: Mon, 21 Feb 2011 08:56:32 +1000

Message-ID: <AANLKTinhZq9axSDHGYn0QesL9K3iXK5TWHYmYrTAqdf+@mail.gmail.com>

Subject: 1st Notice of Public Hearing scheduled for March 1, 2011

From: Adolpho Palacios <senabpalacios@gmail.com>

To: sabrina@kuam.com, jason@kuam.com, mindy@kuam.com, news@kuam.com, news@spbguam.com, news@guampdn.com, kstonews@ite.net, parroyo@spbguam.com, rgibson@k57.com, dmgeorge@guampdn.com, dmgeorge@guam.gannett.com, Catriona Melyan <cmelyan@guampdn.com>, amier@mvquam.com, marvic@mvquam.com, ads@mvquam.com, zytaitano@gmail.com, ityquiengco@spbguam.com, clynt@spbguam.com

Content-Type: multipart/alternative; boundary=20cf30433f7a885257049cbea82c

March 1, 2011

[Quoted text hidden]



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY

I Mina'Trentai Uno Na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.

Chairman

FACSIMILE TRANSMITTAL SHEET

DATE: February 21, 2011

TO: Pacific Daily News 477-3079 (Attention: Government Meetings)
Marianas Variety 648-2007 (Attention: Community Page)
KUAM/Isla 630 637-9865/9870
Pacific News Center 477-0793
Marianas Media 477-2240
K-57/Power 98 477-3982
Hit Radio 100 472-7663
KStereo/KISH 477-6411
Glimpses 649-8883

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

SUBJECT: *FIRST* Notice of Public Hearing scheduled for March 1, 2011

PAGES: 1 (including this sheet)

February 21,
~~March 1,~~ 2011

(Pursuant to §8107, Title 5 GCA – 5-day notice prior to hearing date)

PUBLIC HEARING NOTICE

The Committee on Public Safety, Law Enforcement, and Judiciary has scheduled a public hearing starting at 9:00 am, Tuesday, March 1, 2011, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- Bill No. 75-31 (COR) – AN ACT RELATIVE TO PROVIDING THE GUAM COMMUNITY POLICE REVIEW COMMISSION WITH ADMINISTRATIVE AND CLERICAL SUPPORT NECESSARY FOR THE CONDUCT OF ITS ACTIVITIES, AND ALLOWING FOR THE APPOINTMENT OF AN INTERIM CHAIRPERSON; THROUGH ADDING A NEW SECTION “§78103.1” AND NEW SUBSECTIONS “(A.1)” AND “(D.1)” TO SECTION §78103 ALL TO CHAPTER 78 OF TITLE 10, GUAM CODE ANNOTATED. – by Senator Adolpho B. Palacios, Sr.
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Office/Mailing Address: 155 Hesler Place, Hagåtña Guam 96910

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

Broadcast Report

P 1
02/21/2011 09:19

Serial No. A02E01T003085
TC: 123803

Destination	Start Time	Time	Prints	Result	Note
PDN	02-21 09:02	00:00:37	001/001	OK	
KUAM	02-21 09:03	00:00:23	001/001	OK	
PNC	02-21 09:04	00:00:21	001/001	OK	
K57	02-21 09:04	00:00:19	001/001	OK	
HIT RADIO 100	02-21 09:05	00:00:20	001/001	OK	
GLIMPSES	02-21 09:06	00:00:21	001/001	OK	
KSTEREO/KISH	02-21 09:08	00:00:41	001/001	OK	
6379870	02-21 09:09	00:00:19	001/001	OK	
4772240	02-21 09:09	00:05:48	001/001	OK	
MARIANAS VARIETY	02-21 09:18	00:00:26	001/001	OK	

Note TMR: Timer TX, POL: Polling, ORG: Original Size Setting, FME: Frame Erase TX,
MIX: Mixed Original TX, CALL: Manual TX, CSAC: CSAC, FWD: Forward, PC: PC-Fax,
BND: Double-Sided Binding Direction, SP: Special original, FCODE: F-code, RTX: Re-TX,
RLY: Relay, MEX: Confidential, BUL: Bulletin, SIP: SIP Fax, IPADR: IP Address Fax,
I-FAX: Internet Fax

Result OK: Communication OK, S-OK: Stop Communication, PW-OFF: Power Switch OFF,
TEL: RX from TEL, NG: Other Error, Cont: Continue, No Ans: No Answer,
Refuse: Receipt Refused, Busy: Busy, M-Full: Memory Full,
LOVR: Receiving length Over, POVER: Receiving page Over, FIL: File Error,
DC: Decode Error, MDN: MDN Response Error, DSN: DSN Response Error.



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina Trental Uno Na Liheslaturan Guåhan
SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

FACSIMILE TRANSMITTAL SHEET

DATE: February 21, 2011

TO: Pacific Daily News 477-3079 (Attention: Government Meetings)
Marianas Variety 648-2007 (Attention: Community Page)
KUAM/Isle 630 637-9865/9870
Pacific News Center 477-0793
Marianas Media 477-2240
K-57/Power 98 477-3982
Hit Radio 100 472-7663
KStereo/KISH 477-6411
Glimpses 649-8683

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

SUBJECT: FIRST Notice of Public Hearing scheduled for March 1, 2011

PAGES: 1 (including this sheet)

March 1, 2011
(Pursuant to §8107, Title 5 GCA - 5-day notice prior to hearing date)

PUBLIC HEARING NOTICE

The Committee on Public Safety, Law Enforcement, and Judiciary has scheduled a public hearing starting at 9:00 am, Tuesday, March 1, 2011, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- Bill No. 78-31 (COR) - AN ACT RELATIVE TO PROVIDING THE GUAM COMMUNITY POLICE REVIEW COMMISSION WITH ADMINISTRATIVE AND CLERICAL SUPPORT NECESSARY FOR THE CONDUCT OF ITS ACTIVITIES, AND ALLOWING FOR THE APPOINTMENT OF AN INTERIM CHAIRPERSON; THROUGH ADDING A NEW SECTION "§78103.1" AND NEW SUBSECTIONS "(A.1)" AND "(D.1)" TO SECTION §78103 ALL TO CHAPTER 78 OF TITLE 10, GUAM CODE ANNOTATED. - by Senator Adolpho B. Palacios, Sr.
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Adolpho Palacios <senabpalacios@gmail.com>

SECOND NOTICE OF PUBLIC HEARING

1 message

Adolpho Palacios <senabpalacios@gmail.com>

Fri, Feb 25, 2011 at 10:59 AM

To: speaker@judiwonpat.com, senator@senatorbjcruz.com, senator@tinamunabarnes.com, "Majority Leader Rory J. Respicio" <roryforguam@gmail.com>, Senator Tom Ada <tom@senatorada.org>, senatortonyada@guamlegislature.org, "Senator Frank F. Blas, Jr." <frank.blasjr@gmail.com>, duenasenator@gmail.com, "Asst. Majority Leader Judith P. Guthertz, DPA" <judiguthertz@pticom.com>, senatorsam@senatormabini.com, "Senator Ben C. Pangelinan" <senbenp@guam.net>, senatordrodriguez@gmail.com, senatormana@gmail.com, Aline Yamashita <Aline4families@gmail.com>
 Cc: clerks@guamlegislature.org, sgtarms@guamlegislature.org, yong@guamlegislature.org, "Atty. Therese Terlaje" <tterlaje@guam.net>, garrett.duenas@senatorbjcruz.com, chris.carillo@senatorbjcruz.com, chelsea@tinamunabarnes.com, cyrus@senatorada.org, louise_atalig@yahoo.com, Mary Fejeran <maryfejeran@gmail.com>, leslie.g@senatormabini.com, cipo@guamlegislature.org, alerta.jermaine@gmail.com, evelyn4families@gmail.com

February 25, 2011

(Pursuant to §8107, Title 5 GCA – 48-hour notice prior to hearing date)

PUBLIC HEARING NOTICE

The Committee on Public Safety, Law Enforcement, and Judiciary has scheduled a public hearing starting at 9:00 am, Tuesday, March 1, 2011, at 1 Liheslaturan Guåhan's Public Hearing Room in Hagåtña, on the following:

- Bill No. 75-31 (COR) – AN ACT RELATIVE TO PROVIDING THE GUAM COMMUNITY POLICE REVIEW COMMISSION WITH ADMINISTRATIVE AND CLERICAL SUPPORT NECESSARY FOR THE CONDUCT OF ITS ACTIVITIES, AND ALLOWING FOR THE APPOINTMENT OF AN INTERIM CHAIRPERSON; THROUGH ADDING A NEW SECTION "§78103.1" AND NEW SUBSECTIONS "(A.1)" AND "(D.1)" TO SECTION §78103 ALL TO CHAPTER 78 OF TITLE 10, GUAM CODE ANNOTATED. – by Senator Adolpho B. Palacios, Sr.
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FOR MOVING VIOLATIONS INVOLVING LARGE VEHICLES. – by Senator V. Anthony Ada

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Adolpho Palacios <senabpalacios@gmail.com>

SECOND NOTICE OF PUBLIC HEARING

1 message

Adolpho Palacios <senabpalacios@gmail.com>
Fri, Feb 25, 2011 at 10:50 AM

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February 25, 2011

(Pursuant to §8107, Title 5 GCA – 48-hour notice prior to hearing date)

PUBLIC HEARING NOTICE

The Committee on Public Safety, Law Enforcement, and Judiciary has scheduled a public hearing starting at **9:00 am, Tuesday, March 1, 2011**, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 75-31 (COR) – AN ACT RELATIVE TO PROVIDING THE GUAM COMMUNITY POLICE REVIEW COMMISSION WITH ADMINISTRATIVE AND CLERICAL SUPPORT NECESSARY FOR THE CONDUCT OF ITS ACTIVITIES, AND ALLOWING FOR THE APPOINTMENT OF AN INTERIM CHAIRPERSON; THROUGH ADDING A NEW SECTION “§78103.1” AND NEW SUBSECTIONS “(A.1)” AND “(D.1)” TO SECTION §78103 ALL TO CHAPTER 78 OF TITLE 10, GUAM CODE ANNOTATED. – by Senator Adolpho B. Palacios, Sr.**
- **Bill No. 61-31 (COR) – AN ACT TO ADD §1102(c)(1), §1102(vv), §1102(ww), TO ADD NEW DEFINITIONS TO §5101, TO AMEND §5109(a), §5109(c), §5112(b) AND TO ADD §5112(d), §5116(d), §5117 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE SAFETY ON GUAM’S ROADS BY GRANTING DIVISION OF MOTOR VEHICLES/MOTOR CARRIER SAFETY ASSISTANCE PROGRAM OFFICIALS WITH CITATION AUTHORITY. – by Senator Thomas C. Ada**
- **Bill No. 67-31 (COR) – AN ACT TO ADD A NEW §3347 TO CHAPTER 3 OF ARTICLE 3 AND A NEW §7177 TO CHAPTER 7 OF 17GCA RELATIVE TO ENHANCING THE PENALTIES FOR MOVING VIOLATIONS INVOLVING LARGE VEHICLES. – by Senator V. Anthony 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 Bill(s) may be obtained at *I Liheslaturan Guåhan's* website at www.guamlegislature.com. Individuals requiring special accommodations or services, please contact Julian Janssen or Jennifer Dulla at 472-5047/5048.



COMMITTEE ON PUBLIC SAFETY, LAW ENFORCEMENT & JUDICIARY
I Mina'Trentai Unu Na Liheslaturan Guåhan

SENATOR ADOLPHO B. PALACIOS, SR.
Chairman

PRESS RELEASE

For Immediate Release
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Destination	Start Time	Time	Prints	Result	Note
PDN	02-25 11:18	00:00:34	001/001	OK	
KJAM	02-25 11:19	00:00:31	001/001	OK	
PNC	02-25 11:20	00:00:20	001/001	OK	
K57	02-25 11:21	00:00:18	001/001	OK	
HIT RADIO 100	02-25 11:21	00:00:18	001/001	OK	
KSTO	02-25 11:22	00:00:38	001/001	OK	
GLIMPSES	02-25 11:23	00:00:19	001/001	OK	
GPD	02-25 11:23	00:00:19	001/001	OK	
REV & TAX	02-25 11:24	00:00:34	001/001	OK	
MARIANAS VARIETY	02-25 11:25	00:00:24	001/001	OK	

Note TMR: Timer TX, PDL: Polling, ORG: Original Size Setting, FME: Frame Erase TX,
MIX: Mixed Original TX, CALL: Manual TX, CSRC: CSRC, FWD: Forward, PC: PC-Fax,
BND: Double-Sided Binding Direction, SP: Special original, FCODE: F-code, RTX: Re-TX,
RLV: Relay, MBX: Confidential, BUL: Bulletin, SIP: SIP Fax, IPADR: IP Address Fax,
I-FAX: Internet Fax

Result OK: Communication OK, S-OK: Stop Communication, PW-OFF: Power Switch OFF,
TEL: RX from TEL, NG: Other Error, Cont: Continue, No Ans: No Answer,
Refuse: Receipt Refused, Busy: Busy, M-Full: Memory Full,
LOVR: Receiving length Over, POVER: Receiving page Over, FIL: File Error,
DC: Decode Error, MDN: MDN Response Error, DSN: DSN Response Error.



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SENATOR ADOLPHO B. PALACIOS, SR.

Chairman

PUBLIC HEARING

9:00 am, Tuesday, March 1, 2011

I Liheslaturan Guåhan's Public Hearing Room, Hagatña

AGENDA

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

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

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 61-31 (COR)

Introduced by:

T. C. Ada
Adolpho Borja Palacios, Sr.



AN ACT TO ADD §1102(c)(1), §1102(vv), §1102(ww), TO ADD
NEW DEFINITIONS TO §5101, TO AMEND §5109(a), §5109(c),
§5112(b) AND TO ADD §5112(d), §5116(d), §5117 OF TITLE 16,
GUAM CODE ANNOTATED, RELATIVE TO INCREASING
THE SAFETY ON GUAM'S ROADS BY GRANTING
DIVISION OF MOTOR VEHICLES/MOTOR CARRIER
SAFETY ASSISTANCE PROGRAM OFFICIALS WITH
CITATION AUTHORITY.

2011 JAN 31 PM 3:33

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

2 **Section 1.** Legislative Findings. *I Liheslaturan Guåhan* finds that the
3 standards established by Guam's current Motor Vehicle Code need to be updated
4 to support the continued development of Guam's transportation and other
5 industries, and to enhance the safety of Guam's roads. Such updates include: 1)
6 definition of commercial motor vehicle (CMV); 2) granting the Division of Motor
7 Vehicles/Motor Carrier Safety Assistance Program (MCSAP) officials the
8 authority to: (a) conduct inspections of both interstate and intrastate CMV activity;
9 (b) stop and inspect CMVs traveling on Guam's highways; (c) inspect passenger
10 vans, including mini-buses and limousines, to determine if safety requirements are
11 being met; and (d) require certain reports from all motor carriers and inspect all
12 equipment of motor carriers as well as books and documents related to the safety

1 of motor carrier operations. The new requirements will apply to approximately six
2 thousand (6,000) currently registered civilian CMVs weighing $\geq 10,001$ lbs and
3 eight hundred (800) registered civilian CMV vans, mini-buses, and limousines
4 intended to transport 8-15 passengers.

5 **Section 2.** A new 16 GCA §1102(c)(1) is *added* to read:

6 **“§1102(c)(1).** A *commercial motor vehicle (CMV)* is a vehicle of a
7 type required to be registered hereunder, used or maintained for the
8 transportation of persons for hire, compensation or profit, or designed,
9 used or maintained primarily for the transportation of property.

10 Additionally, a commercial motor vehicle includes any self-propelled or
11 towed motor vehicle used on a highway in interstate or intrastate
12 commerce to transport passengers or property when the vehicle—

13 (a) Has a gross vehicle weight rating (GVWR; as classified by the
14 vehicle manufacturer) or gross combination weight rating (GCWR), or gross
15 vehicle weight (GVW) or gross combination weight (GCW), of 4,536 kg
16 (10,001 pounds) or more, whichever is greater; or

17 (b) Is designed or used to transport more than 8 passengers (including
18 the driver) for compensation; or

19 (c) Is designed or used to transport more than 15 passengers, including
20 the driver, and is not used to transport passengers for compensation; or

21 (d) Is used in transporting material found by the Secretary of
22 Transportation to be hazardous under 49 U.S.C. 5103 and transported in a
23 quantity requiring placarding under regulations prescribed by the Secretary
24 under 49 CFR, subtitle B, chapter I, subchapter C.

1 (e) For intrastate commerce purposes only, a commercial motor
2 vehicle includes a vehicle of a type required to be registered hereunder, and
3 used or maintained for the transportation of 9 to 15 persons.

4 **Section 3.** New definitions (vv) and (ww) are *added* to 16 GCA §1102 to
5 read:

6 “§1102(vv). *Interstate commerce* means trade, traffic, or transportation in
7 the United States, which includes the 50 states, District of Columbia, territories and
8 Commonwealths of the United States -:

9 (1) Between a Guam port of entry/exit (Jose D. Leon Guerrero Port
10 Authority or the Antonio B. Won Pat Guam International Airport) and a
11 place outside of such entry/exit; or

12 (2) Between two places in Guam as part of trade, traffic, or
13 transportation originating or terminating outside Guam or the United
14 States.

15 §1102(ww). *Intrastate commerce* means any trade, traffic, or
16 transportation within the territory of Guam which is not described in the
17 term ‘interstate commerce’.”

18 **Section 4.** New definitions are *added* to 16 GCA §5101 to read:

19 “*Gross Combination Weight (GCW)*: The total weight of the
20 power unit and the total weight of the towed unit and any load thereon.

21 *Gross Combination Weight Rating (GCWR)*: The value
22 specified by the manufacturer as the loaded weight of a combination
23 (articulated) motor vehicle. In the absence of a value specified by the
24 manufacturer, GCWR will be determined by adding the GVWR of the
25 power unit and the total weight of the towed unit and any load thereon.

1 *Gross Vehicle Weight (GVW)*: The total weight of the loaded
2 vehicle. This includes the vehicle itself and the cargo that is loaded within
3 that vehicle.

4 *Gross Vehicle Weight Rating (GVWR)*: The value specified by
5 the manufacturer as the loaded weight of a single motor vehicle.

6 *Portable Scales*: A movable weighing device.

7 *Static Scales*: An immovable measuring scale, similar to a
8 ruler, that is attached to the edge of an optical comparator screen.

9 *Weigh-in-Motion Scales*: Weighing-in-Motion (WIM) is, as the
10 name implies, the process of weighing a vehicle as it is moving along the
11 highway in an effort to estimate the equivalent static weight of the vehicle.”

12 **Section 5.** 16 GCA §5109(a) is *amended* to read:

13 “§5109(a). For purposes of the enforcement of this part, the Director
14 of Revenue and Taxation (“Director”) shall have such powers of
15 enforcement as may be necessary to implement this part. The Director
16 may delegate the enforcement of this part to the Administrator of the
17 Division of Motor Vehicles/Motor Carrier Safety Assistance Program
18 (DMV/MCSAP). For the purpose of the safety, welfare and health of the
19 general public, and the safe transportation of hazardous materials and
20 waste on any public highway, or primary road, and the enforcement of this
21 part and of all rules adopted pursuant to this part, the Director and persons
22 appointed by the Director, may (1) inspect lands, buildings, freight and
23 equipment of motor carriers; (2) stop and inspect freight and equipment of
24 motor carriers on any public highway or primary road; (3) inspect shipping
25 papers and hazardous waste manifests of motor carriers and persons
26 subject to this part; and (4) stop and inspect similar documents and

1 equipment status of military vehicles traveling on a Guam public highway
2 or primary road.

3 ~~Any~~ Every police officer *or* Division of Motor Vehicles/Motor
4 Carrier Safety Assistance Program (DMV/MCSAP) inspector shall assist
5 in the enforcement of this part and of all rules adopted pursuant to this part
6 and issue citations for violations as appropriate.”~~observing conditions of~~
7 ~~vehicle appearance, operation or cargo storage which might represent a~~
8 ~~potential or actual hazard is authorized to stop the driver and submit the~~
9 ~~vehicle to an immediate inspection.~~

10 **Section 6.** 16 GCA §5109(c) is *amended* to read:

11 “**§5109(c).** ~~Any~~ Every police officer *or* DMV/MCSAP inspector
12 having reason to believe that the weight of a vehicle, either unladen *or* with
13 load, is unlawful, is authorized to require the driver to stop and submit to a
14 weighing of same by means of portable scales, static scales, or weigh-in-
15 motion scales. ~~and should a question of weight arise, the officer or~~
16 ~~DMV/MCSAP inspector will require that such vehicles be driven to the~~
17 ~~nearest official scales.”~~ Violations shall be subject to penalties cited in
18 §5112(a) of this Chapter.”

19 **Section 7.** 16 GCA §5112(b) is *amended* to read:

20 “**§5112(b).** All permit fees and fines *shall* be deposited into the Better
21 Public Service Fund at the Department of Revenue and Taxation, to be
22 used by the Division of Motor Vehicles/~~Motor Carrier Safety Assistance~~
23 ~~Program.”~~

24 **Section 8.** 16 GCA §5112(d) is *added* to read:

1 “§ 5112(d). The fine schedules of the Superior Court of Guam and
2 the Commercial Vehicle Safety Alliance (CVSA) for violations cited
3 during roadside inspections, and the method for penalty assessment
4 outlined in the Federal Uniform Fine Assessment (UFA) Program,
5 specifically for violations identified as a result of a Compliance Review,
6 are hereby adopted pursuant to fines and fees as applicable to Guam.”

7 **Section 9.** 16 GCA §5116(d) is *added* to read:

8 **§5116. Carrier Safety and Hazardous Material Regulations.**

9 “(d) The regulations adopted in this section shall be applicable to both
10 interstate commerce and intrastate commerce. Furthermore, the Department
11 of Revenue and Taxation, Guam Motor Carrier Safety Assistant Program's
12 (MCSAP) personnel shall have authority to enforce the regulations on both
13 intrastate and interstate motor vehicle carriers.”

14 **Section 10.** 16 GCA §5117 is *added* to read:

15 **“§5117. Accounts, records, and reports. Inspection.**

16 (a) The Director of Revenue and Taxation may require annual,
17 periodic, or special reports from all motor carriers, prescribe the manner
18 and form in which the reports shall be made, and require from the carriers
19 specific and full, true, and correct answers to all questions which the
20 Director may deem necessary for the safety regulation of motor carrier
21 vehicles.

22 (b) The Director may prescribe the forms of any and all records and
23 memoranda to be maintained by motor carriers as related to safety of motor
24 carrier operations consistent with the guidelines set forth in Title 30, Guam
25 Administrative Rules and Regulations. The Director or Director’s duly
26 authorized representative shall at all reasonable times and places consistent

1 with §9302, 30 GAR, Division 2, Article 3 have access to and authority,
2 under the Director's or representative's order, to inspect and examine any
3 and all equipment of motor carriers and shall have authority to inspect and
4 copy any and all books, records, memoranda, and other documents as are
5 related to the safety of motor carrier operations.

6 (c) Each motor carrier operating vehicle in Guam shall keep all
7 records and reports required by this section at an office or place of business
8 located within Guam.”

9 **Section 11. Severability.** *If* any provision of this law *or* its application to
10 any person or circumstance is found to be invalid or contrary to law, such
11 invalidity shall *not* affect other provisions or applications of this law which can be
12 given effect without the invalid provisions *or* applications, and to this end the
13 provisions of this law are severable.