


MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2007 (FIRST) Regular Session

Introduced

JAN 01 2007
11:17 A.M.

Bill No. 10 (LS)

Introduced by:

J. T. Won Pat 

An Act To Add A New §3112(A)(18) To Title 17 G.C.A., Relative To The Guam Public School System Policy Regarding Alcohol On School Grounds Or School Sponsored Events; To Amend §18102(G) Of Title 16 G.C.A., Chapter 18, Article 1, Relative To Reduce The Body Alcohol Content Level From 0.04% To 0.02% For Persons Under The Age Of Eighteen Operating A Motor Vehicle; To Amend §18104 (A), Title 16 G.C.A., Chapter 18, Article 1, Relative To Mandate A Fourteen (14) Hour Minimum Substance Or Alcohol Abuse Awareness Program And Other Penalties; To Amend § 18105, Title 16 G.C.A., Chapter 18, Article 1, Relative To Mandate A Fourteen (14) Hour Minimum Substance Or Alcohol Abuse Awareness Program And Other Penalties; To Amend § 18106, Title 16 G.C.A., Chapter 18, Article 1, Relative To Mandate A Fourteen (14) Hour Minimum Substance Or Alcohol Abuse Awareness Program And Other Penalties; To Amend § 18107, Title 16 G.C.A., Chapter 18, Article 1, Relative To Mandate A Fourteen (14) Hour Minimum Substance Or Alcohol Abuse Awareness Program And Other Penalties; A New §18101 (J) Is Added To Title 16 G.C.A., Chapter 18, Relative To Define A Highly Intoxicated Driver; A New §18107.1 Is Added To Title 16 G.C.A., Chapter 18, Relative To A Highly Intoxicated Driver And Penalties; A New §1102 (Rr) Is Added To Title 16, Chapter 1, Relative To Define A School Bus; A New §18107.2 Is Added To Title 16 G.C.A., Chapter 18, Relative To Persons Operating A School Bus Are Deemed Driving Under The

Influence With A Blood Alcohol Level Of 0.02% To 0.07% And Penalties; A New §18107.3 Is Added To Title 16 G.C.A., Chapter 18, Relative To Persons Operating A Commercial Motor Vehicle Are Deemed Driving Under The Influence With A Blood Alcohol Level Of 0.04% To 0.07% And Penalties; A New §3435 Is Added To Title 11 G.C.A., Relative To Allowing Minors To Drink.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the vast majority of citizens on Guam drink legally and responsibly and
4 without incident. However, minors who illegally consume or young adults
5 who consume while on school premises remains a concern. *I Liheslaturan*
6 *Guahan* also notes some instances of minors being provided with alcoholic
7 beverages by other minors or by adults. In order to prevent underage
8 drinking, *I Liheslaturan Guahan* deems it necessary to provide the minors and
9 young adults on our island with a safe learning environment, safe roads on
10 which to drive and stringent consequences for the illegal or abusive
11 consumption of alcohol. In further recognizing that minors should not engage
12 in risky behaviors and that drinking below the age of eighteen (18) is illegal, *I*
13 *Liheslaturan Guahan* hereby adopts a "Zero Tolerance" policy such that minors
14 who are caught drinking shall be subject to penalties set forth in this Act.

15 In addition, surveys in the U.S. (National Academy of Sciences Report to
16 Congress, 2003 and American Medical Association, 2005) indicate that two-
17 thirds 2/3 of adolescents who drink get their alcohol from their parents' home
18 supplies, older siblings or from other persons above the legal drinking age. It
19 is therefore important to make sure adults do not provide alcohol to minors

1 until the minors reaches the legal drinking age of eighteen (18). While it is
2 currently unlawful for any adult person, except a parent or guardian, to
3 procure, sell, give away, or otherwise supply alcohol to minors under the age
4 of 18, this act further prohibits any adult person from knowingly allowing a
5 minor to drink or knowingly failing to stop a minor from drinking while on
6 their premises, unless the person is the minor's parent or guardian or for the
7 consumption by the minor for medicinal or religious purposes.

8 *I Liheslaturan Guahan* is also cognizant of the fact that many arrests for
9 driving under the influence of alcohol concern persons who are repeat
10 offenders or who are highly intoxicated, with blood alcohol content (BAC)
11 levels far above the legal limit. This Act increases penalties for those repeat
12 offenders and adds graduated penalties for persons who are highly
13 intoxicated and who pose serious dangers to the community when they
14 operate a motor vehicle in such a condition.

15 *I Liheslaturan Guahan* recognizes that every week during the school year, tens
16 of thousands children begin and end each day with a trip on a school bus. It is
17 vital to provide maximum safety to children as they travel on Guam's school
18 buses. Thus any person operating a school bus ought to be held to a higher
19 standard than other motorists This Act reduces the legally permissible blood
20 alcohol content from 0.08% to 0.02% for persons operating a school bus. *I*
21 *Liheslaturan Guahan* further seeks to maximize safety for all persons who
22 travel or otherwise use the public highways of Guam motorists by reducing
23 the legally permissible blood alcohol content from 0.08% to 0.04% for persons
24 operating a commercial motor vehicle.

1 **Section 2.** A new item (18) is hereby added to §3112(a) of Chapter 3 of
2 Title 17, Guam Code Annotated as follows:

3 “(18) The Board shall develop a policy by June 30 2007 and shall establish
4 penalties when a student is found to be in possession of alcohol; is found
5 drinking alcohol on school grounds or while at school sponsored
6 extracurricular activities, or events. Such policy shall include: stating that
7 alcohol and alcohol use are not allowed on school grounds, at school-
8 sponsored activities, and while students are representing the school;
9 describing the consequences for violating the policy; and explaining how to
10 assess and refer students who abuse alcohol to counseling or other treatment
11 programs.”

12 **Section 3.** Title 16 G.C.A. § 18102(g), Chapter 18, Article 1 is amended to
13 read:

14 “(g)(1) Notwithstanding the other provisions of this section, a person
15 under the age of eighteen (18) shall be guilty of a violation of subsections (b)
16 or (d) of this section if such person shall be found within three (3) hours of his
17 or her arrest for a violation of this section to have ~~four~~ two one-hundredths of
18 one percent (~~0.04%~~) (0.02%) or more, by weight, of alcohol in his or her blood.

19 (2)(a) A person convicted for the first time of a violation of item (1) of
20 this subsection shall be guilty of a misdemeanor and shall have his or her
21 license or permit to operate a motor vehicle suspended for six (6) months.
22 ~~Upon any subsequent conviction of the person while under the age of~~
23 ~~eighteen (18), the person's license or permit to operate a motor vehicle shall be~~
24 ~~suspended for one (1) year with no exception for occupational driving~~
25 ~~privileges. Upon any conviction the court shall notify the Department of~~

1 ~~Revenue and Taxation of such suspension of the person's privilege to drive~~
2 ~~and confiscate the person's license or permit to operate a motor vehicle. In~~
3 ~~addition to the required mandatory suspension of a person's license or permit~~
4 ~~to operate a motor vehicle, the court may impose such additional penalty as~~
5 ~~may be permitted by law for conviction of a misdemeanor. In addition, such~~
6 person shall be punished by detention in the custody of the Department of
7 Youth Affairs ("DYA") for not less than a mandatory forty-eight (48) hours)
8 nor more than one (1) year and a fine of not less than one thousand dollars
9 (\$1,000) nor more than five thousand (\$5,000).

10 (b) Upon a second conviction of the person while under the age of
11 eighteen (18), the person's license or permit to operate a motor vehicle shall be
12 suspended for one (1) year with no exception for occupational driving
13 privileges, such person shall be punished by detention in the custody of DYA
14 for not less than a mandatory seven (7) days nor more than one (1) year and a
15 fine of not less than one thousand dollars (\$1,000) nor more than five
16 thousand (\$5,000).

17 (c) Upon a third conviction of the person while under the age of
18 eighteen (18), the person's license or permit to operate a motor vehicle shall be
19 revoked until the age of twenty-one (21), and a fine of not less than \$3,000 and
20 not more than \$5,000.

21 (d) Upon conviction for a violation of items (a-c) of this subsection, a
22 person shall be required to undergo an eight (8) hour minimum substance or
23 alcohol abuse awareness program, including education and counseling, or
24 other comparable program deemed appropriate by the court and all cost of

1 the program shall be borne by the offender or the offender's parent or
2 guardian.

3 (e) The court may require the offender or the offender's parent or
4 guardian to pay restitution to persons injured or for property damaged.

5 (f) The court may impose such additional penalty as may be permitted
6 by law for the conviction of a misdemeanor.

7 (g) This Section shall not apply to minors who are legal emancipated
8 adults. Such person who violates §18102 of this Chapter shall be deemed as
9 adults."

10 **Section 4.** Title 16 G.C.A. § 18104 (a), Chapter 18, Article 1 is amended to
11 read:

12 "(a) If any person is convicted of a first violation of § 18102 of this
13 Chapter, that person shall be guilty of a misdemeanor and shall be punished
14 by imprisonment in the custody of the Department of Corrections ("DOC") or
15 the Guam Police Department ("GPD") for not less than a mandatory forty-
16 eight (48) hours nor more than one (1) year, and a fine of not less than One
17 Thousand Dollars (\$1,000) nor more than Five Thousand Dollars (\$5,000),
18 mandatory community service of seventy five (75) hours and court cost. The
19 court shall order that the above persons undergo a fourteen (14) hour
20 minimum substance or alcohol abuse awareness program, including
21 education and counseling, or other comparable program deemed appropriate
22 by the court and all cost for assessment or treatment shall be borne by the
23 offender. In addition, the judge may impose any additional penalties,
24 including requiring the offenders to pay restitution to persons injured or for
25 property damaged."

1 **Section 5.** Title 16 G.C.A. §18105, Chapter 18, Article 1 is amended to
2 read:

3 “**§18105. Second Conviction of § 18102; Punishment.** If any person is
4 convicted of a violation of § 18102 of this Chapter and the offense occurred
5 within five (5) years of a separate conviction of a violation of said § 18102 or of
6 conviction of a prior offense as defined in § 18101(c) of this Chapter, that
7 person shall be guilty of a ~~misdemeanor~~ felony of the third degree and shall
8 be punished by imprisonment in the custody of DOC or GPD for not less than
9 a mandatory seven (7) days nor more than two (2) years, ~~and by~~ a fine of not
10 less than Two Thousand Dollars (\$2,000) nor more than Five Thousand
11 Dollars (\$5,000), mandatory community service of one hundred fifty (150)
12 hours and pay court costs. The court shall order that the above persons
13 undergo a fourteen (14) hour minimum substance or alcohol abuse awareness
14 program, including education and counseling, or other comparable program
15 deemed appropriate by the court and all cost for assessment or treatment
16 shall be borne by the offender. In addition, the judge may impose any
17 additional penalties, including requiring the offenders to pay restitution to
18 persons injured or for property damaged. The person's privilege to operate a
19 motor vehicle shall be suspended for one (1) year, with no exceptions for
20 occupational driving privileges, by the Department of Revenue and Taxation
21 pursuant to § 18124 of this Chapter.”

22 **Section 6.** Title 16 G.C.A. §18106, Chapter 18, Article 1 is amended to
23 read:

24 “**§18106. Conviction of Violation of § 18102 Within Five Years After**
25 **Two Violations; Punishment.** ~~(a)~~ If any person is convicted of a violation of §

1 18102 of this Chapter and the offense occurred within five (5) years of two (2)
2 separate convictions of a violation of said § 18102 or of two (2) separate
3 convictions of a prior offense as defined in § 18101(c) of this Chapter, or any
4 combination thereof resulting in two (2) or more prior convictions, that person
5 shall be guilty of a felony of the third degree and shall be punished by
6 imprisonment in the custody of DOC or GPD for not less than a mandatory
7 ninety (90) days and not more than five (5) years, ~~and by a fine of not less than~~
8 ~~Three Thousand Dollars (\$3,000) nor more than Five Six Thousand Dollars~~
9 ~~(\$5,000)(\$6,000), mandatory community service of two hundred twenty five~~
10 ~~(225) hours and pay court costs. The court shall order that the above persons~~
11 ~~undergo a fourteen (14) hour minimum substance or alcohol abuse awareness~~
12 ~~program, including education and counseling, or other comparable program~~
13 ~~deemed appropriate by the court and all cost for assessment or treatment shall~~
14 ~~be borne by the offender. In addition, the judge may impose any additional~~
15 ~~penalties, including requiring the offenders to pay restitution to persons~~
16 ~~injured or for property damaged. The person's privilege to operate a motor~~
17 ~~vehicle shall be revoked by the Department of Revenue and Taxation~~
18 ~~pursuant to § 18201 of this Chapter for a period of not less than two (2) years~~
19 ~~but not more than five (5) years."~~

20 **Section 7.** Title 16 G.C.A. §18107, Chapter 18, Article 1 is amended to
21 read:

22 **"§18107. Conviction of Violation of § 18102 Within Five Years of Three**
23 **or More Violations of Designated Sections; Punishment.**

24 If any person is convicted of a violation of § 18102 of this Chapter and
25 the offense occurred within five (5) years of three (3) or more separate

1 convictions of a violation of said § 18102 or of three (3) or more separate
2 convictions of a prior offense as defined in § 18101(c) of this Chapter, or any
3 combination thereof resulting in three (3) or more prior convictions, that
4 person shall be guilty of a felony of a third degree and shall be punished by
5 imprisonment in the custody of DOC or GPD for not less than a mandatory
6 one (1) year nor more than six (6) years, and by a fine of not less than Four
7 Thousand Dollars (\$4,000) nor more than Seven Thousand Dollars (\$7,000),
8 mandatory community service of not less than two hundred fifty (250) hours
9 and pay court costs. The court shall order that the above persons undergo a
10 fourteen (14) hour minimum substance or alcohol abuse awareness program,
11 including education and counseling, or other comparable program deemed
12 appropriate by the court and all cost for assessment or treatment shall be
13 borne by the offender. In addition, the judge may impose any additional
14 penalties, including requiring the offenders to pay restitution to persons
15 injured or for property damaged. The person's privilege to operate a motor
16 vehicle shall be revoked permanently by the Department of Revenue and
17 Taxation pursuant to § 18201 of this Chapter for a period of not less than five
18 (5) years."

19 **Section 8.** A new §18101 (j) is added to Title 16, Chapter 18 of the Guam
20 Code Annotated is hereby added to read:

21 "(j) Highly intoxicated driver means a person whose measurable amount
22 of alcohol is 0.15 or more grams of alcohol per one hundred milliliters or cubic
23 centimeters of the person's blood or 0.15 or more grams of alcohol per two
24 hundred ten liters of the person's breath, as measured at the time of the
25 offense, or within three (3) hours of time of the offense."

1 **Section 9.** A new §18107.1 to Title 16, Chapter 18 of the Guam Code
2 Annotated is hereby added to read:

3 **“§18107.1. Highly Intoxicated Drivers; Punishment.** (a) A person
4 convicted for the first time of a violation of §18102 of this Chapter and who
5 was a highly intoxicated driver, shall be guilty of a misdemeanor and shall be
6 punished by imprisonment in the custody of the Department of Corrections
7 (“DOC”) or the Guam Police Department (“GPD”) for not less than a
8 mandatory seventy two (72) hours nor more than one (1) year, a fine of not
9 less than one thousand five hundred dollars (\$1,500) nor more than six
10 thousand five hundred dollars (\$6,500), mandatory community service of one
11 hundred fifty (150) hours and pay court costs. A court shall order that the
12 above persons undergo a fourteen (14) hour minimum substance or alcohol
13 abuse awareness program, including education and counseling, or other
14 comparable program deemed appropriate by the court and all cost for
15 assessment or treatment shall be borne by the offender. In addition, the judge
16 may impose any additional penalties, including requiring the offenders to pay
17 restitution to persons injured or for property damaged. The person's
18 privilege to operate a motor vehicle shall be suspended for one (1) year, with
19 no exceptions for occupational driving privileges, by the Department of
20 Revenue and Taxation.

21 (b) If any person is convicted of a violation of §18102 of this Chapter and
22 was a highly intoxicated driver, and the offense occurred within five (5) years
23 of a separate conviction of a violation of said §18102 or of conviction of a prior
24 offense as defined in §18101(c) of this Chapter, that person shall be guilty of a
25 third degree felony and shall be punished by imprisonment in the custody of

1 DOC or GPD for not less than a mandatory ten (10) days nor more than three
2 (3) years, a fine of not less than two thousand five hundred dollars (\$2,500),
3 nor more than seven thousand dollars (\$7,000), mandatory community service
4 of two hundred twenty five (225) hours and pay court costs. The court shall
5 order that the above persons undergo a fourteen (14) hour minimum
6 substance or alcohol abuse awareness program, including education and
7 counseling, or other comparable program deemed appropriate by the court
8 and all cost for assessment or treatment shall be borne by the offender. In
9 addition, the judge may impose any additional penalties, including requiring
10 the offenders to pay restitution to persons injured or for property damaged.
11 The person's privilege to operate a motor vehicle shall be revoked for a period
12 not less than five (5) year or up permanently revocation by the Department of
13 Revenue and Taxation"

14 **Section 10.** A new §1102 (rr) to Title 16, Chapter 1 of the Guam Code
15 Annotated is hereby added to read:

16 "(rr) "School bus" means every motor vehicle owned by or under the
17 control of a governmental agency or a private school and regularly operated
18 for the transportation of children to or from school or a school activity or
19 privately owned and operated for compensation for the transportation of
20 children to or from school or a school activity."

21 **Section 11.** A new §18107.2 to Title 16, Chapter 18 of the Guam Code
22 Annotated is hereby added to read:

23 "**§18107.2. Intoxicated School Bus Drivers; Punishment.** (a) It is
24 unlawful for any person who has 0.02% to 0.07%, by weight, of alcohol in his
25 or her blood at the time of operating or in actual physical control of a school

1 bus, unless such person can prove that his or her condition was caused by
2 ingestion of prescription medication. A person convicted pursuant to this
3 section shall be that person shall guilty of a misdemeanor and shall be
4 punished by imprisonment in the custody of the Department of Corrections
5 ("DOC") or the Guam Police Department ("GPD") for not less than a
6 mandatory forty eight (48) hours nor more than one (1) year, a fine of not less
7 than one thousand dollars (\$1,000) nor more than five thousand dollars
8 (\$5,000), mandatory community service of seventy five (75) hours and pay
9 court costs. The court shall order that the above persons undergo a fourteen
10 (14) hour minimum substance or alcohol abuse awareness program, including
11 education and counseling, or other comparable program deemed appropriate
12 by the court and all cost for assessment or treatment shall be borne by the
13 offender. In addition, the judge may impose any additional penalties,
14 including requiring the offenders to pay restitution to persons injured or for
15 property damaged.

16 (b) The court may order that any person punished under this section,
17 who is to be punished by imprisonment by DOC or GPD, be imprisoned on
18 days other than days of regular employment of the person, as determined by
19 the court.

20 (c) Any person who has been granted probation under the conditions of
21 § 18301 of this Chapter, may, after six (6) months have elapsed since the
22 commencement of participation in the treatment program, petition the court
23 to have the restriction on that person's privilege to operate a motor vehicle
24 removed, and the court may, for good cause shown, order the Department of
25 Revenue and Taxation to remove the restrictions upon a showing that the

1 person has successfully participated in the treatment program and complied
2 with the terms and conditions of probation, has given proof of insurance, and
3 has made a showing to the court that there is little likelihood of a repeat
4 offense.

5 (d) The court shall suspend and confiscate the person's operator's or
6 chauffeur's license or permit and shall notify the Department of Revenue and
7 Taxation that the privilege to operate a motor vehicle of a person punished
8 under this section has been suspended for six (6) months.

9 (e) In any prosecution under this section, it is a rebuttable presumption
10 that the person had 0.02% to 0.07%, by weight, of alcohol in his or her blood at
11 the time of driving the school bus if the person had 0.02% to 0.07%, by weight,
12 of alcohol in his or her blood at the time of performance of a chemical test
13 within three hours after driving."

14 **Section 12.** A new §18107.3 to Title 16, Chapter 18 of the Guam Code
15 Annotated is hereby added to read:

16 **"§18107.3 Intoxicated Commercial Motor Vehicle Drivers; Punishment.**

17 It is unlawful for any person who has 0.04% to 0.07%, by weight, of alcohol in
18 his or her blood at the time of operating or in actual physical control of a
19 commercial motor vehicle, unless such person can prove that his or her
20 condition was caused by ingestion of prescription medication. A person
21 convicted pursuant to this section shall be that person shall guilty of a
22 misdemeanor and shall be punished by imprisonment in the custody of the
23 Department of Corrections ("DOC") or the Guam Police Department ("GPD")
24 for not less than a mandatory forty eight (48) hours nor more than one (1)
25 year, a fine of not less than one thousand dollars (\$1,000) nor more than five

1 thousand dollars (\$5,000), mandatory community service of seventy five (75)
2 hours and pay court costs. The court shall order that the above persons
3 undergo a fourteen (14) hour minimum substance or alcohol abuse awareness
4 program, including education and counseling, or other comparable program
5 deemed appropriate by the court and all cost for assessment or treatment shall
6 be borne by the offender. In addition, the judge may impose any additional
7 penalties, including requiring the offenders to pay restitution to persons
8 injured or for property damaged.

9 (b) The court may order that any person punished under this section,
10 who is to be punished by imprisonment by DOC or GPD, be imprisoned on
11 days other than days of regular employment of the person, as determined by
12 the court.

13 (c) Any person who has been granted probation under the conditions of
14 § 18301 of this Chapter, may, after six (6) months have elapsed since the
15 commencement of participation in the treatment program, petition the court
16 to have the restriction on that person's privilege to operate a motor vehicle
17 removed, and the court may, for good cause shown, order the Department of
18 Revenue and Taxation to remove the restrictions upon a showing that the
19 person has successfully participated in the treatment program and complied
20 with the terms and conditions of probation, has given proof of insurance, and
21 has made a showing to the court that there is little likelihood of a repeat
22 offense.

23 (d) The court shall suspend and confiscate the person's operator's or
24 chauffeur's license or permit and shall notify the Department of Revenue and

1 Taxation that the privilege to operate a motor vehicle of a person punished
2 under this section has been suspended for six (6) months.

3 (e) In any prosecution under this section, it is a rebuttable presumption
4 that the person had 0.04% to 0.07%, by weight, of alcohol in his or her blood at
5 the time of driving the commercial motor vehicle if the person had 0.04
6 percent or more, by weight, of alcohol in his or her blood at the time of
7 performance of a chemical test within three hours after driving."

8 **Section 13.** A new §3435 to Title 11 of the Guam Code Annotated is
9 hereby added to read:

10 "§3435. **Allowing Minors to Drink.** An adult person is guilty of a
11 misdemeanor if he knowingly allows or provides a person under the age of
12 eighteen (18) to drink or knowingly fails to stop a minor from drinking on
13 their premises, unless such adult person is the minor's parent or guardian, or
14 given by his or her physician or dentist for medicinal purposes, or given to the
15 minor to be used for religious services and the amount consumed is the
16 minimal amount necessary for the religious service, and further provided, that
17 such minor is legally declared as an emancipated adult."

18