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2010 03 19

**I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session**

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

This is to certify that Substitute Bill No. 295-30 (COR), "AN ACT TO AMEND §§37.10, 37.20 AND 37.30, AND TO ADD A NEW §37.40, ALL OF CHAPTER 37 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO AMENDING THE BURGLARY AND CRIMINAL TRESPASS STATUTES, TO INCLUDE AUTOMOBILES AND MOTOR VEHICLES," was on the 19th day of March, 2010, 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 22nd day of March, 2010, at 2:15 o'clock P.M.

Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

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

Bill No. 295-30 (COR)

As substituted by the Committee on
Public Safety, Law Enforcement &
Senior Citizens, and amended on the Floor.

Introduced by:

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

**AN ACT TO AMEND §§37.10, 37.20 AND 37.30, AND TO
ADD A NEW §37.40, ALL OF CHAPTER 37 OF TITLE 9,
GUAM CODE ANNOTATED, RELATIVE TO
AMENDING THE BURGLARY AND CRIMINAL
TRESPASS STATUTES, TO INCLUDE AUTOMOBILES
AND MOTOR VEHICLES.**

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

2 **Section 1.** §37.10 of Chapter 37 of Title 9, Guam Code Annotated, is
3 *amended* to read:

4 **“§37.10. Definitions: Ref. to §16.10.** As used in this Chapter:

1 (a) *Habitable Property* has the meaning provided by §34.10 and
2 includes any such property whether *or* not a person is actually present
3 therein.

4 (b) *Night* means the period between thirty (30) minutes past sunset
5 and thirty (30) minutes before sunrise.

6 (c) *Deadly Weapon* has the meaning provided by §16.10, Title 9,
7 Guam Code Annotated.

8 (d) *Motor Vehicle, Semi-Trailer, Trailer, Truck, Truck-Tractor,*
9 *Vehicle, and Vehicle Combination* are defined by §5101, Title 16, Guam
10 Code Annotated; and *Motor Vehicle, Motor Bus, Motor Truck, Semi-Trailer,*
11 *Trailer, and Vehicle* are also defined by §1102, Title 16, Guam Code
12 Annotated.”

13 **Section 2.** §37.20 of Chapter 37 of Title 9, Guam Code Annotated, is
14 *amended* to read:

15 **“§37.20. Burglary: Defined, Punishment Classified.**

16 (a) A person is guilty of burglary *if* he enters *or* surreptitiously
17 remains in any habitable property, building, *or* a separately secured *or*
18 occupied portion thereof, with intent to commit a crime therein, unless the
19 premises are at the time open to the public *or* the defendant is licensed *or*
20 privileged to enter, *or* a person is guilty of burglary *if* he enters *or*
21 surreptitiously remains in any motor vehicle, semi-trailer, trailer, truck-
22 tractor, vehicle combination, motor bus, motor truck, *or* vehicle, with intent
23 to commit a crime therein. It is an affirmative defense to prosecution for
24 burglary that the property, *or* building, *or* motor vehicle was abandoned.

25 (b) Burglary is a felony of the second degree. In the case of
26 burglary as a felony of the second degree, the court *shall* impose a sentence
27 of imprisonment of a minimum term of five (5) years and may impose a

1 maximum term of up to ten (10) years; the minimum term imposed *shall not*
2 be suspended *nor* may probation be imposed in lieu of the minimum term
3 nor *shall* parole *or* work release be granted before completion of the
4 minimum term. The sentence *shall* include a special parole term of *not less*
5 *than* three (3) years in addition to such term of imprisonment. Provided,
6 however, that in the case of an offender *not* previously convicted of a felony,
7 the court may sentence the offender to *not more than* five (5) years
8 imprisonment and the provisions of this Subsection prohibiting probation,
9 suspension, parole *or* work release *shall not* be applicable to such offender.”

10 **Section 3.** §37.30 of Chapter 37 of Title 9, Guam Code Annotated, is
11 *amended* to read:

12 **“§37.30. Criminal Trespass: Defined, Punished, Defenses.**

13 (a) A person commits an offense *if*, knowing that he is *not* licensed *or*
14 privileged to do so, he enters *or* surreptitiously remains in any habitable
15 property *or* any building *or* any motor vehicle. An offense under this
16 Subsection is a misdemeanor *if* it is committed in a dwelling *or* motor
17 vehicle. Otherwise it is a petty misdemeanor.

18 (b) A person commits an offense *if*, knowing that he is *not* licensed
19 *or* privileged to do so, he enters *or* remains in any place as to which notice
20 against trespass is given by:

21 (1) actual communication to the defendant;

22 (2) posting in a manner prescribed by law *or* reasonably
23 likely to come to the attention of intruders; or

24 (3) fencing *or* other enclosure manifestly designed to
25 exclude intruders. An offense under this Subsection constitutes a petty
26 misdemeanor *if* the offender defies an order to leave personally

1 communicated to him by the owner of the premises *or* other
2 authorized person *or* a peace officer. Otherwise it is a violation.

3 (c) It is an affirmative defense to prosecution under this Section
4 that:

5 (1) the property *or* building involved in an offense under
6 Subsection (a) was abandoned;

7 (2) the premises were at the time open to members of the
8 public and the defendant complied with all lawful conditions imposed
9 on access to *or* remaining in the premises; or

10 (3) the defendant reasonably believed that the owner of the
11 premises, *or* other person empowered to license access thereto, would
12 have licensed him to enter *or* remain.”

13 **Section 4.** A new §37.40 is *added* to Chapter 37 of Title 9, Guam Code
14 Annotated, to read:

15 **“§37.40. The Breaking of Window Glass to Gain Access to**
16 **Vehicles.** (a) Any person who breaks a glass window of a vehicle, as
17 defined in §37.10(d) of this Chapter, in the process of committing, or
18 attempting to commit, burglary or criminal trespass, is guilty of an additional
19 offense as a third degree felony.

20 (b) Any person who breaks a glass window of a vehicle, as defined
21 in §37.10(d) of this Chapter, in the process of committing, or attempting to
22 commit, burglary or criminal trespass, in which the broken glass causes
23 bodily injury to an innocent person is guilty of an additional offense as a
24 second degree felony.”