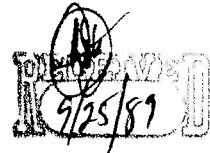




*Territory of Guam*  
*Territorio Guam*

OFFICE OF THE GOVERNOR  
UPISINAN I MAGA'LAHI  
AGANA, GUAM 96910 U.S.A.



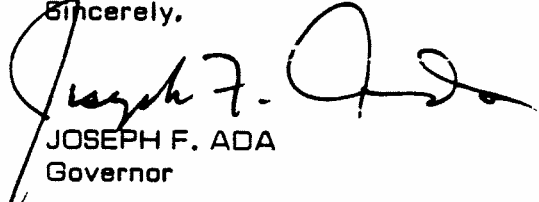
September 12, 1989

The Honorable Joe T. San Agustin  
Speaker, Twentieth Guam Legislature  
Post Office Box CB-1  
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 210, which I have signed into law this date as Public Law 20-35.

Sincerely,

  
JOSEPH F. ADA  
Governor

Attachment

TWENTIETH GUAM LEGISLATURE  
1989 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 210 (COR), "AN ACT TO REPEAL AND REENACT SECTION 23405 OF THE GOVERNMENT CODE AND TO ADD A NEW SUBSECTION (o) TO SECTION 23100 OF THE GOVERNMENT CODE RELATIVE TO IMPLIED CONSENT FOR THE TAKING OF TESTS FOR ALCOHOL CONSUMPTION AND MANDATORY PRISON SENTENCES FOR DRIVERS WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, TO MAKE TECHNICAL AMENDMENTS TO BOND LEGISLATION AND TO ADD A NEW §21022.1 TO TITLE 16, GUAM CODE ANNOTATED, ON MOTOR VEHICLE LIABILITY INSURANCE," was on the 1st day of September, 1989, duly and regularly passed.

  
\_\_\_\_\_  
JOE T. SAN AGUSTIN  
Speaker


Attested:

  
\_\_\_\_\_  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 2 day ~~8th~~, 1989,  
at 1:30 o'clock p.m.

  
\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
\_\_\_\_\_  
JOSEPH F. ADA  
Governor of Guam

Date: September 12, 1989

Public Law No. 20-35

TWENTIETH GUAM LEGISLATURE  
1989 (FIRST) Regular Session

Bill No. 210 (COR)  
As substituted by the  
Committee on Judiciary and  
Criminal Justice and further  
substituted by Committee on  
Rules

Introduced by:

F. R. Santos  
P. C. Lujan  
T. S. Nelson

---

J. T. San Agustin  
E. P. Arriola  
M. Z. Bordallo  
H. D. Dierking  
G. Mailloux  
E. D. Reyes  
M. C. Ruth  
E. R. Duenas  
A. R. Unpingco  
D. F. Brooks  
M. D. A. Manibusan  
J. P. Aguon  
J. G. Bamba  
E. M. Espaldon  
C. T. C. Gutierrez  
D. Parkinson  
F. J. A. Quitugua  
T. V. C. Tanaka

AN ACT TO REPEAL AND REENACT SECTION  
23405 OF THE GOVERNMENT CODE AND TO  
ADD A NEW SUBSECTION (o) TO SECTION  
23100 OF THE GOVERNMENT CODE RELATIVE  
TO IMPLIED CONSENT FOR THE TAKING OF  
TESTS FOR ALCOHOL CONSUMPTION AND  
MANDATORY PRISON SENTENCES FOR  
DRIVERS WHILE UNDER THE INFLUENCE OF  
ALCOHOL OR DRUGS, TO MAKE TECHNICAL  
AMENDMENTS TO BOND LEGISLATION AND  
TO ADD A NEW §21022.1 TO TITLE 16, GUAM  
CODE ANNOTATED, ON MOTOR VEHICLE  
LIABILITY INSURANCE.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:  
2 Section 1. Section 23405 of the Government Code is repealed and

1 reenacted to read:

2           "§23405. Driving while under the influence of alcohol or drugs.

3           (a) A person shall not drive or be in actual or physical control of  
4 any vehicle while:

5                 (1) There is 0.10% or more by weight of alcohol in his  
6 blood; or

7                 (2) He is under the influence of alcohol or a controlled  
8 substance; or

9                 (3) He is under the influence of any drug to a degree  
10 which renders him incapable of safely driving; or

11                (4) He is under the combined influence of alcohol and any  
12 drug to a degree which renders him incapable of safely driving.

13           (b) The fact that any person charged with violating Subsections  
14 (1), (2), or (4) of paragraph (a) of this Section is or has been  
15 legally entitled to use alcohol or a drug (not prescribed by a  
16 physician) shall not constitute a defense against any charge of  
17 violating this Section.

18           (c) A person convicted of violating provisions of this Section  
19 shall be guilty of a misdemeanor. Upon conviction of any violation of  
20 this Section, the person convicted shall have his privilege to operate a  
21 motor vehicle suspended by the Court for a period of not less than  
22 ninety (90) days nor more than six (6) months. All persons convicted  
23 of violating provisions of this Section shall be sentenced to a minimum  
24 of forty-eight (48) hours imprisonment in the custody of the  
25 Department of Corrections or the Guam Police Department; provided,  
26 however, that the court may waive the mandatory minimum jail sentence  
27 for first time offenders and impose other alternative sentencing. In  
28 addition to any other sentence imposed, the Court shall impose a  
29 monetary fine upon the offender and shall require restitution be made  
30 to persons injured or for property damaged.

31           (d) Any person convicted of a first offense under this Section  
32 shall have his privilege to drive suspended for a minimum mandatory  
33 period but the Court may permit the person a limited privilege to drive  
34 if driving is required for that person to maintain his livelihood. Any

1 person convicted a second or subsequent time within a five (5) year  
2 period of a violation of this Section shall have his privilege to drive  
3 suspended for a least six (6) months and no limited privilege to  
4 operate a motor vehicle shall be given.

5 (e) Every person who is convicted of a violation of this Section  
6 and who, while driving the vehicle in the manner and at the time  
7 which leads to his conviction when so driving does any act forbidden  
8 by law or neglects any duty imposed by law in the driving of such  
9 vehicle, which act or neglect proximately causes bodily injury to any  
10 person other than himself, is guilty of a third degree felony."

11 (f) Upon the trial of any criminal action, or preliminary proceeding in  
12 a criminal action, arising out of acts alleged to have been committed by any  
13 person while driving a vehicle while under the influence of an alcoholic  
14 beverage, the amount of alcohol in the person's blood at the time of the  
15 test as shown by chemical analysis of that person's breath or urine shall  
16 give rise to the following presumptions affecting the burden of proof:

17 (i) If there was at that time less than 0.05 percent by  
18 weight of alcohol in the person's blood, it shall be presumed that  
19 the person was not under the influence of an alcoholic beverage  
20 at the time of the alleged offense.

21 (ii) If there was at that time 0.05 percent or more but less  
22 than 0.10 percent by weight of alcohol in the person's blood, that  
23 fact shall not give rise to any presumption that the person was or  
24 was not under the influence of an alcoholic beverage, but the fact  
25 may be considered with other competent evidence in determining  
26 whether the person was under the influence of an alcoholic  
27 beverage at the time of the alleged offense.

28 (iii) If there was at that time 0.10 percent or more by weight  
29 of alcohol in the person's blood, it shall be presumed that the  
30 person was under the influence of an alcoholic beverage at the  
31 time of the alleged offense.

32 Percent by weight of alcohol in the blood shall be based upon grams of  
33 alcohol per 100 milliliters of blood. This subsection shall not be construed  
34 as limiting the introduction of any other competent evidence bearing upon

1 the question whether the person ingested any alcoholic beverage or was  
2 under the influence of an alcoholic beverage at the time of the alleged  
3 offense. [Source of this is California Rules of the Road §23155]

4 Section 2. A new Subsection (o) is added to Subsection 23100 of the  
5 Government Code to read:

6 "(o) (1) Any person who operates a motor vehicle within the  
7 territory of Guam shall be deemed to have given his implied consent,  
8 subject to Section 23405 of the Government Code, to a test or tests of  
9 his breath or urine for the purpose of determining the alcoholic or  
10 drug content of his blood if arrested, or if he could be arrested for  
11 any offense arising out of acts alleged to have been committed while  
12 the person was driving or in actual physical control of a motor vehicle  
13 while under the influence of alcohol or any drug or if a police officer  
14 has probable cause to believe that the person was driving or in control  
15 of a vehicle while under the influence of alcohol or any drug. The  
16 test or tests shall be administered at the direction of a police officer  
17 having reasonable grounds to believe the person to have been driving  
18 or in actual physical control of a motor vehicle within the territory of  
19 Guam while under the influence of alcohol or any drug. The Guam  
20 Police Department shall designate which of the aforesaid tests shall be  
21 administered

22 (2) Any person who is dead, unconscious, or who is otherwise  
23 in a condition rendering him incapable of refusal, shall be deemed not  
24 to have withdrawn the consent provided by this subsection (o) of this  
25 Section.

26 (3) A person requested to submit to a test as provided above  
27 shall be warned by the police officer requesting the test that a refusal  
28 to submit to the test will be recorded and entered as evidence in  
29 Court proceedings upon arrest. Such refusal is admissible evidence in  
30 any such proceedings."

31 Section 3. Section 7 of Public Law 20-16 is hereby amended to read:

32 "Section 7. No Side Agreements. Except as authorized by  
33 Section 2 of this Act, there shall be no separate or side agreement or  
34 agreements between the government of Guam and any party or

1 consultant involved in the issuance of the bonds authorized in this Act  
2 that have not been approved by the Legislature, and any such  
3 separate or side agreement or agreements not so approved shall be  
4 void."

5 Section 4. Section 11 of Public Law 20-14 is hereby amended to read:

6 "Section 11. No Side Agreements. Except as authorized by  
7 Section 3 of this Act, there shall be no separate or side agreement or  
8 agreements between the government of Guam and any party or  
9 consultant involved in the issuance of the bonds authorized in this Act  
10 that have not been approved by the Legislature, and any such  
11 separate or side agreement or agreements not so approved shall be  
12 void."

13 Section 5. A new Section 21102.1 is added to Chapter 21 of Title 16,  
14 Guam Code Annotated, to read as follows:

15 "Section 21102.1. Driving under influence; insurance. It shall  
16 be contrary to public policy for any insurance company to write an  
17 insurance policy on a motor vehicle or on the driver of a motor vehicle  
18 which provides exceptions to coverage as to third party liability  
19 because of an unlicensed driver or because of age, or if the insured  
20 driver or the driver of the insured vehicle was operating the vehicle  
21 while under the influence of drugs, alcohol, or a controlled substance;  
22 provided, however, the policy of insurance may provide that the  
23 driver or vehicle owner shall indemnify the insurance company for any  
24 such reasonable loss, and further provided, that this section shall not  
25 apply to collision or comprehensive insurance which benefits the owner  
26 of the vehicle."



**PILAR C. LUJAN**  
**SENATOR • LEGISLATIVE SECRETARY**  
**CHAIRMAN — Committee on Judiciary and Criminal Justice**

July 19, 1989

The Honorable Joe T. San Agustin  
Speaker, 20th Guam Legislature  
163 Chalan Santo Papa  
Agana, Guam 96910

VIA: Chairperson, Committee on Rules

Dear Mr. Speaker:

The Committee on Judiciary and Criminal Justice, to which was referred Bill 210, wishes to report its findings and recommendation TO PASS Substitute Bill 210 as amended by the Committee.

The Committee Voting Record is as follows:

TO PASS	10
NOT TO PASS	0
TO REPORT OUT ONLY	1
OFF-ISLAND	1

A copy of the Committee Report and all pertinent documents are attached for your information.

*Pilar C. Lujan*  
PILAR C. LUJAN





# Twentyeth Guam Legislature

REPRODUCED AT GOVERNMENT EXPENSE

163 Chalan Santo Papa Street

Agana, Guam 96910

Committee on Judiciary and Criminal Justice

## VOTING SHEET

**SUBSTITUTE BILL NO. 210 - AN ACT TO REPEAL AND REENACT SECTION 23405 OF THE GOVERNMENT CODE OF GUAM AND TO ADD A NEW SUBSECTION (o) TO SECTION 23100 OF THE GOVERNMENT CODE RELATIVE TO IMPLIED CONSENT FOR THE TAKING OF TESTS FOR ALCOHOL CONSUMPTION AND MANDATORY PRISON SENTENCES FOR DRIVERS WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS.**

<u>SENATOR AND COMMITTEE MEMBER</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO REPORT OUT ONLY</u>	<u>TO PLACE IN INACTIVE FILE</u>
<u>Pilar C. Lujan</u> Pilar C. Lujan Chairwoman	✓			
<u>Francisco R. Santos</u> Francisco R. Santos Vice Chairman	✓			
<u>Elizabeth P. Arriola</u> Elizabeth P. Arriola	✓			
<u>Madeleine Z. Bordallo</u> Madeleine Z. Bordallo	✓			
<u>Herminia D. Dierking</u> Herminia D. Dierking				
<u>Gordon Malloux</u> Gordon Malloux			✓	
<u>Ted S. Nelson</u> Ted S. Nelson				
<u>Edward D. Reyes</u> Edward D. Reyes	✓			
<u>Job T. San Agustin</u> Job T. San Agustin Speaker & Ex-Officio Member	✓			
<u>Edward R. Duenas</u> Edward R. Duenas	✓			
<u>Martha C. Ruth</u> Martha C. Ruth	✓ 5/18/89			
<u>Antonio R. Gonsalves</u> Antonio R. Gonsalves	✓			

REPRODUCED AT GOVERNMENT EXPENSE

## COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE

### COMMITTEE REPORT ON BILL 210

AN ACT TO REPEAL AND RE-ENACT SECTION 23405 OF THE GOVERNMENT CODE AND TO ADD A NEW SUBSECTION (O) TO SECTION 23100 OF THE GOVERNMENT CODE RELATIVE TO IMPLIED CONSENT FOR THE TAKING OF TESTS FOR ALCOHOL CONSUMPTION AND MANDATORY PRISON SENTENCES FOR DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS.

### PREFACE

The Judiciary and Criminal Justice Committee convened at 9:00 a.m., Friday, February 17, 1989 in the Legislative Session Hall at Agana, Guam to hear testimony on Bill 210. Committee Members in attendance, alongside with Chairwoman Pilar C. Lujan, were Vice-Chairman Francisco R. Santos, Elizabeth P. Arriola, Ted S. Nelson, Gordon Mailloux, Edward R. Duenas, Martha C. Ruth, and Antonio R. Unpingco.

### OVERVIEW

In recent years, a number of concerns have been raised with motorists driving while under the influence of alcohol and/or drugs. In response, local legislators have introduced measures which have been adopted and fostered by many mainland communities.

One such proposal which has surfaced in recent legislatures calls for the establishment of an "implied consent" law for motorists.

Under an "implied consent" law, every motorist in the Territory is deemed to have given consent to take tests and examinations for determining whether one is under the influence of alcohol and/or drugs while operating a motor vehicle. Whenever a Police Officer believes a motorist is driving under the influence, the motorist must submit to such tests administered by the Officer or face penalties.

Two "implied consent" measures have been introduced during this Legislature. Committee Vice-Chairman Francisco R. Santos is the author of Bill 210. Senator Doris F. Brooks has drafted companion Bill 281.

Suggested penalties under Bill 281 include automatic revocation of motor license, mandatory imprisonment of 48-hours, and monetary fine

for convicted offenders. A refusal to submit to such tests or examinations could result in motor license revocation for six (6) months.

Proponents of "implied consent" legislation argue that motorists would be deterred from driving under the influence if stiffer penalties and fines are enacted. Moreover, highways would be safer and more secure.

On the other hand, opponents of such legislation argue that individual freedom is diminished since burden of proof is shifted from the government to the individual. Additionally, concerns with potential abuse of such authority have been cited as strikes against passage of such proposals.

## COMMITTEE FINDINGS

Attorney General Elizabeth Barrett-Anderson and Assistant Attorney General Richard Dirkx testified in favor of Bill 210 and recommended one modification.

The Attorney General suggested that the measure be amended to apply to motorists not only operating vehicles on the highway of Guam but also within and throughout the Territory.

The modification would prevent technical challenges from motorists operating vehicles in parking lots or dirt roadways.

Concerns were also expressed by the Attorney General with the provision mandating 48-hours imprisonment of those convicted. As a potential consequence of such provision, defendants may be deterred from pleading guilty, thus resulting in more trials and an increased workload for the prosecutor's Division.

Additionally, the Attorney General noted that the mandatory imprisonment provision whittles away the Court's discretionary authority in dealing with first and second time offenders. "We are supportive of the Court having the discretion on first time, second time offenders," the Attorney General testified.

Referring to California statutes governing "implied consent," Assistant Attorney General Dirkx pointed out that 48-hour mandatory minimum jail time provisions are in place, yet Courts have authority to "substitute labor work time for jail time."

"...if the Judge has the option of giving people work time instead, it often allows the first-time offender to pay his debt to the community, to realize that he's had a close brush with jail because he knows that the second time he comes back there isn't going to be any discretion on the part of the Judge," Dirkx testified.

Assistant Attorney General Dirkx also cited that such alternative sentencing would benefit motorists who may not realize that they have a medical problem with alcohol abuse by providing each motorist education and treatment programs.

Moreover, Dirkx expressed that mandatory sentences, either imprisonment or alternative sentencing, would alleviate pressure placed on Judges by defense counsels. In having specified options, Judges "have a measure of discretion" and "it shows that the Territory's getting tough on drinking and driving."

On the Attorney General's suggested amendment to expand authority "within the Territory" and not limit application to "upon the highways of Guam," Dirkx echoed support and said such modification would allow Police officials to have a "large measure of ability to stop a problem and prevent danger to the public."

With respect to refusal by motorists to submit to blood or breath tests, the Assistant Attorney General noted need to enter such refusals as court evidence for the purpose of allowing the government to "tell the jury that this man or woman was given an opportunity to take a test that would demonstrate their actual blood alcohol level." It was noted to the Committee that such the admissibility of such evidence has been upheld in lower Courts and the Supreme Court. Dirkx added, "if we can't use it against them in Court, it is going to help the repeat offenders because they're going to be the ones who refuse."

Committee Vice-Chairman Francisco R. Santos requested the Attorney General to provide a copy of the Supreme Court decision which upholds the right of the government to admit refusal as evidence.

The Vice-Chairman queried if there would be difficulties in prosecuting motorists driving under the influence on private property. Assistant Attorney General Dirkx responded that law enforcement officials could prosecute cases but they "do not have the same rights to enter private property as they do a public roadway or a public parking lot."

Vice-Chairman Santos inquired about current procedures in dealing with offenders and was informed that suspects are first cited, arrested, occasionally confined, ordered to appear in Court, released, and allowed to let the case proceed through the criminal justice system.

Committee Member Antonio R. Unpingco followed up on the suggestion to modify authority of enforcement "within the Territory." Assistant Attorney General Dirkx noted that such a provision aims at curbing "many drunk driving offenses which start out on private property." "We don't want to tie the officer's hands so that if he sees a drunk driver leaving a bar speeding across the parking lot, he can't do a

thing about it until the person actually enters the roadway," Dirkx responded.

Committee Member Unpingco went on to express concern with potential abuse of power by officials having the authority to enter private property at any time. Assistant Attorney General Dirkx pointed out that such instances would result in cases being "thrown out of Court on constitutional violations", particularly if there was not probable cause. Attorney General Barrett-Anderson noted that it would be a "nightmare" to hassle with defense counsels in Court "as to what is a highway."

Committee Member Unpingco prompted discussion centering on blood alcohol content percentage for purposes of determining intoxication. According to Assistant Attorney General Dirkx, medical evidence has shown that blood alcohol content percentage of .10 renders an individual impaired for the purpose of driving. When asked by Committee Member Unpingco about motorists under medication, the Assistant Attorney General assumed that a breathalyzer would not register medication but would detect alcohol.

Committee Member Elizabeth P. Arriola sought clarification on the blood alcohol content percentage standard and was informed that medical evidence considers .10% blood alcohol content a level impairing one's ability to operate a motor vehicle.

On the topic of mandatory imprisonment, Committee Member Arriola pointed out potential impact upon corrections facilities and criminal justice system resources.

Committee Member Gordon Mailloux queried about the blood alcohol content percentage and was informed that it was one-tenth of one percent.

Committee Member Mailloux rehashed discussion on the breathalyzer detecting medication and the Assistant Attorney General stated that "medicine will not show up." This response was more conclusive than the initial one offered when Committee Member Unpingco first inquired about the matter.

Committee Chairwoman Pilar C. Lujan asked the Attorney General what problems exist with the provisions to revoke licenses and was requested to await additional input to be submitted at a later date.

Committee Member Edward R. Duenas echoed concerns of potential abuse by law enforcement officials in implementing an "implied consent" law. "...my concern (is) to prevent or at least minimize that probability of having people to be yanked in and then proven not to be drunk," Duenas remarked. Assistant Attorney General Dirkx retorted that such a law "will encourage officers to be very careful about the arrest they make for alcohol intoxication."

Lastly, Committee Member Duenas went on to suggest establishing parameters in which a Police Officer could pull over a motorist and request the administration of a test. Assistant Attorney General Dirkx noted that probable cause is already in place for Police Officers as justification for pulling over motorists.

## COMMITTEE RECOMMENDATIONS

Firmly believing that there is an urgent necessity to address the problem of motorists operating vehicles while under the influence of alcohol and/or drugs, the Committee recommends the passage of a strong, legally sound measure which aims at curbing, reducing, and hopefully eliminating drunk or impaired driving.

Within the framework of Bill 210, the problem of drunk driving is addressed. Specific amendments to the measure will deter drinking drivers who have not been caught, reduce the impaired driving recidivism who have already been arrested and processed through our criminal justice and/or administrative sanctioning and rehabilitation processes.

With the following modifications to the measure, the Committee recommends passage:

"Section 23405 (c). A person convicted of violating provisions of this Section shall be guilty of a misdemeanor. Upon conviction of any violation of this Section, the person convicted shall have his privilege to operate a motor vehicle suspended by the Court for a period of not less than NINETY (90) days nor more than SIX (6) months. All persons convicted of violating provisions of this Section shall be sentenced to [at least] FORTY-EIGHT (48) hours imprisonment in the custody of the Department of Corrections or of the Guam Police Department, [and to pay in addition to such mandatory sentence, a monetary fine.] provided, however, for first time offenders, at the request of the offender or his attorney, such offender may be magisterated before a Judge of the Superior Court of Guam who shall have discretionary authority to either return said offender to the custody of the Department of Corrections or Guam Police Department or impose other alternative sentencing. In addition to such mandatory sentence, the Court shall impose a monetary fine upon the offender and require restitution be made to persons injured or property damaged."

Section 2. A new Subsection (o) is added to Section 23100 of the Government Code to read:

"(o). (1) Any person who operates a motor vehicle [upon the highways] within the Territory of Guam shall be deemed to have given his implied consent, subject to Section 23405 of the Government

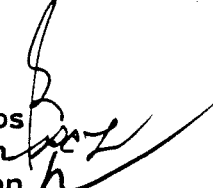
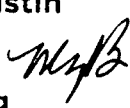

Code, to a test or tests of his blood, breath, or urine for the purpose of determining the alcoholic or drug content of his blood if arrested, or if he could be arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while under the influence of any alcohol or any drug. The test or tests shall be administered at the direction of a Police Officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle [upon the highways] within the Territory of Guam while under the influence of alcohol or any drug. The Guam Police Department shall designate which of the aforesaid tests shall be administered.

(3) A person requested to submit to a test as provided above shall be warned by the Police Officer requesting the test that a refusal to submit to the test will be recorded and entered as evidence in Court proceedings upon arrest [shall result in revocation of his license to operate a motor vehicle for a period of six (6) months. Following this warning, if the person detained or under arrest refuses upon the request from the police officer to submit to a test designated by the Guam Police Department as provided in Subsection (a) of this Section, none shall be given, but the Department of Revenue and Taxation, upon a sworn report or a report signed pursuant to 6 GCA §4308, unsworn declarations, of the Police Officer that he had reasonable grounds to believe that the person arrested or detained had been driving or was in actual physical control of a motor vehicle upon the highways of Guam while under the influence of alcohol or any drug and that the person refused to submit to the test upon the request of the police officer, shall revoke his license subject to review]."

TWENTIETH GUAM LEGISLATURE  
FIRST (1989) REGULAR SESSION

Substitute Bill No. 210

Introduced by:  
As Substituted by:  
Committee on Judiciary  
and Criminal Justice

F. R. Santos	
P. C. Lujan	
T. S. Nelson	
J. T. San Agustin	
E. P. Arriola	
M. Z. Bordallo	
H. D. Dierking	
G. Mailloux	
E. D. Reyes	
M. C. Ruth	
E. R. Duenas	
A. R. Unpingco	

AN ACT TO REPEAL AND REENACT SECTION 23405 OF THE GOVERNMENT CODE OF GUAM AND TO ADD A NEW SUBSECTION (o) TO SECTION 23100 OF THE GOVERNMENT CODE RELATIVE TO IMPLIED CONSENT FOR THE TAKING OF TESTS FOR ALCOHOL CONSUMPTION AND MANDATORY PRISON SENTENCES FOR DRIVERS WHILE UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS.

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

2 Section 1. Section 23405 of the Government Code is repealed and  
3 reenacted to read:

4 "§23405. Driving while under the influence of alcohol or drugs.

5 (a) A person shall not drive or be in actual or physical control  
6 of any vehicle while:

7 (1) There is 0.10% or more by weight of alcohol in his blood;  
8 or

9 (2) He is under the influence of alcohol;

10 (3) He is under the influence of any drug to a degree which  
11 renders him incapable of safely driving; or

12 (4) He is under the combined influence of alcohol and any drug



1 to a degree which renders him incapable of safely driving.

2 (b) The fact that any person charged with violating this Section  
3 is or has been legally entitled to use alcohol or a drug shall  
4 not constitute a defense against any charge of violating this  
5 Section.

6 (c) A person convicted of violating provisions of this Section  
7 shall be guilty of a misdemeanor. Upon conviction of any  
8 violation of this Section, the person convicted shall have his  
9 privilege to operate a motor vehicle suspended by the Court for  
10 a period of not less than ninety (90) days nor more than six (6)  
11 months. All persons convicted of violating provisions of this  
12 Section shall be sentenced to forty-eight (48) hours imprisonment  
13 in the custody of the Department of Corrections or the Guam  
14 Police Department, and provided, however, for first time  
15 offenders, at the request of the offender or his attorney, such  
16 offender may be magistrates before a Judge of the Superior  
17 Court of Guam who shall have discretionary authority to either  
18 return said offender to the custody of the Department of  
19 Corrections or Guam Police or impose other alternative  
20 sentencing. In addition to such mandatory sentence, the Court  
21 shall impose a monetary fine upon the offender and require  
22 restitution be made to persons injured or property damaged.

23 (d) Any person convicted of a first offense under this Section  
24 shall have his privilege to drive suspended for a minimum mandatory  
25 period but the Court may permit the person a limited privilege to  
26 drive if driving is required for that person to maintain his

1 livelihood. Any person convicted a second or subsequent time  
2 within a five (5) year period of a violation of this Section shall  
3 have his privilege to drive suspended for at least six (6) months  
4 and no limited privilege to operate a motor vehicle shall be  
5 given.

6 (e) Every person who is convicted of a violation of this Section  
7 and who, while driving the vehicle in the manner and at the time  
8 which leads to his conviction when so driving does any act  
9 forbidden by law or neglects any duty imposed by law in the  
10 driving of such vehicle, which act or neglect proximately causes  
11 bodily injury to any person other than himself, is guilty of a  
12 third degree felony."

13 Section 2. A new Subsection (o) is added to Subsection 23100 of  
14 the Government Code to read:

15 "(o). (1) Any person who operates a motor vehicle within the  
16 Territory of Guam shall be deemed to have given his implied  
17 consent, subject to Section 23405 of the Government Code, to a  
18 test or tests of his blood, breath, or urine for the purpose of  
19 determining the alcoholic or drug content of his blood if  
20 arrested, or if he could be arrested for any offense arising out  
21 of acts alleged to have been committed while the person was  
22 driving or in actual physical control of a motor vehicle while  
23 under the influence of alcohol or any drug. The test or tests  
24 shall be administered at the direction of a police officer having  
25 reasonable grounds to believe the person to have been driving  
26 or in actual physical control of a motor vehicle within the

1           the Territory of Guam while under the influence of alcohol  
2           or any drug. The Guam Police Department shall designate  
3           which of the aforesaid tests shall be administered.

4           (2) Any person who is dead, unconscious, or who is  
5           otherwise in a condition rendering him incapable of refusal, shall  
6           be deemed not to have withdrawn the consent provided by  
7           Subsection (a) of this Section.

8           (3) A person requested to submit to a test as provided above  
9           shall be warned by the police officer requesting the test that a  
10          refusal to submit to the test will be recorded and entered as  
11          evidence in Court proceedings upon arrest."

TWENTIETH GUAM LEGISLATURE  
FIRST (1989) REGULAR SESSION

Substitute Bill No. 210

Introduced by:  
As Substituted by:  
Committee on Judiciary and  
Criminal Justice

F. R. Santos  
P. C. Lujan  
T. S. Nelson  
J. T. San Agustin  
E. P. Arriola  
M. Z. Bordallo  
H. D. Dierking  
G. Mailloux  
E. D. Reyes  
M. C. Ruth  
E. R. Duenas  
A. R. Unpingco

AN ACT TO REPEAL AND REENACT SECTION 23405 OF  
THE GOVERNMENT CODE OF GUAM AND TO ADD A NEW  
SUBSECTION (o) TO SECTION 23100 OF THE GOVERN-  
MENT CODE RELATIVE TO IMPLIED CONSENT FOR THE  
TAKING OF TESTS FOR ALCOHOL CONSUMPTION AND  
MANDATORY PRISON SENTENCES FOR DRIVERS WHILE  
UNDER THE INFLUENCE OF ALCOHOL AND/OR DRUGS.

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

2 Section 1. Section 23405 of the Government Code is repealed and  
3 reenacted to read:

4 "§23405. Driving while under the influence of alcohol or drugs.

5 (a) A person shall not drive or be in actual or physical control  
6 of any vehicle while:

7 (1) There is 0.10% or more by weight of alcohol in his blood;

8 or

9 (2) He is under the influence of alcohol;

10 (3) He is under the influence of any drug to a degree which  
11 renders him incapable of safely driving; or

12 (4) He is under the combined influence of alcohol and any drug

1 to a degree which renders him incapable of safely driving.

2 (b) The fact that any person charged with violating this Section  
3 is or has been legally entitled to use alcohol or a drug shall  
4 not constitute a defense against any charge of violating this  
5 Section.

6 (c) A person convicted of violating provisions of this Section  
7 shall be guilty of a misdemeanor. Upon conviction of any  
8 violation of this Section, the person convicted shall have his  
9 privilege to operate a motor vehicle suspended by the Court for  
10 a period of not less than ninety (90) days nor more than six (6)  
11 months. All persons convicted of violating provisions of this  
12 Section shall be sentenced to [at least] forty-eight (48) hours  
13 imprisonment [either] in the custody of the Department of  
14 Corrections or the Guam Police Department, and provided, however,  
15 for first time offenders, at the request of the offender or his  
16 attorney, such offender may be magistrated before a Judge of the  
17 Superior Court of Guam who shall have discretionary authority to  
18 either return said offender to the custody of the Department of  
19 Corrections or Guam Police or impose other alternative sentencing.  
20 In addition to such mandatory sentence, the Court shall impose a  
21 monetary fine upon the offender and require restitution be made  
22 to persons injured or property damaged. [to pay in addition to  
23 such mandatory sentence, a monetary fine.]

24 (d) Any person convicted of a first offence under this Section  
25 shall have his privilege to drive suspended for a minimum mandatory  
26 period but the Court may permit the person a limited privilege to

1 drive if driving is required for that person to maintain his  
2 livelihood. Any person convicted a second or subsequent time  
3 within a five (5) year period of a violation of this Section shall  
4 have his privilege to drive suspended for at least six (6) months  
5 and no limited privilege to operate a motor vehicle shall be  
6 given.

7 (e) Every person who is convicted of a violation of this Section  
8 and who, while driving the vehicle in the manner and at the time  
9 which leads to his conviction when so driving does any act  
10 forbidden by law or neglects any duty imposed by law in the  
11 driving of such vehicle, which act or neglect proximately causes  
12 bodily injury to any person other than himself, is guilty of a  
13 third degree felony."

14 Section 2. A new Subsection (o) is added to Subsection 23100 of  
15 the Government Code to read:

16 "(o). (1) Any person who operates a motor vehicle [upon the  
17 highways] within the Territory of Guam shall be deemed to have  
18 given his implied consent, subject to Section 23405 of the  
19 Government Code, to a test or tests of his blood, breath, or  
20 urine for the purpose of determining the alcoholic or drug  
21 content of his blood if arrested, or if he could be arrested for  
22 any offense arising out of acts alleged to have been committed  
23 while the person was driving or in actual physical control of a  
24 motor vehicle while under the  
25 influence of alcohol or any drug. The test or tests shall be  
26 administered at the direction of a police officer having reasonable

1 grounds to believe the person to have been driving or in actual  
2 physical control of a motor vehicle [upon the highways] within  
3 the Territory of Guam while under the influence of alcohol or  
4 any drug. The Guam Police Department shall designate which of  
5 the aforesaid tests shall be administered.

6 (2) Any person who is dead, unconscious, or who is otherwise  
7 in a condition rendering him incapable of refusal, shall be  
8 deemed not to have withdrawn the consent provided by  
9 Subsection (a) of this Section.

10 (3) A person requested to submit to a test as provided above  
11 shall be warned by the police officer requesting the test that a  
12 refusal to submit to the test will be recorded and entered as  
13 evidence in Court proceedings upon arrest. [shall result in  
14 revocation of his license to operate a motor vehicle for a period  
15 of six (6) months. Following this warning, if the person  
16 detained or under arrest refuses upon the request from the  
17 police officer to submit to a test designated by the Guam Police  
18 Department as provided in Subsection (a) of this Section, none  
19 shall be given, but the Department of Revenue and Taxation,  
20 upon a sworn report or a report signed pursuant to 6 GCA  
21 §4308, unsworn declarations, of the police officer that he had  
22 reasonable grounds to believe that the person arrested or  
23 detained had been driving or was in actual physical control of a  
24 motor vehicle upon the highways of Guam while under the  
25 influence of alcohol or nay drug and that the person refused to  
26 submit to the test upon the request of the police officer, shall  
27 revoke his license subject to review."]



Elizabeth Barrett-Anderson  
Attorney General

Office of the Attorney General  
Territory of Guam

Donald L. Paillette  
Chief Deputy Attorney General

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Telex: (650) 697-5352

February 16, 1989

Senator Pilar Lujan  
Legislative Secretary  
20th Guam Legislature  
Agana, Guam 96910

Re: Bill No. 210

Dear Senator Lujan:

We support Bill No. 210, with certain recommended changes, and in addition a few comments for consideration.

We recommend that the words "... upon the highways ..." found at Section 2, first sentence under subsection (o), be deleted and the words "... in the territory ..." be substituted therein.

We have supported tougher laws on DWI, and welcome Senator Santos' version on implied consent. An earlier bill, Bill 281, by Senator Doris Brooks likewise has our support. Driving-While-Intoxicated (DWI) cases absorb a tremendous amount of prosecutorial time. We anticipate that our charge-off team will review nearly 400 cases in the next few months. Enclosed is an example of our arraignment calendar for the last 2 weeks. Without doubt there is an urgent need for tougher laws.

We have concerns that a forty-eight (48) hour mandatory imprisonment time for first time offenders might create problems, while at the same time it does send a strong message to potential offenders. The problems as we see it are: 1) it will deter voluntary guilty pleas, and thus we can anticipate more trial time; 2) it takes away the court's discretion for first-time offenders. This is not to say that this sort of problem should defeat the bill. It leaves room, however, for discussion of reasonable minds.



July 16, 1989  
Re: Bill No. 210

~~GOVERNMENT EXPENSE~~  
~~GOVERNMENT EXPENSE~~

I would like to propose that our office provide the Committee further comments on a substitute version of Bill 210 that would combine some of the points we support under Bill 281. Our office will submit further comments shortly.

Generally, we support passage of an implied consent statute, and would support Senator Santos' bill.

Sincerely,

  
ELIZABETH BARRETT-ANDERSON

Enclosure

05

~~GOVERNMENT EXPENSE~~

SUPERIOR COURT ARRAIGNMENT CALENDAR  
 JUDGE PETER C. SIGUENZA, JR.  
 COURTROOM 102  
 1ST FLOOR, JUDICIARY BUILDING  
 WEDNESDAY, FEBRUARY 8, 1989

TIME:	CASE NO.:	TITLE:	PURPOSE:	COUNSEL:
9:00 am	CM0008-89	PEOPLE VS. ANDY RONNIE DUENAS	DWI	THOMPSON
	CM0047-89	PEOPLE VS. PAUL JAMES RABAGO	THEFT (Petty Misdemeanor)	P.D.
	CM0037-89	PEOPLE VS. DAVID MANIBUSAN CEPEDA	THEFT (Misdemeanor)	P.D.
	CM0064-89	PEOPLE VS. MARIA L.G. BENAVENTE	RECKLESS DRIVING (Petty Misdemeanor)	P.D.
	CM0044-89	PEOPLE VS. STEPHEN EDWARD POTOCKI	RECKLESS DRIVING (Petty Misdemeanor)	P.D.
	CM0076-89	PEOPLE VS. SOSTER SACHO TITHER	LEAVING SCENE OF AN ACCIDENT (Petty Misdemeanor)	P.D.
	CM0048-89	PEOPLE VS. ANTHONY RAYMOND MUNA	CRIMINAL MISCHIEF (Misdemeanor)	P.D.
	CM0066-89	PEOPLE VS. OSCAR Q. FLORIDA	1) DWI 2) RESISTING ARREST 3) RECKLESS DRIVING	P.D.
	CM0081-89	PEOPLE VS. JOSE DUENAS MANIBUSAN	OPEN CONTAINER (Misdemeanor)	P.D.
	CM0080-89	PEOPLE VS. FRANKLIN JR. GOGO	OPEN CONTAINER (Misdemeanor)	P.D.
	CM0006-89	PEOPLE VS. LORENZO DANIEL	DWI	P.D.
	CM0033-89	PEOPLE VS. CIRILIO RAPEL HIDALGO	DWI	P.D.
	CM0041-89	PEOPLE VS. ARMANDO DELARAMA CONORA	DWI	P.D.
	CM0053-89	PEOPLE VS. HERBERT ANTHONY FERREIRA	DWI	P.D.
	CM0052-89	PEOPLE VS. FRANCIS XAVIER DEMEI	DWI	P.D.
	CM0050-89	PEOPLE VS. VINCENT PAUL CAMACHO	DWI	P.D.
	CM0049-89	PEOPLE VS. OSCAR QUINDO FLORIDA	DWI	P.D.
	CM0068-89	PEOPLE VS. JOSEPH MENDIOLA MENO	DWI	P.D.
	CM496-88	PEOPLE VS. JOHN MANIBUSAN	DISORDERLY CONDUCT (Petty Misdemeanor)	A.G.
	CM0460-88	PEOPLE VS. MICHAEL GREGORY SAN NICOLAS	1) ASSAULT 2) CRIMINAL MISCHIEF	A.G.
	CM0479-88	PEOPLE VS. GEORGE M. MEREB	ASSAULT (Misdemeanor)	A.G.
	CM0003-89	PEOPLE VS. NORMA B. DEL MUNDO	ASSAULT (Misdemeanor)	A.G.
	CM0061-89	PEOPLE VS. JOHN NAPUTI CASTRO	ASSAULT (Misdemeanor)	A.G.

*Siguenza* *3rd Jr.*

SUPERIOR COURT ARRAIGNMENT CALENDAR  
 JUDGE PETER C. SIGUENZA, JR.  
 COURTROOM 102  
 1ST FLOOR, JUDICIARY BUILDING  
 WEDNESDAY, FEBRUARY 8, 1989

TIME:	CASE NO.:	TITLE:	PURPOSE:	COUNSEL:
9:00 am	CM0125-89	PEOPLE VS. JOHN EUGENE TYDINGCO STEPHEN HOWARD SACRE	DISORDERLY CONDUCT (Violation)	A.G.
	CM0490-88	PEOPLE VS. THOMAS A. COPPOLA	1) RESISTING ARREST 2) DISORDERLY CONDUCT	A.G.
	CM0458-88	PEOPLE VS. ROY ETIN ROKE ROBERT TIO WILLY	OPEN CONTAINER (Misdemeanor)	A.G.
	CM0466-88	PEOPLE VS. KAREN EVELYN COOPER	1) DWI 2) LEAVING SCENE OF AN ACCIDENT	A.G.
	CM0505-88	PEOPLE VS. CONRAD H. CONRAD	1) DWI 2) OPERATING A MOTOR VEHICLE WITHOUT A VALID DRIVER'S LICENSE 3) LEAVING SCENE OF AN ACCIDENT	A.G.
	CM0493-88	PEOPLE VS. FRANZ INDALECIO	1) DWI 2) RESISTING ARREST	A.G.
	CM0469-88	PEOPLE VS. ROTHEN SPELIN SALLE	DWI	A.G.
	CM0486-88	PEOPLE VS. RINGKO JACOB FELIX	DWI	A.G.
	CM0020-89	PEOPLE VS. ROGER DAVID BYOCHEL	DWI	A.G.
	CM0026-89	PEOPLE VS. ROGER DAVID BYOCHEL	DWI	A.G.
	CM0062-89	PEOPLE VS. CHRIS JAMES BALLARD	DWI	A.G.
	CM0092-89	PEOPLE VS. JOHN BABAJTA ROSARIO	DWI	A.G.
	CM0093-89	PEOPLE VS. ROLANDO MALIGNO	DWI	A.G.
	CM0094-89	PEOPLE VS. BRUCE AFJELLE DIAZ	DWI	A.G.
	CM0453-88	PEOPLE VS. CALVIN JOSEPH THOMAS	DWI	A.G.
	CM0449-88	PEOPLE VS. LARRY FITI	DWI	A.G.
	CM0473-88	PEOPLE VS. DONICIO M. SAN NICOLAS	DWI	A.G.
	CM0481-88	PEOPLE VS. STEPHAN HENRY KYOTA	DWI	A.G.
	CM0063-89	PEOPLE VS. ANTON NEDLIC FOSTIC	DWI	A.G.
	CM0086-89	PEOPLE VS. VICENTE RIVERA BENAVENTE	DWI	A.G.
	CM0088-89	PEOPLE VS. JUNIO RENUK	DWI	A.G.
	CM0030-89	PEOPLE VS. VINCENT ITE HERIC	DWI	A.G.
	CM0025-89	PEOPLE VS. OH YOUNG KWON	DWI	A.G.
	CM0023-89	PEOPLE VS. SANFORD ORLIN HALL	DWI	A.G.
	CM0437-88	PEOPLE VS. ROBIN BRUCE ANDERSON	DWI	A.G.
	CM0435-88	PEOPLE VS. GIDEON ADIEL BISALEN	DWI	A.G.

*Siguenza*

SUPERIOR COURT ARRAIGNMENT CALENDAR  
 JUDGE PETER C. SIGUENZA, JR.  
 COURTROOM 104  
 1ST FLOOR, JUDICIARY BUILDING  
 WEDNESDAY, FEBRUARY 8, 1989

TIME:	CASE NO.:	TITLE:	PURPOSE:	COUNSEL:
9:00 am	CM0498-88	PEOPLE VS. EMELITA GANCIACAL LUBAY	DWI	A.G.
	CM0040-89	PEOPLE VS. RICHARD ANGOCO ACOSTA	DWI	A.G.
	CM0056-89	PEOPLE VS. VALERIO SOICHY VICKET	DWI	A.G.
	CM0057-89	PEOPLE VS. JIMMY JURALBAL QUEZADA	DWI	A.G.
	CM0097-89	PEOPLE VS. NAPOLEON ZACARIC VELORIA	DWI	A.G.
	CM0098-89	PEOPLE VS. KEBSEN SANTEL WARREN	DWI	A.G.
	CM0100-89	PEOPLE VS. DALE ATEM LENGAY	DWI	A.G.
	CM0101-89	PEOPLE VS. KONOMBIER TACHUD SAMUEL	DWI	A.G.
	CM0103-89	PEOPLE VS. KILAN MANTEL SARET	DWI	A.G.
	CM0104-89	PEOPLE VS. JAMES TERRELL JOHNSON	DWI	A.G.
	CM0167-89	PEOPLE VS. EDWARD MICHAEL KOVAC	DWI	A.G.
	CM0168-89	PEOPLE VS. DANIEL BALAU	DWI	A.G.
	CM0157-89	PEOPLE VS. JACKSON KERAT MURITOK	ASSAULT (Misdemeanor)	A.G.
	CM0158-89	PEOPLE VS. MYUNG SOO PAK	ASSAULT (Misdemeanor)	A.G.
	CM0159-89	PEOPLE VS. JESSE SAN NICOLAS OPENA	ASSAULT (Misdemeanor)	A.G.
	CM0160-89	PEOPLE VS. JESUS SANTOS SAN NICOLAS	ASSAULT (Misdemeanor)	A.G.
	CM0161-89	PEOPLE VS. FRANCISCO TAGA CEPEDA	ASSAULT (Misdemeanor)	A.G.
	CM0169-89	PEOPLE VS. GREG TALSIPIC	RECKLESS DRIVING (Petty Misdemeanor)	A.G.
	CM0058-89	PEOPLE VS. RICHARD FLORES TAITANO	1) RECKLESS DRIVING 2) OBSTRUCTING GOVERNMENTAL FUNCTION (Misdemeanor)	A.G.
	CM0099-89	PEOPLE VS. GIBSON S. WARREN aka KEPSEN WERIN	POSSESSION OF LESS THAN ONE OUNCE OF MARIJUANA (Violation)	A.G.
	CM0102-89	PEOPLE VS. JOSEPH VINCENT REYES	RECKLESS DRIVING (Petty Misdemeanor)	A.G.
	CM0105-89	PEOPLE VS. MICHAEL MALCOLM BORDALLO	ASSAULT (Misdemeanor)	A.G.
	CM0106-89	PEOPLE VS. OTTO JOSEPH	1) DWI 2) LEAVING THE SCENE OF AN ACCIDENT	A.G.

*S. Siguenza, Jr.*

SUPERIOR COURT ARRAIGNMENT CALENDAR  
JUDGE RAMON V. DIAZ  
COURTROOM 104  
1ST FLOOR, JUDICIARY BUILDING  
WEDNESDAY, FEBRUARY 15, 1989

TIME:	CASE NO.:	TITLE:	PURPOSE:	COUNSEL:
9:00 am	CM0159-89	PEOPLE VS. JESSE SAN NICOLAS OPENA	ASSAULT (Misdemeanor)	HORECKY
	CM0160-89	PEOPLE VS. JESUS SANTOS SAN NICOLAS	ASSAULT (Misdemeanor)	LEE
	CM0161-89	PEOPLE VS. FRANCISCO TAGA CEPEDA	ASSAULT (Misdemeanor)	ROBERTS
	CM0092-89	PEOPLE VS. JOHN BABAUTA ROSARIO	DWI	CONOVER
	CM0093-89	PEOPLE VS. ROLANDO MALIGON	DWI	CUNLIFFE
	CM0094-89	PEOPLE VS. BRUCE AFJELLE DIAZ	DWI	DEL PRIORE
	CM0469-88	PEOPLE VS. ROTHEN SPELIN SALLE	DWI	T.BROOKS
	CM0010-89	PEOPLE VS. FRANCISCO R. CAMACHO	1) DISORDERLY CONDUCT 2) ASSAULT (Misdemeanor)	LEE
	CM496-88	PEOPLE VS. JOHN G. MANIBUSAN	DISORDERLY CONDUCT (Petty Misdemeanor)	E.TERLAJE
	CM0167-89	PEOPLE VS. EDWARD MICHAEL KOVAC	DWI	HARTSOCK
	CM0473-88	PEOPLE VS. DONICIO M. SAN NICOLAS	DWI	GUMATAOTAO
	CM0089-89	PEOPLE VS. GERALDINE ANN AGUON	1) UNAUTHORIZED SPEED CONTEST (Petty Misdemeanor) 2) OPERATION OF A MOTOR VEHICLE WITHOUT A VALID OPERATOR'S LICENSE	THOMPSON
	CM0032-89	PEOPLE VS. NANCY ROSE ROSAL	THEFT (Misdemeanor)	A.G.
	CM149-89	PEOPLE VS. SUKARMO SAN NICOLAS SANTOS FRANKLIN TOPASNA	ASSAULT (Misdemeanor)	A.G.
	CM152-89	PEOPLE VS. CYNTHIA REKLAI	ASSAULT (Misdemeanor)	A.G.
	CM0108-89	PEOPLE VS. BERNARD LEE EVERETT, JR.	RECKLESS DRIVING (Petty Misdemeanor)	A.G.
	CM0067-89	PEOPLE VS. HARRIET KAYE PARKHURST	THEFT (Petty Misdemeanor)	A.G.
	CM0116-89	PEOPLE VS. SATUR SORIANO SANDOVAL	THEFT (Petty Misdemeanor)	A.G.
	CM0054-89	PEOPLE VS. DANNY DON NGIRDENGOAL	THEFT	A.G.
	CM0127-89	PEOPLE VS. JAMES CRUZ MAFNAS	UNSWORN FALSIFICATION (Misdemeanor)	A.G.
	CM0126-89	PEOPLE VS. AARON STEVEN FEINSTEIN	UNSWORN FALSIFICATION (Misdemeanor)	A.G.
	CM0115-89	PEOPLE VS. MICHAEL P. RANGEL	1) RECKLESS DRIVING 2) OBSTRUCTING GOVERNMENTAL FUNCTIONS	A.G.

SUPERIOR COURT ARRAIGNMENT CALENDAR  
JUDGE RAMON V. DIAZ  
COURTROOM 104  
1ST FLOOR, JUDICIARY BUILDING  
WEDNESDAY, FEBRUARY 15, 1989

TIME:	CASE NO.:	TITLE:	PURPOSE:	COUNSEL:
9:00 am	CM0129-89	PEOPLE VS. RICHARD D. POTTER	UNAUTHORIZED USE OF A MOTOR VEHICLE (Misdemeanor)	A.G.
	CM0128-89	PEOPLE VS. FORUS BICENTY HALLEY	LEAVING SCENE OF AN ACCIDENT (Petty Misdemeanor)	A.G.
	CM0045-89	PEOPLE VS. JOSEPH LIZAMA MANIBUSAN	1) RECKLESS DRIVING (Petty Misdemeanor) 2) UNAUTHORIZED SPEED CONTEST (Petty Misdemeanor)	A.G.
	CM0036-89	PEOPLE VS. NISARFUGE NISAR	CRIMINAL MISCHIEF (Misdemeanor)	A.G.
	CM0059-89	PEOPLE VS. EDWARD E. SANTOS	POSS OF LESS THAN ONE OUNCE OF MARIJUANA (Violation)	A.G.
	CM132-89	PEOPLE VS. BECKY VALORA HEMPHILL	CHILD ABUSE (Misdemeanor)	A.G.
	CM131-89	PEOPLE VS. RANDY QUINATA PANGELINAN	1) RECKLESS DRIVING (Petty Misdemeanor) 2) RESISTING ARREST	A.G.
	CM143-89	PEOPLE VS. BRUCE CASTRO	INDECENT EXPOSURE (Petty Misdemeanor)	A.G.
	CM153-89	PEOPLE VS. ROBERTO P. ROMERO	1) DWI. 2) OSBTRUCTING GOV'T. FUNCTION (Misdemeanor)	A.G.
	CM142-89	PEOPLE VS. STEVEN SANTIAGO QUINATA	LEAVING SCENE OF AN ACCIDENT (Petty Misdemeanor)	A.G.
	CM0055-89	PEOPLE VS. SONG SIN CURSCHMANN	1) DISORDERLY CONDUCT (Petty Misdemeanor) 2) RESISTING ARREST (Misdemeanor) 3) DWI	A.G.
	CM0117-89	PEOPLE VS. FASTLY PAULIZ	OPEN CONTAINER (Misdemeanor)	A.G.
	CM0105-89	PEOPLE VS. MICHAEL MALCOLM BORDALLO	ASSAULT (Misdemeanor)	A.G.
	CM151-89	PEOPLE VS. JOHN RICE SANTOS	DWI	A.G.
	CM154-89	PEOPLE VS. FREDDY JOSEPH LANDRY, JR.	DWI	A.G.
	CM150-89	PEOPLE VS. ARNOLD ANNE MARY NGILRALMAN	DWI	A.G.
	CM0111-89	PEOPLE VS. BYUNG HAK KIM	DWI	A.G.
	CM0114-89	PEOPLE VS. JIMMY JUNIOR UTEMEI	DWI	A.G.
	CM0118-89	PEOPLE VS. JOHNNY AGUON JESUS	DWI	A.G.

*DIAZ*

SUPERIOR COURT ARRAIGNMENT CALENDAR  
 JUDGE RAMON V. DIAZ  
 COURTROOM 104  
 1ST FLOOR, JUDICIARY BUILDING  
 WEDNESDAY, FEBRUARY 15, 1989

TIME:	CASE NO.:	TITLE:	PURPOSE:	COUNSEL:
9:00 am	CM0119-89	PEOPLE VS. ROLAND B. PIOLO	DWI	A.G.
	CM0120-89	PEOPLE VS. ANTONIO C. OKAZAKI	DWI	A.G.
	CM0121-89	PEOPLE VS. MICHAEL Q. SUDO	DWI	A.G.
	CM0122-89	PEOPLE VS. DONALD HENRY	DWI	A.G.
	CM0123-89	PEOPLE VS. ROGELIO MOLINA ABUAN	DWI	A.G.
	CM0124-89	PEOPLE VS. JIMMY TUBAI JONAS	DWI	A.G.
	CM0130-89	PEOPLE VS. VICTOR CRUZ HERNANDEZ	DWI	A.G.
	CM135-89	PEOPLE VS. RAYMOND ANTHONY FLORES	DWI	A.G.
	CM134-89	PEOPLE VS. MOLTON ASSU PALIK	DWI	A.G.
	CM133-89	PEOPLE VS. RINGKO JACOB FELIX	DWI	A.G.
	CM138-89	PEOPLE VS. ROMELO DELA PENA RAPAY RAPAY	DWI	A.G.
	CM139-89	PEOPLE VS. PASCUAL MAGNO MARAMBA	DWI	A.G.
	CM147-89	PEOPLE VS. SOKICY REFTAN URUMAN	DWI	A.G.
	CM146-89	PEOPLE VS. JOAQUIN CRUZ RAPOLLA	DWI	A.G.
	CM144-89	PEOPLE VS. BRUCE ALLISON GRESHKE	DWI	A.G.
	CM141-89	PEOPLE VS. KYUNG HOO SONG	DWI	A.G.
	CM140-89	PEOPLE VS. PATI UPEGA	DWI	A.G.
	CM148-89	PEOPLE VS. SHIGEKI MORI	DWI	A.G.
	CM156-89	PEOPLE VS. PERFECTO CALILDAN VALERA	DWI	A.G.
	CM155-89	PEOPLE VS. JOSEPH CRUZ SALAS	DWI	A.G.
	CM0104-89	PEOPLE VS. JAMES TERRELL JOHNSON	DWI	A.G.

DIAZ

TWENTIETH GUAM LEGISLATURE  
FIRST (1989) REGULAR SESSION

Introduced

JAN 04 '89

Bill No. 210 (COR)

Introduced by:

F.R. Santos

AN ACT TO REPEAL AND REENACT SECTION 23405 OF  
THE GOVERNMENT CODE AND TO ADD A NEW SUBSECTION  
(o) TO SECTION 23100 OF THE GOVERNMENT CODE  
RELATIVE TO IMPLIED CONSENT FOR THE TAKING OF  
TESTS FOR ALCOHOL CONSUMPTION AND MANDATORY  
PRISON SENTENCES FOR DRIVING WHILE UNDER THE  
INFLUENCE OF ALCOHOL AND/OR DRUGS.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. Section 23405 of the Government Code is repealed and reenacted to read:

"§23405. Driving while under the influence of alcohol or drugs.

(a) A person shall not drive or be in actual or physical control of any vehicle while:

(1) There is 0.10% or more by weight of alcohol in his blood; or

(2) He is under the influence of alcohol; or

(3) He is under the influence of any drug to a degree which renders him incapable of safely driving; or

(4) He is under the combined influence of alcohol and any drug to a degree which renders him incapable of safely driving.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol or a drug shall not constitute a defense against any charge of violating this Section.

(c) A person convicted of this violating provisions of this Section shall be guilty of a misdemeanor. Upon conviction of any violation of this Section, the person convicted shall have his privilege to operate a motor vehicle suspended by the Court for a period of not less than NINETY (90) days nor more than SIX (6) months. All persons convicted of violating provisions of this Section shall be sentenced to at least



FORTY-EIGHT (48) hours imprisonment either in the custody of the Department of Corrections or of the Guam Police Department, and to pay in addition to such mandatory sentence, a monetary fine.

(d) Any person convicted of a first offense under this Section shall have his privilege to drive suspended for a minimum mandatory period but the Court may permit the person a limited privilege to drive if driving is required for that person to maintain his livelihood. Any person convicted a second or subsequent time within a FIVE (5) year period of a violation of this Section shall have his privilege to drive suspended for at least SIX (6) months and no limited privilege to operate a motor vehicle shall be given.

(e) Every person who is convicted of a violation of this Section and who, while driving the vehicle in the manner and at the time which leads to his conviction when so driving does any act forbidden by law or neglects any duty imposed by law in the driving of such vehicle, which act or neglect proximately causes bodily injury to any person other than himself, is guilty of a third degree felony."

Section 2. A new Subsection (o) is added to Section 23100 of the Government Code to read:

"(o). (1) Any person who operates a motor vehicle upon the highways of Guam shall be deemed to have given his implied consent, subject to Section 23405 of the Government Code, to a test or tests of his blood, breath, or urine for the purpose of determining the alcoholic or drug content of his blood if arrested, or if he could be arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while under the influence of alcohol or any drug. The test or tests shall be administered at the direction of a police officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the highways of Guam while under the influence of alcohol or any drug. The Guam Police Department shall designate which of the aforesaid tests shall be administered.

(2) Any person who is dead, unconscious, or who is otherwise

in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by Subsection (a) of this Section.

(3) A person requested to submit to a test as provided above shall be warned by the police officer requesting the test that a refusal to submit to the test shall result in revocation of his license to operate a motor vehicle for a period of SIX (6) months. Following this warning, if the person detained or under arrest refuses upon the request from the police officer to submit to a test designated by the Guam Police Department as provided in Subsection (a) of this Section, none shall be given, but the Department of Revenue and Taxation, upon a sworn report or a report signed pursuant to 6 GCA §4308, unsworn declarations, of the police officer that he had reasonable grounds to believe that the person arrested or detained had been driving or was in actual physical control of a motor vehicle upon the highways of Guam while under the influence of alcohol or any drug and that the person refused to submit to the test upon the request of the police officer, shall revoke his license subject to review."