



*Territory of Guam*  
*Territorio Guam*

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

*recd by r. daugan*  
*12/30/94*  
*6:00 p.m.*

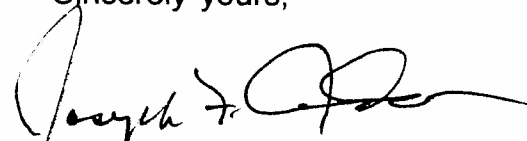
DEC 29 1994

The Honorable Joe T. San Agustin  
Speaker, Twenty-Second Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 966, which I have signed into law this date as  
Public Law 22-146.

Sincerely yours,

  
JOSEPH F. ADA  
Governor  
**220913**

Attachment

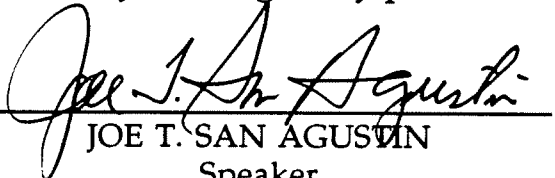


Commonwealth Now!

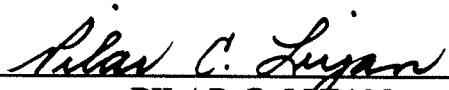
TWENTY-SECOND GUAM LEGISLATURE  
1994 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Substitute Bill No. 966 (LS), "AN ACT TO AMEND SUBSECTION (h) AND TO ADD A NEW SUBSECTION (i) TO §18101, TO REPEAL AND REENACT §18110, TO AMEND §18202, TO AMEND, REPEAL AND REENACT VARIOUS SUBSECTIONS AND TO ADD NEW SUBSECTIONS TO §18203, TO REPEAL AND REENACT §18205, TO ADD A NEW §18206, TO AMEND §§3101 (c) AND 3113, ALL OF TITLE 16, GUAM CODE ANNOTATED, TO STRENGTHEN THE SAFE STREETS ACT OF 1994, AND MAKING AN APPROPRIATION FOR ADMINISTERING SUCH ACT," was on the 9th day of December, 1994, duly and regularly passed.

  
JOE T. SAN AGUSTIN  
Speaker

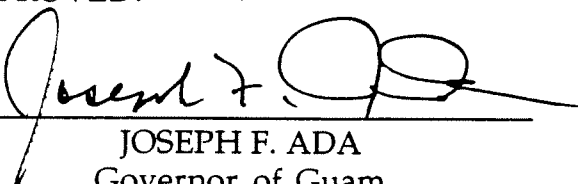
Attested:

  
PILAR C. LUJAN  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 19th day of December, 1994, at  
4:38 o'clock P.M.

  
Theresa J. Duenas  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
JOSEPH F. ADA  
Governor of Guam

Date: DEC 29 1994

Public Law No. 22-146

TWENTY-SECOND GUAM LEGISLATURE  
1994 (SECOND) Regular Session

Bill No. 966 (LS)

As substituted by the Committee on  
Judiciary and Criminal Justice and as  
further substituted on the floor

Introduced by:

P. C. Lujan  
F. E. Santos  
T. C. Ada  
J. P. Aguon  
E. P. Arriola  
M. Z. Bordallo  
H. D. Dierking  
C. T. C. Gutierrez  
T. S. Nelson  
V. C. Pangelinan  
D. Parkinson  
E. D. Reyes  
J. T. San Agustin  
D. L. G. Shimizu  
J. G. Bamba  
A. C. Blaz  
D. F. Brooks  
F. P. Camacho  
M. D. A. Manibusan  
T. V. C. Tanaka  
A. R. Unpingco

AN ACT TO AMEND SUBSECTION (h) AND TO ADD A  
NEW SUBSECTION (i) TO §18101, TO REPEAL AND  
REENACT §18110, TO AMEND §18202, TO AMEND,  
REPEAL AND REENACT VARIOUS SUBSECTIONS  
AND TO ADD NEW SUBSECTIONS TO §18203, TO  
REPEAL AND REENACT §18205, TO ADD A NEW §18206,  
TO AMEND §§3101 (c) AND 3113, ALL OF TITLE 16,  
GUAM CODE ANNOTATED, TO STRENGTHEN THE  
SAFE STREETS ACT OF 1994, AND MAKING AN  
APPROPRIATION FOR ADMINISTERING SUCH ACT.

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

2           **Section 1. Legislative statement.** Since the enactment of the Safe  
3 Streets Act of 1994 (the "Act"), statistics show a marked decrease in driving  
4 while under the influence of alcohol. The Legislature knows that it was  
5 because of the previously alarming increase in accidents under the influence  
6 of alcohol the Act was enacted. To further strengthen the Act, the following  
7 amendments are proposed.

8           **Section 2.** Subsection (h) of §18101 of Title 16, Guam Code Annotated,  
9 is hereby amended to read:

10           "(h) **Reasonable cause** means such a state of facts as would  
11 lead a person of ordinary care and prudence to believe and  
12 conscientiously entertain an honest strong suspicion that the person  
13 driving and in physical control of a vehicle is under the influence of  
14 alcohol or of a controlled substance or of a combination thereof."

15           **Section 3.** A new subsection (i) is hereby added to §18101 of Title 16,  
16 Guam Code Annotated, to read:

17           "(i) **Working day** means any day of the week other than  
18 Saturday or Sunday or a legal holiday."

19           **Section 4.** §18110 of Title 16, Guam Code Annotated, is hereby repealed  
20 and reenacted to read:

21           "**§18110. Vehicular negligence; third degree felony.** Any  
22 violation of subsections (c) or (d) of §18102 of this Chapter shall be a  
23 felony of the third degree."

24           **Section 5.** §18202 of Title 16, Guam Code Annotated, is hereby  
25 amended to read:

26           "**§18202. Sanctions for refusal to submit to or failure to**  
27 **complete a blood, or breath test.** If any person refuses a police

1 officer's request to submit to, or fails to complete a blood or breath  
2 test or tests, upon receipt of a police officer's sworn statement,  
3 affidavit or written declaration under penalty of perjury that the  
4 police officer had reasonable cause to believe the person had been  
5 operating and in physical control of a motor vehicle in violation of  
6 §18102 of this Chapter and that the person refused to submit to, or  
7 failed to complete, the blood or breath tests after having been  
8 informed by the police officer of the consequences under subsection  
9 (f) of §18201 and this §18202 for refusing to submit to or failing to  
10 complete the blood or breath test or tests, then the Department of  
11 Revenue and Taxation (the "Department") shall administratively (a)  
12 suspend the person's privilege and license or permit to operate a  
13 motor vehicle for a period of six (6) months, or (b) revoke the  
14 person's privilege and license or permit to operate a motor vehicle  
15 for a period of two (2) years if the person has been convicted of a  
16 separate prior violation of §18102 or has been administratively  
17 determined to have committed a prior violation of §18102 of this  
18 Chapter or convicted of any prior offense of driving under the  
19 influence violation, or any combination thereof, within five (5) years  
20 of the date of the refusal, or failure to complete the blood or breath  
21 test, or (c) revoke the person's privilege and license or permit to  
22 operate a motor vehicle for a period of three (3) years if the person  
23 has been convicted of two (2) or more prior violations of §18102 or  
24 has been administratively determined to have committed two (2) or  
25 more prior violations of §18202 of this Chapter or convicted of any  
26 two (2) or more offenses of driving under the influence, or any  
27 combination thereof, within five (5) years of the date of the refusal or

1 failure to complete the blood or breath test. For the purposes of this  
2 Chapter, "police officer" means an officer of the Guam Police  
3 Department, or a security officer of either the Guam Airport  
4 Authority or the Guam Port Authority but only while such security  
5 officer is carrying on his or her duties within the confines of the  
6 property under the control and jurisdiction of the Authority by which  
7 he or she is employed."

8 **Section 6.** Subsection (a) of §18203 of Title 16, Guam Code Annotated,  
9 is hereby amended to read:

10 "(a) If a person is arrested for a violation of §18102 of this  
11 Chapter, on a determination by the police officer that there was  
12 reasonable cause for the arrest then (1) the police officer shall inform  
13 the person that he or she has the option of taking a blood or breath  
14 test, and (2) the police officer shall also inform the person that a  
15 refusal to submit to or a failure to complete the blood or breath test  
16 may be used as evidence against him or her in criminal proceedings,  
17 and that he or she may be subject to administrative suspension or  
18 revocation by the Department of his or her privileges and license or  
19 permit to operate a motor vehicle."

20 **Section 7.** Subsection (b) of §18203 of Title 16, Guam Code Annotated,  
21 is hereby amended to read:

22 "(b) The police officer complies with the requirements of  
23 §18203(a) of this Chapter and the person refuses to submit to or fails  
24 to complete the blood or breath test, then the police officer shall  
25 within three (3) working days of the arrest sign and submit to the  
26 Department an affidavit or declaration under penalty of perjury  
27 setting forth such facts."

1           **Section 8.** Subsection (c) of §18203 of Title 16, Guam Code Annotated,  
2 is hereby amended to read:

3           "(c) Upon receipt by the Department of the police officer's  
4 affidavit or declaration, an administrative action shall commence  
5 and the Department shall within ten (10) working days notify the  
6 person in writing of the commencement thereof. Notice of the  
7 administrative action shall be provided to the person as follows:

8           (1) By delivering a copy thereof to the person; or

9           (2) By leaving a copy thereof at the person's dwelling  
10 house or usual place of abode with some person of suitable age  
11 and discretion residing therein; or

12           (3) By mailing a copy thereof to the person at his or her  
13 last known address through certified or registered mail.

14           The notice of the administrative action shall inform the person  
15 of the matters set forth in §§18202 and 18203 of this Chapter."

16           **Section 9.** Subsection (e) of §18203 of Title 16, Guam Code Annotated,  
17 is hereby repealed and reenacted to read:

18           "(e) Upon receipt by the Department of the person's written  
19 request for a hearing, the Department shall within five (5) working  
20 days notify the person of a hearing date in the same manner as set  
21 forth in subsection (c), (1), (2), and (3), of this §18203. The  
22 Department shall schedule the hearing to commence within fifteen  
23 (15) working days of the person's written request for the hearing.  
24 The Director or his designee shall preside at and conduct the  
25 hearing."

26           **Section 10.** Subsection (f) of §18203 of Title 16, Guam Code Annotated,  
27 is hereby repealed and reenacted to read:

1           "(f) The scope of the hearing shall be limited to whether the  
2 requirements of this §18203 were met."

3           **Section 11.** Subsection (g) of §18203 of Title 16, Guam Code Annotated,  
4 is hereby amended to read:

5           "(g) At the commencement of the initial or continued hearing,  
6 the person who is alleged to have refused to submit to or failed to  
7 complete blood or breath testing shall surrender to the Department  
8 any license or permit issued in the name of the person which  
9 authorizes the person to drive and be in physical control of a vehicle  
10 and which license or permit was not previously suspended or  
11 revoked."

12           **Section 12.** Subsection (h) of §18203 of Title 16, Guam Code Annotated,  
13 is hereby repealed and reenacted to read:

14           "(h) At the hearing, the Director or his designee has the burden  
15 of proof to show by a preponderance of the evidence that the  
16 requirements of this §18203 were not met. If the hearing is continued  
17 to another date and time by the Director or his designee, or if at the  
18 conclusion of the initial or continued hearing the Director or his  
19 designee dismisses the administrative action, then the Department  
20 shall return the person's driver's license or permit to him or her."

21           **Section 13.** Subsection (i) of §18203 of Title 16, Guam Code Annotated,  
22 is hereby repealed and reenacted to read:

23           "(i) At the conclusion of the initial or continued hearing, the  
24 Director or his designee shall render a decision to suspend or revoke  
25 the person's driving privilege and license or permit, as authorized  
26 under §18202 of this Act, or to dismiss the administrative action. The



1 decision and order of the Director or his designee shall be final but  
2 subject to judicial review."

3 **Section 14.** Subsection (j) of §18203 of Title 16, Guam Code Annotated,  
4 is hereby amended to read:

5 "(j) If the Director or his designee determines, upon a hearing  
6 of the matter, to suspend or revoke the person's privilege and license  
7 or permit to operate a motor vehicle, the suspension or revocation  
8 decision shall thereupon become effective. If the person does not  
9 appear at that hearing, the Director or his designee shall, in writing,  
10 determine, based upon a preponderance of the evidence, that the  
11 person whose license or permit is to be suspended or revoked is the  
12 person so charged and shall declare that by default the license or  
13 permit is revoked or suspended. If the person does appear at the  
14 hearing, the Director or his designee shall, in writing, based upon the  
15 preponderance of the evidence, show that the person was (i) either  
16 driving and in physical control of the motor vehicle or not, (ii) either  
17 refused to take a breathalyzer or blood test or did not, and (iii) either  
18 was given adequate warning of the alternatives before so  
19 suspending or revoking the person's license or permit or was not."

20 **Section 15.** Subsection (k) of §18203 of Title 16, Guam Code Annotated,  
21 is hereby amended to read:

22 "(k) If the Director's or his designee's decision is to revoke or  
23 suspend the person's privilege and license or permit to drive, the  
24 person may file a petition for judicial review in the Superior Court of  
25 Guam within ten (10) working days of such decision and order.  
26 (1) The filing of the petition shall not operate as a stay of the  
27 administrative revocation or suspension nor shall the court stay the

1 administrative revocation or suspension pending the outcome of the  
2 judicial review. (2) The petition shall state with specificity the  
3 grounds upon which the petitioner seeks reversal of the  
4 administration revocation. (3) The court shall schedule the judicial  
5 review as soon as practicable, and the review shall be on the record  
6 of the administrative hearing without taking additional testimony or  
7 evidence. (4) If the petitioner fails to appear without just cause, the  
8 court shall affirm the administrative revocation or suspension. (5)  
9 The sole issues before the court shall be whether the Department  
10 exceeded constitutional or statutory authority, erroneously  
11 interpreted the law, acted in an arbitrary or capricious manner,  
12 committed an abuse of discretion, or made a determination that is  
13 unsupported by the evidence in the record. (6) Unless the  
14 administrative revocation or suspension is reversed, the revocation  
15 or suspension shall become effective as set out in subsection (j) of this  
16 §18203."

17 **Section 16.** Subsection (n) is hereby added to §18203, Title 16, Guam  
18 Code Annotated, to read:

19 "(n) The Department may issue a written subpoena directing  
20 any person to attend a hearing before the Director or his designee  
21 and in a proper case to bring with him or her any book, record or  
22 paper which may be deemed material as evidence in the case. The  
23 fee for such attendance shall be the same as the fees of witnesses  
24 before the Superior Court, **except** that if the witness is a government  
25 employee, no witness fee shall be given. The subpoena shall be issued  
26 in the name of the Department, shall be directed to the witness, and  
27 shall be served in the same manner as subpoenas to appear and

1 testify before the court. If any person or persons summoned to testify  
2 shall refuse or neglect to obey said subpoena, upon petition, the court  
3 may compel the attendance of such person or persons before the  
4 Department, or punish said person or persons for contempt in the  
5 same manner provided by law for securing the attendance of  
6 witnesses and their punishment for neglect or refusal to attend the  
7 Superior Court."

8 **Section 17.** Subsection (o) is hereby added to §18203, Title 16, Guam  
9 Code Annotated, to read:

10 "(o) Article 2 of the Administrative Adjudication Law shall not  
11 apply to administrative actions and hearings under this §18203."

12 **Section 18.** §18205 of Title 16, Guam Code Annotated, is hereby  
13 repealed and reenacted to read:

14 "§18205. **Filing of rules.** The Department may adopt rules to  
15 govern its procedures under this Chapter. Article 3 of the  
16 Administrative Adjudication Law is not applicable to such rules so  
17 adopted by the Department nor to any procedures prescribed  
18 therein."

19 **Section 19.** A new §18206 is hereby added to Title 16, Guam Code  
20 Annotated, to read:

21 "§18206. **Effective date of implementation.** The effective date  
22 to implementing the provisions of §18203 of this Chapter on the  
23 Department's administrative revocation or suspension of driving  
24 privileges and licenses or permits of persons who refuse to submit to  
25 or fail to complete a blood or breath test shall be April 1, 1995."

26 **Section 20.** Subsection (a) of Section 5, Public Law 22-20 is hereby  
27 amended to read:

1           "(a) Except for pending charges as provided in paragraph (b)  
2 of this section, §§9104, 9105, and 9106 of Title 16, Guam Code  
3 Annotated, and §23405 and subsection (a) of §23100 of Title XXIV,  
4 Government Code, are hereby repealed."

5           **Section 21.** Subsection (c) of §3101, Title 16, Guam Code Annotated, is  
6 hereby amended to read:

7           "(c) A person having in his immediate possession a valid  
8 operator's or chauffeur's license issued by any other territory,  
9 Commonwealth or state of the United States, Japan, the Republic of  
10 China (Taiwan), the Republic of Korea, the Republic of the  
11 Philippines, or Australia may drive a motor vehicle upon the  
12 highways for a period not exceeding thirty (30) days from the date  
13 such person arrived on Guam. However, upon the expiration of  
14 such thirty-(30-) day period, such person must (i) apply for a Guam  
15 driver's license, (ii) be required to take a written test, and if that  
16 person passes the written test, then a driver's license shall be issued;  
17 **provided**, however, if such person fails the written test twice, such  
18 person shall be required to complete a driver education seminar  
19 before being allowed to retake the test, which seminar must include  
20 at least eight (8) hours of classroom instruction and four (4) hours of  
21 in-car instruction. In addition, a person having in his immediate  
22 possession a temporary operator's or chauffeur's license issued  
23 under this Title may drive a motor vehicle upon the highways for a  
24 period not exceeding thirty (30) days, while the Guam Police  
25 Department is completing investigation and determination of all  
26 facts relative to the applicant's right to receive a license. Such

1 temporary license is invalid when the applicant's license has been  
2 issued or refused."

3 **Section 22.** §3113 of Title 16, Guam Code Annotated, is hereby  
4 amended to read:

5 "§3113. **Public and Private drivers education services.** The  
6 Director of Revenue and Taxation shall develop rules and  
7 regulations under the provisions of the Administrative Adjudication  
8 Law relative to licensing public and private drivers education  
9 services, which rules shall require forty (40) hours of training, with  
10 thirty-two (32) classroom hours and eight (8) hours in-car, and that  
11 such training be applicable to all minors and to those adults who are  
12 applying for a "first time" driver's license. Such rules shall also  
13 require that a licensed service firm which issues Certificates of  
14 Completion must possess the following: (1) A secondary teaching  
15 certificate issued by the Department of Education with an  
16 endorsement in driver education; or (2) a certificate to teach driver  
17 education from a recognized educational institution or training  
18 agency in Guam or from another territory or state; and (3) a current  
19 first aid/CPR certification card issued by a recognized training  
20 institution that provides emergency care training which meets the  
21 current revisions in the Occupational Safety and Health guidelines,  
22 and risk reduction strategies posted by the Center for Disease  
23 Control or other recognized medical entities."

24 **Section 23.** Subsection (c) of §3301 of Title 16, Guam Code Annotated,  
25 is hereby amended to read:

1           "(c) Subject to the provisions of Subsections (a) and (b) of this  
2           Section, speeds in excess of forty-five (45) miles per hour/eighty (80)  
3           kilometers per hour shall be unlawful."

4           **Section 24. Appropriation.** One Hundred Fifty Thousand Dollars  
5           (\$150,000) are hereby appropriated from the General Fund to the Department  
6           of Revenue and Taxation to fund the personnel requirements and other  
7           expenses necessary to administer the Safe Streets Act of 1994.

VOTING SHEET  
(as revised)

S. 966

12/9/94

Resolution No. \_\_\_\_\_

(Date)

Question: \_\_\_\_\_

| Senators               | Aye | No | Declined to Vote | Required to vote | Excused from voting | ABSENT/OUT DURING ROLL CALL |
|------------------------|-----|----|------------------|------------------|---------------------|-----------------------------|
| Ada, Thomas C.         | ✓   |    |                  |                  |                     |                             |
| AGUON, John P.         | ✓   |    |                  |                  |                     |                             |
| ARRIOLA, Elizabeth P.  | ✓   |    |                  |                  |                     |                             |
| BAMBA, George J.       | ✓   |    |                  |                  |                     |                             |
| BLAZ, Anthony C.       | ✓   |    |                  |                  |                     |                             |
| BORDALLO, Madeleine Z. |     |    |                  |                  |                     | ✓                           |
| BROOKS, Doris F.       | ✓   |    |                  |                  |                     |                             |
| CAMACHO, Felix P.      | ✓   |    |                  |                  |                     |                             |
| DIERKING, Hermina D.   | ✓   |    |                  |                  |                     |                             |
| GUTIERREZ, Carl T. C.  | ✓   |    |                  |                  |                     |                             |
| LUJAN, Pilar C.        | ✓   |    |                  |                  |                     |                             |
| MANIBUSAN, M. D. A.    | ✓   |    |                  |                  |                     |                             |
| NELSON, Ted S.         | ✓   |    |                  |                  |                     |                             |
| PANGELINAN, Vicente C. | ✓   |    |                  |                  |                     |                             |
| PARKINSON, Don         | ✓   |    |                  |                  |                     |                             |
| REYES, Edward D.       | ✓   |    |                  |                  |                     |                             |
| SAN AGUSTIN, Joe T.    | ✓   |    |                  |                  |                     |                             |
| SANTOS, Francis E.     | ✓   |    |                  |                  |                     |                             |
| SHIMIZU, David L. G.   | ✓   |    |                  |                  |                     |                             |
| TANAKA, Thomas V. C.   | ✓   |    |                  |                  |                     |                             |
| UNPINGCO, Antonio R.   | ✓   |    |                  |                  |                     |                             |

TOTAL

|    |  |  |  |   |
|----|--|--|--|---|
| 20 |  |  |  | 1 |
|----|--|--|--|---|

Twenty-Second Guam Legislature

Senator Pilar Cruz Lujan

*Legislative Secretary*

Chairperson - Committee on Judiciary and Criminal Justice

September 9, 1994

Honorable Joe T. San Agustin  
Speaker, Twenty-Second Guam Legislature  
Agana, Guam

VIA: Chairperson, Committee on Rules

Dear Mr. Speaker:

The Committee on Judiciary and Criminal Justice to which was referred Bill No. 966, wishes to report its findings and recommendations for passage of **Substitute Bill No. 966**

The Committee voting record is as follows:

|           |                           |
|-----------|---------------------------|
| <u>10</u> | TO PASS                   |
| <u>0</u>  | NOT TO PASS               |
| <u>0</u>  | ABSTAIN                   |
| <u>0</u>  | TO PLACE IN INACTIVE FILE |

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

Sincerely,

  
PILAR C. LUJAN



TWENTY-SECOND GUAM LEGISLATURE  
1994 (SECOND) Regular Session

Substitute Bill No. 966

As Substituted by the Committee on  
Judiciary and Criminal Justice

Introduced by:

P. C. Lujan  
F. E. Santos

---

AN ACT TO AMEND SUBSECTION (h) AND TO ADD A NEW SUBSECTION (i) TO §18101, TO REPEAL AND REENACT §18110, TO AMEND §18202, TO AMEND, REPEAL AND REENACT, VARIOUS SUBSECTIONS AND TO ADD NEW SUBSECTIONS TO §18203, TO REPEAL AND REENACT §18205 TO ADD A NEW §18206 ALL PERTAINING TO TITLE 16, GUAM CODE ANNOTATED KNOWN AS THE "SAFE STREETS AMENDMENT ACT OF 1994".

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

2           Section 1. Legislative statement. Since the enactment of the "Safe  
3 Streets Act," statistics show a decrease in driving while under the influence of  
4 alcohol offenses. The Legislature finds that because of the alarming increase  
5 in accidents under the influence of alcohol, the "Safe Streets Act" was  
6 enacted. To further strengthen the "Act" the following amendments are  
7 proposed.

8           Section 2. Subsection (h) of §18101 of Title 16, Guam Code Annotated,  
9 is hereby amended to read as follows:

10           "(h) Reasonable cause means such a state of facts as would lead  
11 a person of ordinary care and prudence to believe and conscientiously

1 entertain honest and strong suspicion that the person driving or in  
2 physical control of a vehicle is under the influence of alcohol or of a  
3 controlled substance or of a combination thereof."

4 Section 3. A new Subsection (i) is hereby added to §18101 of Title 16,  
5 Guam Code Annotated to read as follows:

6 "(i) Working day means any day of the week other than  
7 Saturday or Sunday or legal holiday."

8 Section 4. §18110 of Title 16, Guam Code Annotated is hereby repealed  
9 and reenacted to read as follows:

10 "§18110. Vehicular negligence; third degree felony.  
11 Notwithstanding any other provision of law, any violation for  
12 subsections (c) or (d) of §18102 of this chapter shall be a third degree  
13 felony."

14 Section 5. §18202 of Title 16, Guam Code Annotated, is hereby amended  
15 to read as follows:

16 "§18202. Sanctions for refusal to submit to or failure to complete  
17 a blood, or breath test. If any person refuses [~~the~~] a peace officer's  
18 request to submit to, or fails to complete a blood or breath test or tests,  
19 upon receipt of [~~the~~] peace officer's sworn statement affidavit or  
20 written declaration under penalty of perjury that the peace officer had  
21 reasonable cause to believe the person had been [~~driving~~] operating or  
22 in physical control a motor vehicle in violation of §18102 of this Chapter  
23 and that the person [~~had~~] refused to submit to, or [~~did not~~] failed to  
24 complete, the blood or breath tests after [~~being requested~~] having been  
25 informed by the peace officer if the consequence under §18201(f) and this  
26 Section for refusing to submit to or failing to complete the blood or  
27 breath test or tests [~~by the officer~~], then the Department of Revenue and

1 Taxation (the "Department") shall administratively [(1)] **(a)** suspend the  
2 person's privilege **and license** to operate a motor vehicle for a period of  
3 six (6) months, or [(2)] **(b)** revoke the person's privilege **and license** to  
4 operate a motor vehicle for a period of two (2) years if the person has  
5 been convicted of a [separate] prior violation of §18102 or has been  
6 administratively determined to have committed a prior violation of  
7 §18202 of this Chapter or convicted of any prior offense of driving  
8 under the influence violation, or any combination thereof, within five  
9 (5) years of the date of the refusal, or failure to complete the blood or  
10 breath test, or [(3)] **(c)** revoke the person's privilege to operate a motor  
11 vehicle for a period of three (3) years if the person has been convicted of  
12 two (2) or more [separate] prior violations of §18102 or has been  
13 administratively determined to have committed two (2) or more prior  
14 violations of §18202 of this Chapter or convicted of any two (2) or more  
15 [prior] offense of driving under the influence, or any combination  
16 thereof, within five (5) years of the date of the refusal or failure to  
17 complete the blood or breath test."

18 Section 6. Subsection (a) of §18203 of Title 16, Guam Code Annotated,  
19 is hereby amended to read as follows:

20 "(a) If a person is arrested for a violation of §18102 of this  
21 Chapter, on a determination by the [arresting] peace officer that there  
22 was reasonable cause [~~to stop the motor vehicle, or that the motor~~  
23 ~~vehicle was stopped at an intoxication control roadblock and there was~~  
24 ~~probable cause to believe that the arrested was driving, operating, or in~~  
25 ~~actual physical control of the motor vehicle while under the influence of~~  
26 ~~alcohol, or a controlled substance,]~~ for the arrest then (1) the [arresting]  
27 peace officer shall inform the person that he or she has the option [~~to~~

1 take] of taking a blood or breath test, [~~or a blood test,~~] and (2) the  
2 [~~arresting~~] peace officer shall also inform the person [~~of the sanctions~~  
3 ~~under this Chapter, including the sanction for refusing to take a breath~~  
4 ~~or a blood test]~~ that a refusal to submit to or failure to complete the  
5 blood or breath test may be used as evidence against him or her in  
6 criminal proceedings, and that she or he may be subject to  
7 administrative suspension or revocation by the Department of his or  
8 her privileges and license to operate a motor vehicle."

9 Section 7. Subsection (b) of §18203 of Title 16, Guam Code Annotated, is  
10 hereby amended to read as follows:

11 "(b) The peace officer[-s] complies with the requirements of  
12 §18203(a) and the person refuses to submit to or fails to complete the  
13 blood or breath test, then the peace officer [~~sworn statement or~~  
14 ~~affidavit]~~ shall within three (3) working days of the arrest [~~be submitted~~  
15 ~~to the Department on a form furnished or approved by the Department]~~  
16 sign and submit to the Department an affidavit or declaration under  
17 penalty of perjury setting forth these facts."

18 Section 8. Subsection (c) of §18203 of Title 16, Guam Code Annotated, is  
19 hereby repealed and reenacted to read as follows:

20 (c) Upon receipt by the Department of the peace officer's  
21 [~~sworn statement,~~] affidavit or declaration, an administrative action  
22 shall commence and the Department shall within [~~five (5)] ten (10)~~  
23 working days notify the person in writing of the [~~action taken]~~  
24 commencement thereof. Notice of the administrative action shall be  
25 provided to the person as follows:

26 (1) By delivering a copy thereof to the person or,

1                   (2) By leaving a copy thereof at the person's dwelling  
2 house or usual place of abode with some person of suitable age  
3 and discretion residing therein or,

4                   (3) By mailing a copy thereof to the person at his other  
5 last known address through certified or registered mail.

6 The notice of the administrative action shall inform the person of the  
7 matters set forth in §§18202 and 18203 of this Chapter."

8 Section 9. Subsection (e) of §18203 of Title 16, Guam Code Annotated, is  
9 hereby repealed and reenacted to read as follows:

10                   "(e) Upon receipt by the Department of the person's written  
11 request for a hearing, the Department shall within five (5) working days  
12 notify the person of a hearing date in the same manner as set forth in  
13 §18203(c), (1), (2), and (3). The Department shall schedule the hearing to  
14 commence within fifteen (15) working days of the person's written  
15 request for the hearing. The Director or his designee shall preside at  
16 and conduct the hearing."

17 Section 10. Subsection (f) of §18203 of Title 16, Guam Code Annotated,  
18 is hereby repealed and reenacted to read as follows:

19                   "(f) The scope of the hearing shall be limited to whether the  
20 requirements of §18203 were met."

21 Section 11. Subsection (g) of §18203 of Title 16, Guam Code Annotated,  
22 is hereby amended to read as follows:

23                   "(g) At the commencement of [~~any such~~] **the initial or continued**  
24 hearing, the person who is alleged to have refused to submit to **or failed**  
25 **to complete blood or breath** testing shall surrender to the Department  
26 any license or permit issued in the name of the person which authorizes

1 the person to drive or be in physical control of a vehicle and which  
2 license or permit was not previously suspended or revoked."

3 Section 12. Subsection (h) of §18203 of Title 16, Guam Code Annotated,  
4 is hereby repealed and reenacted to read as follows:

5 "(h) At the hearing, the person has the burden of proof to show  
6 by a preponderance of the evidence that the requirements of §18203  
7 were not met. If the hearing is continued to another date and time by  
8 the Director or his designee, or if at the conclusion of the initial or  
9 continued hearing the Director or his designee dismisses the  
10 administrative action, then the Department shall return the person's  
11 drivers license or permit to him or her."

12 Section 13. Subsection (i) of §18203 of Title 16, Guam Code Annotated,  
13 is hereby repealed and reenacted to read as follows:

14 "(i) At the conclusion of the initial or continued hearing, the  
15 Director or his designee shall render a decision to suspend or revoke the  
16 person's driving privilege and license or permit, or to dismiss the  
17 administrative action. The decision and order of the Director or his  
18 designee shall be final but subject to judicial review."

19 Section 14. Subsection (j) of §18203 of Title 16, Guam Code Annotated,  
20 is hereby amended to read as follows:

21 "(j) If the [Department] Director or his designee determines[,  
22 ~~upon a hearing of the matter,~~] to suspend or revoke the [affected]  
23 person's privilege and license to operate a motor vehicle, the  
24 suspension or revocation decision shall become effective. [~~within ten~~  
25 ~~(10) working days after certified mailing of notice to the person by the~~  
26 ~~Department.~~]

1 Section 15. Subsection (k) of §18203 of Title 16, Guam Code Annotated,  
2 is hereby amended to read as follows:

3 "(k) If the [~~Department's~~] Director's or his designee's decision is  
4 to revoke or suspend the person's privilege and license to drive, the  
5 person may file for [~~de novo~~] a petition for judicial review in the  
6 Superior Court of Guam within ten (10) working days [~~after the~~  
7 ~~decision is mailed~~] of such decision and order. (1) The filing of the  
8 petition shall not operate as a stay of the administrative revocation or  
9 suspension nor shall the court stay the administrative revocation or  
10 suspension pending the outcome of the judicial review. (2) The petition  
11 shall state with specificity the grounds upon which the petitioner seeks  
12 reversal of the administrative revocation. (3) The court shall schedule  
13 the judicial review as soon as practicable, and the review shall be on the  
14 record of the administrative hearing without taking additional  
15 testimony or evidence. (4) If the petitioner fails to appear without just  
16 cause, the court shall affirm the administrative revocation or  
17 suspension. (5) The sole issues before the court shall be whether the  
18 Department exceeded constitutional or statutory authority,  
19 erroneously interpreted the law, acted in an arbitrary or capricious  
20 manner, committed an abuse of discretion, or made a determination  
21 that is unsupported by the evidence in the record. (6) Unless the  
22 administrative revocation or suspension is reversed, the revocation or  
23 suspension shall become effective as set out in subsection (j) of this  
24 §18203."

25 Section 16. Subsection (n) is hereby added to §18203 of Title 16, Guam  
26 Code Annotated, to read as follows:

1           "(n) The Department may issue a written subpoena directing any  
2 person to attend a hearing before the Director or his designee and in a  
3 proper case to bring with him or her any book, record or paper which  
4 may be deemed material as evidence in the case. The fee for such  
5 attendance shall be the same as the fees of witnesses before the  
6 Superior Court, except that if the witness is a government employee, no  
7 witness fee shall be given. The subpoena shall be issued in the name of  
8 the Department, and shall be directed to the witness and shall be served  
9 in the same manner as subpoenas to appear and testify before the court.  
10 If any person or person summoned to testify shall refuse or neglect to  
11 obey said subpoena, upon petition, the court may compel the attendance  
12 of such person or persons before the Department, or punish said person  
13 or persons for contempt in the same manner provided by law for  
14 securing the attendance of witnesses or their punishment for neglect or  
15 refusal to attend in the Superior Court."

16           Section 17. Subsection (o) is hereby added to §18203 of Title 16, Guam  
17 Code Annotated, to read as follows:

18           "(o) Article 2 of the Administrative Adjudication Law (AAL) shall  
19 not apply to administrative actions and hearings under this Section."

20           Section 18. §18205 of Title 16, Guam Code Annotated, is hereby  
21 repealed and reenacted to read as follows:

22           "§18205. Filing of rules. The Department may adopt rules to  
23 govern its procedures. Article 3 of the Administrative Adjudication Law  
24 (AAL) is not applicable to rules adopted by the Department nor any  
25 procedures prescribed thereunder."

26           Section 19. A new §18206 is hereby added to Title 16, Guam Code  
27 Annotated, to read as follows:



1           "§18206. Effective date of Implementation. The effective date for  
2 implementing §18203 regarding the Department's administrative  
3 revocation or suspension of driving privileges and licenses of persons  
4 who refuse to submit to or fail to complete a blood or breath test shall be  
5 July 1, 1994."

6           Section 20. Subsection (a) of Section 5 of Public Law 22-20 is hereby  
7 amended to read as follows:

8           "(a) Except for pending charges as provided in this section,  
9 §§9104, 9105, and 9106 of Title 16, Guam Code Annotated, and [~~§23404~~]  
10 §23405 and Subsection (a) of §23100 of Title XXIV, Government Code,  
11 are hereby repealed."

12           Section 21. Appropriation. The sum of One Hundred Fifty Thousand  
13 Dollars (\$150,000) are hereby appropriated from the General Fund to  
14 the Department of Revenue and Taxation to fund the personnel  
15 requirements and to administer the "Safe Streets Act as outlined in the  
16 attached staffing pattern submitted by the Director of the Department  
17 of Revenue and Taxation.

# COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE

REPORT ON  
SUBSTITUTE BILL NO. 966

"AN ACT TO AMEND SUBSECTION (h) AND TO ADD A NEW SUBSECTION (i) TO §18101, TO REPEAL AND REENACT §18110, TO AMEND §18202, TO AMEND, REPEAL AND REENACT, VARIOUS SUBSECTIONS AND TO ADD NEW SUBSECTIONS TO §18203, TO REPEAL AND REENACT §18205 TO ADD A NEW §18206 ALL PERTAINING TO TITLE 16, GUAM CODE ANNOTATED KNOWN AS THE "SAFE STREETS AMENDMENT ACT OF 1994".

Introduced by Senators  
Pilar C. Lujan and Frances E. Santos

## **PREFACE:**

The Committee on Judiciary and Criminal Justice, to which was referred Bill No. 966, "AN ACT TO AMEND SUBSECTION (h) AND TO ADD A NEW SUBSECTION (i) TO §18101, TO REPEAL AND REENACT §18110, TO AMEND §18202, TO AMEND, REPEAL AND REENACT, VARIOUS SUBSECTIONS AND TO ADD NEW SUBSECTIONS TO §18203, TO REPEAL AND REENACT §18205 TO ADD A NEW §18206 ALL PERTAINING TO TITLE 16, GUAM CODE ANNOTATED KNOWN AS THE "SAFE STREETS AMENDMENT ACT OF 1994," conducted a public hearing on Tuesday, May 3, 1994, at 9:00 a.m. in the Legislative Public Hearing Room. Committee members present Senator Pilar C. Lujan, Committee Chairperson, and Senators Herminia D. Dierking and Antonio R. Unpingco.

## **NOTIFICATION:**

Letters were sent to the Governor, the Chief Prosecutor office of the Attorney General, the Chief of Police, the Director of Revenue and Taxation, the Committee members and the newsmedia. The general public was notified via the Legislative Weekly Calendar and a paid notice.

## **TESTIMONY AND DISCUSSION:**

At this time, the Chairperson called on Mr. Phil Tydingco, Legal Counsel for the Guam Police Department, and Mr. John Manibusan also from the Department, and Attorney Frances Tydingco-Gatewood and Amber Malarney, representing the Department of Law, to present testimony on Bill No. 966.

At the outset, Mr. Phil Tydingco informed the Committee that since the enactment of the "Safe Streets Act," statistics show a decrease in driving while under the influence of alcohol offenses. He went on to say that it was because of the alarming increase in accidents under the influence of alcohol, the Legislature enacted the "Safe Streets Act."

At this time Attorney Tydingco-Gatewood informed the Committee that to further strengthen the current law, the proposed amendments contained in Bill 966, when enacted, will rectify certain inconsistencies and ambiguities in the current law. She elaborated saying that the current law fails to state whether the Guam Administrative Adjudication Law applies to proceedings to be brought by the Department of Revenue and Taxation in suspending or revoking drivers licenses of persons who fail to take the breathalyzer test or a blood test. According to the witnesses, the Administrative Adjudication Law procedures are to cumbersome and time consuming to meet the Legislature's intent that suspension or revocation proceedings be promptly disposed of.

## **ADJOURNMENT:**

There being no further questions, the Chairperson taking into consideration the comments presented, adjourned the Committee hearing on Bill No. 966.

## **FINDINGS AND SECTION ANALYSIS:**

Please refer to page entitled "Profile on Substitute Bill No. 966."

## **RECOMMENDATION:**

The Committee on Judiciary and Criminal Justice, to which was referred Bill No. 966 AN ACT TO AMEND SUBSECTION (h) AND TO ADD A NEW SUBSECTION (i) TO §18101, TO REPEAL AND REENACT §18110, TO AMEND §18202, TO AMEND, REPEAL AND REENACT, VARIOUS SUBSECTIONS AND TO ADD NEW SUBSECTIONS TO §18203, TO REPEAL AND REENACT §18205 TO ADD A NEW §18206 ALL PERTAINING TO TITLE 16, GUAM CODE ANNOTATED KNOWN AS THE "SAFE STREETS AMENDMENT ACT OF 1994", has had the same under consideration, and now wishes to report back the same with the recommendation to do pass as substituted.

# Profile on Substitute Bill No. 966

Short Title: "SAFE STREETS AMENDMENT ACT OF 1994."

Main Sponsor(s): Senators Pilar C. Lujan and Frances E. Santos

Date Introduced: Tuesday, April 12, 1994.

Committee Referral: To the Committee on Judiciary and Criminal Justice on Tuesday, April 12, 1994

Public Hearing: Tuesday, May 3, 1994.

Official Title: "AN ACT TO AMEND SUBSECTION (h) AND TO ADD A NEW SUBSECTION (i) TO §18101, TO REPEAL AND REENACT §18110, TO AMEND §18202, TO AMEND, REPEAL AND REENACT, VARIOUS SUBSECTIONS AND TO ADD NEW SUBSECTIONS TO §18203, TO REPEAL AND REENACT §18205 TO ADD A NEW §18206 ALL PERTAINING TO TITLE 16, GUAM CODE ANNOTATED KNOWN AS THE "SAFE STREETS AMENDMENT ACT OF 1994".

Co-Sponsors: None.

Recommendation: To do pass.

## Committee Findings

1. Since the enactment of the "Safe Streets Act," statistics show a decrease in driving while under the influence of alcohol offenses. Because of the alarming increase in accidents under the influence of alcohol, the Legislature enacted the "Safe Streets Act."

2. To further strengthen the "Act" the proposed amendments contained in Bill 966, when enacted will rectify certain inconsistencies and ambiguities in the current law. For instance, the current law fails to state whether the Guam Administrative Adjudication Law applies to proceedings to be brought by the Department of Revenue and Taxation to suspend or revoke the drivers licenses of persons who fail to take the breathalyzer test or a blood test.
3. The Administrative Adjudication Law procedures are too cumbersome and time consuming to meet the Legislature's intent that suspension or revocation proceedings be promptly disposed of, and therefore require an exemption.
4. The proposed amendment does not change the increased penalties for driving under the influence, rather they enhance and strengthen the existing penalties provided for by law.
5. The Committee on Judiciary and Criminal Justice recognizing the importance of the amendments contained in Bill No. 966, hereby recommends that the Legislature act favorably and pass Bill No. 966 as substituted.





# Twenty-Second Guam Legislature

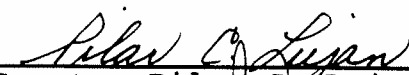
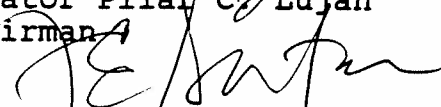
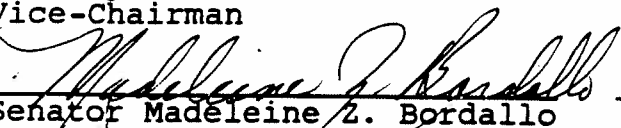

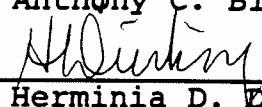
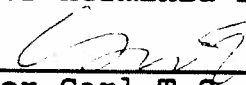
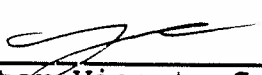
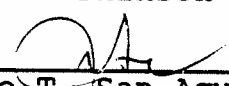

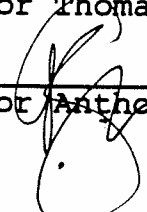
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## COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE

VOTE SHEET ON: Substitute Bill 966

| <u>COMMITTEE MEMBER</u>  | <u>TO PASS</u>                      | <u>NOT TO PASS</u>       | <u>ABSTAIN</u>           | <u>TO PLACE IN INACTIVE FILE</u> |
|--|-------------------------------------|--------------------------|--------------------------|----------------------------------|
| <br>Senator Pilar C. Lujan<br>Chairman                | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>         |
| <br>Senator Francis E. Santos<br>Vice-Chairman        | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>         |
| <br>Senator Madeleine Z. Bordallo                     | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>         |
| <br>Senator Anthony C. Blaz                           | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>         |
| <br>Senator Herminia D. Dierking                     | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>         |
| <br>Senator Carl T.C. Gutierrez                     | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>         |
| <br>Senator Vicente C. Pangelinan                   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>         |
| Senator Don Parkinson  | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>         |
| <br>Speaker Joe T. San Agustin<br>Ex-Officio Member | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>         |
| <br>Senator Thomas V.C. Tanaka                      | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>         |
| <br>Senator Anthony R. Unpingco                     | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>         |

*To report out*





APR 12 '94

TWENTY-SECOND GUAM LEGISLATURE  
1994 (SECOND) Regular Session

Bill No. 966(15)

Introduced by:

P. C. Lujan   


AN ACT TO AMEND SUBSECTION (h) AND TO ADD A NEW SUBSECTION (i) TO §18101, TO REPEAL AND REENACT §18110, TO AMEND §18202, TO AMEND, REPEAL AND REENACT, VARIOUS SUBSECTIONS AND TO ADD NEW SUBSECTIONS TO §18203, TO REPEAL AND REENACT §18205 TO ADD A NEW §18206 ALL PERTAINING TO TITLE 16, GUAM CODE ANNOTATED KNOWN AS THE "SAFE STREETS AMENDMENT ACT OF 1994".

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

Section 1. Legislative statement. Since the enactment of the "Safe Streets Act," statistics show a decrease in driving while under the influence of alcohol offenses. The Legislature finds that because of the alarming increase in accidents under the influence of alcohol, the "Safe Streets Act" was enacted. To further strengthen the "Act" the following amendments are proposed.

Section 2. Subsection (h) of §18101 of Title 16, Guam Code Annotated, is hereby amended to read as follows:

"(h) Reasonable cause means such a state of facts as would lead a person of ordinary care and prudence to believe and conscientiously entertain honest and strong suspicion that the person driving or in

1        **physical** control of a vehicle is under the influence of alcohol or of a  
2        controlled substance or of a combination **thereof.**"

3        Section 3. A new Subsection (i) is hereby added to §18101 of Title 16,  
4        Guam Code Annotated to read as follows:

5                **"(i) Working day means any day of the week other than**  
6                **Saturday or Sunday or legal holiday."**

7        Section 4. §18110 of Title 16, Guam Code Annotated is hereby repealed  
8        and reenacted to read as follows:

9                **"§18110. Vehicular negligence; third degree felony.**  
10               **Notwithstanding any other provision of law, any violation for**  
11               **subsections (c) or (d) of §18102 of this chapter shall be a third degree**  
12               **felony."**

13        Section 5. §18202 of Title 16, Guam Code Annotated, is hereby amended  
14        to read as follows:

15                "§18202. Sanctions for refusal to submit to or failure to complete  
16                a blood, or breath test. If any person refuses [~~the~~] **a peace** officer's  
17                request to submit to, or fails to complete a blood or breath test or tests,  
18                upon receipt of [~~the~~] **peace** officer's sworn statement **affidavit or**  
19                **declaration under penalty of perjury** that the **peace** officer had  
20                reasonable cause to believe the person had been [~~driving~~] **operating or**  
21                **in physical control** a motor vehicle in violation of §18102 of this Chapter  
22                and that the person [~~had~~] refused to submit to, or [~~did not~~] **failed to**  
23                complete, the blood or breath tests after [~~being requested~~] **having been**  
24                **informed by the peace officer if the consequence under §18201(f) and this**  
25                **Section for refusing to submit to or failing to complete the blood or**  
26                **breath test or tests** [~~by the officer~~], then the Department of Revenue and  
27                Taxation (the "Department") shall **administratively** [(+)] **(a)** suspend the

1 person's privilege **and license** to operate a motor vehicle for a period of  
2 six (6) months, or [(2)] **(b)** revoke the person's privilege **and license** to  
3 operate a motor vehicle for a period of two (2) years if the person has  
4 been convicted of a [separate] **prior** violation of §18102 or **has been**  
5 **administratively determined to have committed a prior violation of**  
6 §18202 of this Chapter or **convicted** of any prior offense of driving  
7 under the influence violation, or any combination thereof, within five  
8 (5) years of the date of the refusal, **or failure to complete the blood or**  
9 **breath test,** or [(3)] **(c)** revoke the person's privilege to operate a motor  
10 vehicle for a period of three (3) years if the person has been convicted of  
11 two (2) or more [separate] **prior** violations of §18102 **or has been**  
12 **administratively determined to have committed two (2) or more prior**  
13 **violations of** §18202 of this Chapter or **convicted** of any **two (2) or more**  
14 **[prior]** offense of driving under the influence, or any combination  
15 thereof, within five (5) years of the date of the refusal **or failure to**  
16 **complete the blood or breath test."**

17 Section 6. Subsection (a) of §18203 of Title 16, Guam Code Annotated,  
18 is hereby amended to read as follows:

19 "(a) If a person is arrested for a violation of §18102 of this  
20 Chapter, on a determination by the [arresting] **peace** officer that there  
21 was reasonable cause [~~to stop the motor vehicle, or that the motor~~  
22 ~~vehicle was stopped at an intoxication control roadblock and there was~~  
23 ~~probable cause to believe that the arrested was driving, operating, or in~~  
24 ~~actual physical control of the motor vehicle while under the influence of~~  
25 ~~alcohol, or a controlled substance,] **for the arrest** then (1) the [arresting]  
26 **peace** officer shall inform the person that he or she has the option [to  
27 take] **of taking a blood or breath test,** [~~or a blood test,~~] and (2) the~~

1 [arresting] peace officer shall also inform the person [~~of the sanctions~~  
2 ~~under this Chapter, including the sanction for refusing to take a breath~~  
3 ~~or a blood test]~~ **that a refusal to submit to or failure to complete the**  
4 **blood or breath test may be used as evidence against him or her in**  
5 **criminal proceedings, and that she or he may be subject to**  
6 **administrative suspension or revocation by the Department of his or**  
7 **her privileges and license to operate a motor vehicle."**

8 Section 7. Subsection (b) of §18203 of Title 16, Guam Code Annotated, is  
9 hereby amended to read as follows:

10 "(b) The peace officer[~~'s~~] **complies with the requirements of**  
11 **§18203(a) and the person refuses to submit to or fails to complete the**  
12 **blood or breath test, then the peace officer** [~~sworn statement or~~  
13 ~~affidavit]~~ shall within three (3) working days of the arrest [~~be submitted~~  
14 ~~to the Department on a form furnished or approved by the Department]~~  
15 **sign and submit to the Department an affidavit or declaration under**  
16 **penalty of perjury setting forth these facts."**

17 Section 8. Subsection (c) of §18203 of Title 16, Guam Code Annotated, is  
18 hereby repealed and reenacted to read as follows:

19 (c) Upon receipt by the Department of the peace officer's  
20 [sworn statement,] affidavit or declaration, an administrative action  
21 shall commence and the Department shall within [five (5)] ten (10)  
22 working days notify the person in writing of the [action taken]  
23 commencement thereof. Notice of the administrative action shall be  
24 provided to the person as follows:

25 (1) By delivering a copy thereof to the person or,

1                   (2) By leaving a copy thereof at the person's dwelling  
2 house or usual place of abode with some person of suitable age  
3 and discretion residing therein or,

4                   (3) By mailing a copy thereof to the person at his other  
5 last known address through certified or registered mail.

6 The notice of the administrative action shall inform the person of the  
7 matters set forth in §§18202 and 18203 of this Chapter."

8 Section 9. Subsection (e) of §18203 of Title 16, Guam Code Annotated, is  
9 hereby repealed and reenacted to read as follows:

10                   "(e) Upon receipt by the Department of the person's written  
11 request for a hearing, the Department shall within five (5) working days  
12 notify the person of a hearing date in the same manner as set forth in  
13 §18203(c), (1), (2), and (3). The Department shall schedule the hearing to  
14 commence within fifteen (15) working days of the person's written  
15 request for the hearing. The Director or his designee shall preside at  
16 and conduct the hearing."

17 Section 10. Subsection (f) of §18203 of Title 16, Guam Code Annotated,  
18 is hereby repealed and reenacted to read as follows:

19                   "(f) The scope of the hearing shall be limited to whether the  
20 requirements of §18203 were met."

21 Section 11. Subsection (g) of §18203 of Title 16, Guam Code Annotated,  
22 is hereby amended to read as follows:

23                   "(g) At the commencement of [~~any such~~] **the initial or continued**  
24 hearing, the person who is alleged to have refused to submit to **or failed**  
25 **to complete blood or breath** testing shall surrender to the Department  
26 any license or permit issued in the name of the person which authorizes

1 the person to drive or be in physical control of a vehicle and which  
2 license or permit was not previously suspended or revoked."

3 Section 12. Subsection (h) of §18203 of Title 16, Guam Code Annotated,  
4 is hereby repealed and reenacted to read as follows:

5 "(h) At the hearing, the person has the burden of proof to show  
6 by a preponderance of the evidence that the requirements of §18203  
7 were not met. If the hearing is continued to another date and time by  
8 the Director or his designee, or if at the conclusion of the initial or  
9 continued hearing the Director or his designee dismisses the  
10 administrative action, then the Department shall return the person's  
11 drivers license or permit to him or her."

12 Section 13. Subsection (i) of §18203 of Title 16, Guam Code Annotated,  
13 is hereby repealed and reenacted to read as follows:

14 "(i) At the conclusion of the initial or continued hearing, the  
15 Director or his designee shall render a decision to suspend or revoke the  
16 person's driving privilege and license or permit, or to dismiss the  
17 administrative action. The decision and order of the Director or his  
18 designee shall be final but subject to judicial review."

19 Section 14. Subsection (j) of §18203 of Title 16, Guam Code Annotated,  
20 is hereby amended to read as follows:

21 "(j) If the [~~Department~~] Director or his designee determines[  
22 ~~upon a hearing of the matter,~~] to suspend or revoke the [affected]  
23 person's privilege and license to operate a motor vehicle, the  
24 suspension or revocation decision shall become effective. [~~within ten~~  
25 ~~(10) working days after certified mailing of notice to the person by the~~  
26 ~~Department.~~]

1 Section 15. Subsection (k) of §18203 of Title 16, Guam Code Annotated,  
2 is hereby amended to read as follows:

3 "(k) If the [~~Department's~~] **Director's or his designee's** decision is  
4 to revoke or suspend the person's privilege **and license** to drive, the  
5 person may file for [~~de novo~~] **a petition for** judicial review **in the**  
6 **Superior Court of Guam** within ten (10) working days [~~after the~~  
7 ~~decision is mailed~~] **of such decision and order**. (1) The filing of the  
8 petition shall not operate as a stay of the administrative revocation or  
9 suspension nor shall the court stay the administrative revocation or  
10 suspension pending the outcome of the judicial review. (2) The petition  
11 shall state with specificity the grounds upon which the petitioner seeks  
12 reversal of the administrative revocation. (3) The court shall schedule  
13 the judicial review as soon as practicable, and the review shall be on the  
14 record of the administrative hearing without taking additional  
15 testimony or evidence. (4) If the petitioner fails to appear without just  
16 cause, the court shall affirm the administrative revocation or  
17 suspension. (5) The sole issues before the court shall be whether the  
18 Department exceeded constitutional or statutory authority,  
19 erroneously interpreted the law, acted in an arbitrary or capricious  
20 manner, committed an abuse of discretion, or made a determination  
21 that is unsupported by the evidence in the record. (6) Unless the  
22 administrative revocation or suspension is reversed, the revocation or  
23 suspension shall become effective as set out in subsection (j) of this  
24 §18203."

25 Section 16. Subsection (n) is hereby added to §18203 of Title 16, Guam  
26 Code Annotated, to read as follows:

1           "(n) The Department may issue a written subpoena directing any  
2 person to attend a hearing before the Director or his designee and in a  
3 proper case to bring with him or her any book, record or paper which  
4 may be deemed material as evidence in the case. The fee for such  
5 attendance shall be the same as the fees of witnesses before the  
6 Superior Court, except that if the witness is a government employee, no  
7 witness fee shall be given. The subpoena shall be issued in the name of  
8 the Department, and shall be directed to the witness and shall be served  
9 in the same manner as subpoenas to appear and testify before the court.  
10 If any person or person summoned to testify shall refuse or neglect to  
11 obey said subpoena, upon petition, the court may compel the attendance  
12 of such person or persons before the Department, or punish said person  
13 or persons for contempt in the same manner provided by law for  
14 securing the attendance of witnesses or their punishment for neglect or  
15 refusal to attend in the Superior Court."

16 Section 17. Subsection (o) is hereby added to §18203 of Title 16, Guam  
17 Code Annotated, to read as follows:

18           "(o) Article 2 of the Administrative Adjudication Law (AAL) shall  
19 not apply to administrative actions and hearings under this Section."

20 Section 18. §18205 of Title 16, Guam Code Annotated, is hereby  
21 repealed and reenacted to read as follows:

22           "§18205. Filing of rules. The Department may adopt rules to  
23 govern its procedures. Article 3 of the Administrative Adjudication Law  
24 (AAL) is not applicable to rules adopted by the Department nor any  
25 procedures prescribed thereunder."

26 Section 19. A new §18206 is hereby added to Title 16, Guam Code  
27 Annotated, to read as follows:



1           "§18206. Effective date of Implementation. The effective date for  
2           implementing §18203 regarding the Department's administrative  
3           revocation or suspension of driving privileges and licenses of persons  
4           who refuse to submit to or fail to complete a blood or breath test shall be  
5           July 1, 1994."

6           Section 20. Subsection (a) of Section 5 of Public Law 22-20 is hereby  
7           amended to read as follows:

8           "(a) Except for pending charges as provided in this section,  
9           §§9104, 9105, and 9106 of Title 16, Guam Code Annotated, and [~~§23404~~]  
10          §23405 and Subsection (a) of §23100 of Title XXIV, Government Code,  
11          are hereby repealed."

12          Section 21. Appropriation. The sum of One Hundred Fifty Thousand  
13          Dollars (\$150,000) are hereby appropriated from the General Fund to the  
14          Department of Revenue and Taxation to fund the personnel requirements  
15          and to administer the "Safe Streets Act" as outlined in the attached staffing  
16          pattern submitted by the Director of the Department of Revenue and  
17          Taxation.