

## Section by Section Summary

The following is a summary of each section and intent of each section:

**Section 1. Title of Act**

**Section 2. Amends existing law by allowing for blood tests to determine blood alcohol content of suspect—** There may be occasions when it is necessary to draw blood from a drunk motorist who may be injured or dead.

The section also requires the administration of tests to be conducted by police officers in accordance with rules, regulations, and procedures developed by a Task Force.

**Section 3. Adds a new section of law relating to implied consent and requires the police officer to advise suspect of procedures and tests to be administered.** Such specified procedures outlined in this section are immediately needed to address the increasing problem of DWI's. By specifying such, the Task Force cannot diminish or reduce the immediate steps. The Task Force, however, will be left with developing an administrative hearings process.

**Section 4. Stiffens penalty for those caught driving while their licences may have been suspended or revoked.** Changes existing law from a petty misdemeanor to a misdemeanor.

**Section 5. Amends existing law by eliminating commonly used defense of prescription drugs while driving under the influence.**

**Section 6. Amends existing law by changing legal definition of intoxication.** It reduces blood alcohol content percentage from one-tenth of one percent to eight one-hundredths of one percent. Nearly three quarters of the states have changed to this definition with some even going as low as five one hundredths of one percent.

**Section 7. Amends existing law by stripping driving privileges of offender for a period dependent upon the frequency of offense and court ruling.**

The section also allows impoundment of vehicle only when the convicted is the registered owner, legal owner, or lessee of the vehicle.

**Section 8. Modifies existing law by mandating first time offenders to serve a minimum of 48 hours in jail or an alternative sentence imposed by the Court.** The offender would also have his driving privilege suspended for a minimum mandatory period of 90 days and a maximum of 1 year.

For those granted limited driving privileges, the offender must carry a document outlining terms and conditions of such privileges.

For second time offenders who may have been convicted within 6 years of a previous offense, there is a minimum mandatory jail sentence of 7 days. That cannot be suspended and all driving privileges, occupational privilege included, will be suspended for a minimum of 1 year.

For third time offenders who may have been convicted twice previously within 8 years, there is a minimum mandatory jail sentence of 21 days. All driving privileges will be suspended from 1 to 5 years.

Section 9. Provides for a mandatory fine of not less than \$1000 and requires restitution for injuries or property damage.

Section 10. Adds a definition regarding date of conviction.

Section 11. Concerns statutory references. in either Title 16 or Title 24.

Section 12. Adds a forfeiture provision for repeat offenders and seeks to get dangerous drunks off the road.

For a third time offense, or more, the court can seize the vehicle depending upon circumstances. In lieu of seizure and forfeiture, the court may suspend driving privileges from 1 to 5 years with no limited privileges.

The section also sets up procedures for seizure at the time of arrest regarding impoundment, release of vehicle, disposal of property thru asale or auction and conveyance of title and ownership.

Section 13. Provides for negligent driving while under the influence.

Section 14. Provides for negligent driving while nuder the influence.

Section 15. Makes negligent driving or negligent driving while under the influence a third degree felony.

Section 16. Prohibits the defense of legal use of alcohol or drugs against any driving charges brought forward.

Section 17. Presumptions for trial affecting the burden of proof:

If a person's blood alcohol content was tested to be lower or hgher than a certain percentage, then the presumption would change.

Section 18. This section requires counseling, treatments, and assessments by the Department of Mental Health and Substance Abuse of convicted offenders. With the exception of indigent offenders, costs shll be borne by offenders.

Section 19. Severability clause. If a section of this law is held invalied, then other effective sections can be severed and be mandated and implemented.

Section 20. Requires the identification of dangerous roadways and highways via study by Public Works, Guam Police, and Guam Power Authority. A report with costs is to be transmitted to the legislature within 180 days.

**Section 21. Appropriation of \$50,000 from the Tourist Attraction Fund to DPW Office of Highway Safety for erection of water or sand bumpers on concrete poles.**

**Section 22. Creation of an Implied Consent Task Force consisting of representatives from RevTax, Superior Court, Office of the Prosecutor, GPD, and DPW Office of Highway Safety to promulgate rules, regulations, and procedures for implied consent procedures and administrative hearings on driver's licenses or permits which are suspended. The Task Force shall promulgate such rules, regulations and procedures in accordance with the Administrative Adjudication Act within 90 days of enactment of this law.**

**Section 23. Establishes a Vehicular Homicide statute with a sentencing of a felony of the third degree. Incarceration is from 0 to 5 years.**

Under existing law, there is no vehicular homicide and prosecutors had to charge perpetrators with negligence with a third degree felony sentence of 0 to 3 years. You may recall that one of the witnesses at the hearing, the daughter of the late Vicky Flores, expressed dismay with the light sentence imposed upon the perpetrator.

**Section 24. Establishes a Vehicular Homicide While Intoxicated statute with a sentencing of a felony of the second degree. Incarceration is from 0 to 15 years.**

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) REGULAR SESSION

Substitute Bill No. 244  
As substituted by:

Committee on Judiciary  
and Criminal Justice

Introduced by:

P. C. Lujan  
F. R. Santos  
D.F. Brooks

AN ACT TO AMEND SUBSECTION (o)(1) AND ADD A NEW  
SUBSECTION (o)(4) TO TITLE XXIV, SECTION 23100 OF THE  
GOVERNMENT CODE OF GUAM, TO AMEND SECTION 3110 OF  
TITLE 16 OF THE GUAM CODE ANNOTATED, AND TO AMEND  
SECTION 23405, SUBSECTIONS (b), (c), (d), and (e),  
RELATIVE TO THE OFFENSE OF DRIVING UNDER THE  
INFLUENCE OF ALCOHOL AND DRUGS, AND THE PENALTIES  
THERE TO AND TO PROVIDE FOR PEDESTRIAN AND VEHICLE  
SAFETY ON THE HIGHWAYS AND ROADWAYS OF GUAM.

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

2 Section 1. This Act shall be called the Safe Streets Act of  
3 1993.

4 Section 2. Subsection (o)(1) of Section 23100 of the Government  
5 Code is amended 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  
9 of his breath, blood and/or urine for the purpose of determining the  
10 alcoholic or drug content of his blood if arrested, or if he could have  
11 been arrested for any offense arising out of acts alleged to have  
12 been committed while the person was driving or in actual physical  
13 control of a motor vehicle while under the influence of alcohol or  
14 any drug or if a police officer had probable cause to believe that the  
15 person was driving or in actual physical control of a motor vehicle  
16 within the Territory of Guam while under the influence of alcohol or  
17 any drug. The test or tests shall be administered at the direction of  
18 the police officer having reasonable cause to believe the person to  
19 have been driving or in actual physical control of a motor vehicle  
20 within the territory of Guam while under the influence of alcohol or

1 any drug. The Guam Police Department shall designate which of the  
2 aforesaid tests shall be administered in a manner proscribed under  
3 rules, regulations and procedures promulgated under Section 22 of  
4 this Act."

5 Section 3. A new Subsection (o)(4) is added to Section 23100 of  
6 the Government Code to read:

7 "(o) (4) Upon requesting a motorist to submit to a test or tests,  
8 the arresting officer shall advise the motorist of established  
9 procedures for such test or tests and the consequences for failure to  
10 submit to such tests as provided for in Section 22 of this Act. .Any  
11 person holding a driver's license or permit issued by the Territory of  
12 Guam requested to submit to a test as provided in Subsection (o)(1),  
13 above, shall have said driver's license or permit immediately  
14 confiscated by the arresting peace officer, and said driver's license  
15 or permit shall be under immediate suspension for a period of one  
16 hundred and eighty days from the date of refusal. The confiscated  
17 license or permit shall be transmitted to the Department of Revenue  
18 and Taxation, together with a notice of suspension, at which time  
19 said suspension shall be entered onto the permanent driving record  
20 of the suspended driver. The Department of Revenue and Taxation  
21 shall have no authority to grant occupational or limited driving  
22 privileges to any person whose driving privileges have been  
23 suspended under this section, provided however, that an individual  
24 may petition the Department of Revenue and Taxation for restoration  
25 of driving privileges by showing he made no such refusal to consent."

26 Section 4. Section 3110 of Title 16, Guam Code Annotated is  
27 amended to read:

28 "Any person who knowingly drives a motor vehicle upon a  
29 highway at any time when his operator's or chauffeur's license  
30 or driving privilege is suspended or revoked, or when a license  
31 to drive a motor vehicle has been refused is guilty of a [petty]  
32 misdemeanor."

33 Section 5. Subsection 23405(a) of Title XXIV of the Government  
34 Code of Guam shall be amended to read:

35 "It is unlawful for any person who is under the influence of alcohol  
36 or any drug or under the combined influence of alcohol and any drug,  
37 to drive or be in actual ~~[or physical]~~ control of any vehicle. [For

1 ~~the purposes of this section 'drug' means a controlled~~  
2 ~~substance other than a drug prescribed by a licensed~~  
3 ~~physician]."~~

4 Section 6. Subsection 23405 (b) of Title XXIV of the Government  
5 Code of Guam shall be amended to read:

6 "It is unlawful for any person who has ~~[one tenth of one percent~~  
7 ~~(.10%)] eight one-hundredths of one percent (.08%), or more, by  
8 weight, of alcohol in his blood, to drive or be in actual or physical  
9 control of any vehicle."~~

10 Section 7. Subsection 23405(c) of Title XXIV of the Government  
11 Code of Guam shall be amended to read: "A person convicted of violating  
12 ~~[any provision of this section]~~ subsections (a) or (b) of this section  
13 shall be guilty of a misdemeanor, and upon conviction shall have his  
14 privilege to operate a motor vehicle suspended by the Court ~~[for a period~~  
15 ~~of not less than ninety days nor more than six (6) months]~~ as  
16 provided in subsection (d) of this section and/or have the vehicle in which  
17 the offense was committed impounded by the Guam Police Department or  
18 its authorized agent at such locations as shall be designated by the Chief  
19 of Police, for the same period ~~[of time]~~ as the privilege to operate a  
20 motor vehicle is suspended. The towing and impoundment of vehicles  
21 pursuant to provisions of this section shall be at the expense of the  
22 person charged with the violation, in addition to any fine or restitution  
23 imposed and ordered by the Court. Said impoundment shall only occur  
24 where the person convicted of violating this section is the registered  
25 owner, legal owner, or lessee of said vehicle. A person convicted of  
26 violating the provisions of this section shall be sentenced to a minimum  
27 of forty-eight (48) hours imprisonment in the Custody of the Department  
28 of Corrections or the Guam Police Department ~~[; provided]~~, however,  
29 that the Court may waive the mandatory minimum jail sentence for a first  
30 time offender and impose other alternative sentencing. In addition to any  
31 other sentence imposed, the Court shall impose a mandatory fine of not  
32 less than One Thousand Dollars (\$1,000) upon all offenders and shall  
33 require restitution be made to persons injured or for property damaged.  
34  
35  
36

1 Section 8. Subsection 23405(d) of the Government Code shall be  
2 amended to read as follows: "~~[Any person convicted of a first~~  
3 ~~offense under this section shall have his privilege to drive~~  
4 ~~suspended for the minimum mandatory period established herein]~~

5 (1) Any person convicted for a first offense under this section shall  
6 be sentenced to a minimum of forty-eight (48) hours imprisonment in the  
7 custody of the Department of Corrections or the Guam Police Department;  
8 provided however, that the Court may waive the mandatory minimum jail  
9 sentence for a first time offender and impose other alternative  
10 sentencing. Additionally, that person shall have his privilege to drive  
11 suspended for a minimum mandatory period of ninety (90) days and a  
12 maximum of one (1) year, but the Court may permit the person a limited  
13 privilege to drive if driving is required for that person to maintain his  
14 livelihood. ~~[Any person convicted of a second violation of this~~  
15 ~~section shall have his privilege to drive suspended for at least~~  
16 ~~six (6) months and no limited privilege to operate a motor~~  
17 ~~vehicle shall be given.]~~ In those cases where limited driving privileges  
18 are granted by the Court, the Court shall issue a document to the  
19 individual granted limited privileges, signed by a Judge of the Superior  
20 Court, which shall specifically set forth the terms and conditions of such  
21 limited privileges. This document must be carried by the individual  
22 granted limited privileges at all times when he is driving. Failure to  
23 produce such document upon the request of a peace officer of the Territory  
24 of Guam shall be considered a violation of Section 3110 of Title 16, Guam  
25 Code Annotated. Proof by the Defendant that he had been issued limited  
26 privileges but at that time did not have the required document in his  
27 possession shall not be a defense.

28 (2) If any person is convicted of a violation of this section and the  
29 offense occurred within six (6) years of the date of conviction of a prior  
30 violation of this section that person shall be sentenced to a mandatory  
31 minimum period of seven (7) days imprisonment in the custody of the  
32 Department of Corrections or the Guam Police Department, no part of  
33 which may be suspended. Additionally, that person shall have his driving  
34 privilege suspended without occupational privileges for a mandatory  
35 minimum period of one (1) year.

36 (3) If any person is convicted of a violation of this section and the

1 offense occurred within eight (8) years of the dates of conviction of two  
2 (2) or more prior violations of this section that person shall be sentenced  
3 to a mandatory minimum period of twenty-one (21) days imprisonment in  
4 the custody of the Department of Corrections or the Guam Police  
5 Department, no part of which may be suspended. Additionally, that person  
6 shall have his driving privileges suspended without occupational  
7 privileges for a mandatory minimum period of one (1) year and maximum  
8 of five (5) years."

9 Section 9. In addition to any other sentence imposed, the Court  
10 shall impose a mandatory fine of not less than One Thousand Dollars  
11 (\$1000) upon any person violating subsections 23405 (a) or (b) and shall  
12 require restitution be made to persons injured or for property damaged.

13 Section 10. For purposes of Section 23405 date of conviction  
14 means the date on which a plea of guilty or nolo contendere was entered or  
15 the date on which a verdict of guilty was returned by either a judge or  
16 jury at trial. Any conviction for vehicular homicide while intoxicated or  
17 for driving under the influence of alcohol or drugs under Section 23405,  
18 shall be considered a prior conviction within the meanings of subsections  
19 (d) (2) and (d) (3).

20 Section 11. For purposes of multiple offenses, "this section"  
21 means this section as enacted and all prior enactments of this section  
22 whether denominated as 23405 of the Government Code of Guam or 16  
23 Guam Code Annotated, Section 9104.

24 Section 12. Any person convicted of violating any provisions of  
25 this section for a third time, or more, shall forfeit the vehicle in which  
26 the third offense, or more, was committed. However, those cases where  
27 there is a showing of extreme circumstances or where a vehicle is owned  
28 by a person other than the one convicted of three (3) or more violations of  
29 Section 23405, and the owner had no knowledge that the vehicle would be  
30 driven by an intoxicated person and where the owner had no knowledge of  
31 prior violations of Section 23405 by the convicted person, the Court,  
32 instead of ordering the forfeiture of the vehicle, may suspend the  
33 convicted person's driving privilege for a minimum period of one (1) year  
34 and a maximum of five (5) years and no limited privilege to operate a  
35 motor vehicle shall be granted. At the time of arrest for any offense  
36 under this section, the vehicle in which the offense was committed shall



1 be impounded by the Guam Police Department and released only upon the  
2 approval of the Prosecution Division of the Attorney General's Office when  
3 it is determined that the vehicle is not subject to asset forfeiture under  
4 this section. The forfeiture and seizure of the vehicle shall be enforced  
5 by the Guam Police Department and the vehicle shall be disposed of [in  
6 accordance with those provisions of law relating to assets forfeiture] by  
7 public sale or auction at such times as the Guam Police Department may  
8 choose to conduct such sale or auction. The Chief of Police of the Guam  
9 Police Department shall to convey clear title as owner of said confiscated  
10 vehicles, subject to any perfected security interests in said vehicles.

11 Section 13. It is unlawful for any person, while under the  
12 influence of alcohol or any drug or under the combined influence of alcohol  
13 and any drug, to drive or be in actual or physical control of any vehicle  
14 and, when so driving or controlling, do any act forbidden by law in the  
15 driving of the vehicle or negligently drive a vehicle, which act or  
16 negligence proximately causes bodily injury to any person other than the  
17 driver.

18 Section 14. It is unlawful for any person, while having eight one-  
19 hundreths of one percent (.08%), or more, by weight of alcohol in his blood,  
20 to drive or be in physical control of a vehicle and, when so driving, do any  
21 act forbidden by law in the driving or control of the vehicle or negligently  
22 drive a vehicle, which act or negligence proximately causes bodily injury  
23 to any person other than the driver. For the purposes of this Section,  
24 "negligence" is defined as the failure to use the ordinary or reasonable  
25 care which a person or ordinary prudence would use in order to avoid  
26 injury to himself or to others under similar circumstances.

27 Section 15. A person convicted of violating Sections 11 and 12 of  
28 this Act shall be guilty of a felony of the third degree.

29 Section 16. The fact that any person charged with violating any of  
30 the provisions of Section 23405 is or has been legally entitled to use  
31 alcohol or any drug shall not constitute a defense against any charge of  
32 violating the provisions of Section 23405.

33 Section 17. Upon the trial of any criminal action, or preliminary  
34 proceeding in a criminal action arising out of acts alleged to have been  
35 committed by any person while driving or being in control of a vehicle  
36 while under the influence of alcohol or any drug, or both, the amount of

1 alcohol in the person's blood at the time a test is taken subsequent to the  
2 driving, as shown by an analysis of that person's breath, blood or urine,  
3 shall give rise to the following presumptions affecting the burden of  
4 proof:

5 (1) If there was at that time less than five one-hundredths of one  
6 percent (.05%) by weight of alcohol in the person's blood, it shall be  
7 presumed that the person was not under the influence of alcohol at the  
8 time of the alleged offense.

9 (2) if there was at that time five one-hundredths (.05%) or more but  
10 less than eight one-hundredths (.08%) by weight of alcohol in the person's  
11 blood, that fact shall not give rise to any presumption that the person was  
12 or was not under the influence of alcohol, but the fact may be considered  
13 with other competent evidence in determining whether the person was  
14 under the influence of alcohol at the time of the alleged offense.

15 (3) If there was at that time eight one-hundredths of one percent  
16 (.08%) or more by weight of alcohol in the person's blood, it shall be  
17 presumed that the person was under the influence of alcohol at the time of  
18 the alleged offense.

19 (4) Percent by weight of alcohol in the blood shall be based upon  
20 grams of alcohol per one hundred milliliters of blood.

21 (5) Before such presumptions are made in cases involving a breath  
22 test, the prosecuting attorney must show the following by a  
23 preponderance of the evidence:

24 (i) That the machine used for the test was properly checked  
25 and in proper working order at the time of conducting the test;

26 (ii) That the chemicals employed in the test were of the  
27 correct kind and compounded in the proper proportions;

28 (iii) That the person had nothing in his mouth at the time of  
29 the test and that he had taken no food or drink within fifteen (15)  
30 minutes prior to taking the test;

31 (iv) That the test be given by a qualified operator and in the  
32 proper manner.

33 The provisions of this section shall not be construed as limiting the  
34 introduction of any other competent evidence bearing upon the question  
35 whether the person ingested any alcohol or was under the influence of  
36 alcohol at the time of the alleged offense.

1        Section 18. Counseling on Conviction. Whenever the Court  
2 penalizes a person, other than a first time offender, under this Chapter, it  
3 shall also require that the person be referred to a qualified substance  
4 abuse counselor at the Department of Mental Health and Substance Abuse  
5 for an assessment of the person's alcohol dependence and need for  
6 treatment. The counselor shall submit a report with recommendations to  
7 the Court, which may require the person to obtain appropriate treatment.  
8 All costs for such assessment or treatment or both shall be borne by the  
9 penalized person except for one determined to be indigent.

10        Section 19. Severability. If any of the provisions of this Act or  
11 the application thereof to any person or circumstance are held invalid,  
12 such invalidity shall not affect any other provision or application of this  
13 Act which can be given effect without the invalid provision or application,  
14 and to this end the provisions of this Act are severable.

15        Section 20. The Department of Public Works' Office of Highway  
16 Safety, in concert with the Guam Police Department and the Guam Power  
17 Authority shall identify highways and roadways upon which motor vehicle  
18 and pedestrian traffic are deemed hazardous. Within one hundred and  
19 eighty (180) days, the Department of Public Works' Office of Highway  
20 Safety shall proceed with and submit to the Legislature a report of such  
21 identified areas and make recommendations centering on traffic and  
22 pedestrian safety in such areas. Such report shall include costs for  
23 development, construction, or purchase of traffic and pedestrian safety  
24 instruments and measures.

25        Section 21. The Governor of Guam shall exercise his transfer  
26 authority by transferring the sum of Fifty Thousand Dollars (\$50,000) to  
27 the Department of Public Work's Office of Highway Safety to carry out the  
28 purposes set forth in Section 20 of this Act and to immediately erect  
29 water bumpers or sand bumpers on concrete poles deemed hazardous under  
30 section 20 of this Act.

31        Section 22. Upon enactment of this law, there is hereby created  
32 an Implied Consent Task Force consisting of representatives from the  
33 Department of Revenue and Taxation, the Superior Court of Guam, the  
34 Department of Law's Prosecution Division, the Guam Police Department,  
35 and the Department of Public Works' Office of Highway Safety. The Task  
36 Force shall be responsible for promulgating rules, regulations, and

1 procedures for implied consent procedures and administrative hearings on  
2 driver's licenses or permits which are suspended under Section 3 of this  
3 Act. The Task Force shall promulgate such rules, regulations, and  
4 procedures in accordance with the Administrative Adjudication Act within  
5 ninety (90) days of enactment of the Safe Streets Act.

6 Section 23. A new Section 16.70 (a) is added to Chapter 16, 9  
7 Guam Code Annotated to read:

8 "§16.70 (a). A person is guilty of Vehicular Homicide if, while  
9 driving a vehicle, he does any act forbidden by law in the driving of  
10 the vehicle or if he negligently drives a vehicle, which act or  
11 negligence proximately causes death to any person other than the  
12 driver. In proving that the person did any act forbidden by law, it  
13 shall not be necessary to prove that the person possessed a culpable  
14 mental state as allowed in Section 4.45 of this Chapter. For  
15 purposes of this section, "negligence is defined as the failure to use  
16 the ordinary or reasonable care which a person of ordinary prudence  
17 would use in order to avoid injury to himself or to others under  
18 similar circumstances. Vehicular homicide is a felony of the third  
19 degree and shall be punishable by a term of incarceration of zero (0)  
20 to five (5) years."

21 Section 24. A new §16.60 (b) is added to Chapter 16, 9 Guam Code  
22 Annotated to read:

23 "§16.60 (b). A person is guilty of Vehicular Homicide While  
24 Intoxicated if, while driving a vehicle in violation of Section 23405  
25 (a) or (b) of Chapter 16 of the Government Code, he does any act  
26 forbidden by law in the driving of the vehicle or if he negligently  
27 drives a vehicle, which act or negligence proximately causes death  
28 to any person other than the driver. In proving that the person did  
29 any act forbidden by law, it shall not be necessary to prove that the  
30 person possessed a culpable mental state as allowed in Section 4.45  
31 of this Chapter. For purposes of this section, "negligence" is defined  
32 as the failure to use the ordinary or reasonable care which a person  
33 of ordinary prudence would use in order to avoid injury to himself or  
34 to others under similar circumstances. Vehicular Homicide While  
35 Intoxicated is a felony of the second degree and shall be punishable  
36 by a term of incarceration of zero (0) to fifteen (15) years.

TWENTY-SECOND GUAM LEGISLATURE  
1993 (FIRST) REGULAR SESSION

Bill No. 244

Introduced by:

P. C. Lujan *PCJ*  
F. R. Santos *FS*  
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AN ACT TO AMEND TITLE XXIV, SECTION 23100, SUBSECTION (o)(1) and (o)(4) OF THE GOVERNMENT CODE OF GUAM, TO ADD A NEW TITLE XXIV SECTION 23100 SUBSECTION (o)(4), TO AMEND SECTION 3110 OF TITLE 16 OF THE GUAM CODE ANNOTATED, AND TO AMEND SECTION 23405, SUBSECTIONS (b), (c), (d), and (e), RELATIVE TO THE OFFENSE OF DRIVING UNDER THE INFLUENCE OF ALCOHOL AND DRUGS, AND THE PENALTIES THERETO AND TO PROVIDE FOR PEDESTRIAN AND VEHICLE SAFETY ON THE HIGHWAYS AND ROADWAYS OF GUAM.

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

2 Section 1. This Act shall be called the Safe Streets Act of  
3 1993.

4 Section 2. Subsection (o)(1) of Section 23100 of the Government  
5 Code is amended to read: "(o) (1) Any person who operates a motor vehicle  
6 within the Territory of Guam shall be deemed to have given his implied  
7 consent, subject to Section 23405 of the Government Code, to a test or  
8 tests of his breath, blood and/or urine for the purpose of determining the  
9 alcoholic or drug content of his blood if arrested, or if he could have been  
10 arrested for any offense arising out of acts alleged to have been  
11 committed while the person was driving or in actual physical control of a  
12 motor vehicle while under the influence of alcohol or any drug or if a  
13 police officer had probable cause to believe that the person was driving or  
14 in actual physical control of a motor vehicle within the Territory of Guam  
15 while under the influence of alcohol or any drug. The test or tests shall be  
16 administered at the direction of the police officer having reasonable  
17 cause to believe the person to have been driving or in actual physical  
18 control of a motor vehicle within the territory of Guam while under the  
19 influence of alcohol or any drug. The Guam Police Department shall  
20 designate which of the aforesaid tests shall be administered."

1           Section 3. A new Subsection (o)(4) is added to Section 23100 of  
2 the Government Code to read: "(o) (4).....Any person holding a driver's  
3 license or permit issued by the Territory of Guam requested to submit to  
4 a test as provided in Subsection (o)(1), above, shall have said driver's  
5 license or permit immediately confiscated by the arresting peace officer,  
6 and said driver's license or permit shall be under immediate suspension  
7 for a period of one hundred and eighty days from the date of refusal. The  
8 confiscated license or permit shall be transmitted to the Department of  
9 Revenue and Taxation, together with a notice of suspension, at which time  
10 said suspension shall be entered onto the permanent driving record of the  
11 suspended driver. The Department of Revenue and Taxation shall have no  
12 authority to grant occupational or limited driving privileges to any person  
13 whose driving privileges have been suspended under this section, provided  
14 however, that an individual may petition the Department of Revenue and  
15 Taxation for restoration of driving privileges by showing he made no such  
16 refusal to consent."

17           Section 4. Section 3110 of Title 16, Guam Code Annotated is  
18 amended to read: "Any person who knowingly drives a motor vehicle upon a  
19 highway at any time when his operator's or chauffeur's license or driving  
20 privilege is suspended or revoked, or when a license to drive a motor  
21 vehicle has been refused is guilty of a [petty] misdemeanor."

22           Section 5. Subsection 23405(b) of Title XXIV of the Government  
23 Code of Guam shall be amended to read: "It is unlawful for any person who  
24 has [one tenth of one percent] eight one-hundredths of one percent  
25 [(.10%)] (.08%), or more, by weight, of alcohol in his blood, to drive or be  
26 in actual control of any vehicle."

27           Section 6. Subsection 23405(c) of Title 16, Guam Code Annotated  
28 shall be amended to read: "A person convicted of violating any provision  
29 of this section shall be guilty of a misdemeanor, and upon conviction shall  
30 have [his privilege to operate a motor vehicle suspended by the Court for a  
31 period of not less than ninety days nor more than six (6) months and/or  
32 have the vehicle in which the offense was committed impounded by the  
33 Guam Police Department or its authorized agent at such locations as shall  
34 be designated by the Chief of Police, for the same period as the privilege  
35 to operate a motor vehicle is suspended. The towing and impoundment of  
36 vehicles pursuant to provisions of this section shall be at the expense of

1 the person charged with the violation, in addition to any fine or  
2 restitution imposed and ordered by the Court. [Said impoundment shall  
3 only occur where the person convicted of violating this section  
4 is the registered owner, legal owner, or lessee of said vehicle.]

5 A person convicted of violating the provisions of this section shall be  
6 sentenced to a minimum of forty-eight (48) hours imprisonment in the  
7 Custody of the Department of Corrections or the Guam Police Department[;  
8 provided], however, that the Court may waive the mandatory minimum  
9 jail sentence for a first time offender and impose other alternative  
10 sentencing. In addition to any other sentence imposed, the Court shall  
11 impose a mandatory fine of not less than One Thousand Dollars (\$1,000)  
12 upon all offenders and shall require restitution be made to persons injured  
13 or for property damaged.

14 Section 7. Subsection 23405(d) of the Government Code shall be  
15 amended to read as follows: "Any person convicted for a first offense  
16 under this section shall have his privilege to drive suspended for [the] a  
17 minimum [mandatory period established herein] of ninety (90) days  
18 and a maximum of one hundred and eighty (180) days. but the Court may  
19 permit the person a limited privilege to drive if driving is required for  
20 that person to maintain his livelihood. Any person convicted of a second  
21 offense of this section shall have his driving privilege suspended for a one  
22 hundred and eighty (180) day period, with no limited driving privileges [to  
23 operate a motor vehicle shall be given] for the first ninety (90) days  
24 from the date of conviction; the Court may grant occupational privileges  
25 for the remaining ninety (90) days under such circumstances and  
26 requirements as deemed necessary by the Court Any person convicted of  
27 a third violation of this section shall have his driver's license suspended  
28 without occupational privileges for one (1) year from the date of  
29 conviction in those cases where limited driving privileges are granted by  
30 the Court, the Court shall issue a document to the individual granted  
31 limited privileges, signed by a Judge, approved by the prosecutor and  
32 attorney for the defense or the defendant, which shall specifically set  
33 forth the terms and conditions of such limited privileges. This document  
34 must be carried by the individual granted limited privileges at all time  
35 when he may be driving. Failure to produce such document upon the  
36 request of a peace officer of the Territory of Guam shall be considered a

1 violation of Section 3110 of Title 16, Guam Code Annotated. Proof by the  
2 Defendant that he had been issued limited privileges but at that time did  
3 not have the required document in his possession shall not be a defense.

4 Section 8. Subsection 23405(e) of the Government Code is hereby  
5 amended to read: "Any person convicted of violating any provisions of  
6 this section for a third time, or more, shall forfeit the vehicle in which  
7 the third offense, or more, was committed. At the time of arrest for any  
8 offense under this subsection, the vehicle in which the offense was  
9 committed shall be impounded by the Guam Police Department and  
10 released only upon the approval of the Prosecution Division of the  
11 Attorney General's Office when it is determined that the vehicle is not  
12 subject to asset forfeiture under this section. The forfeiture and seizure  
13 of the vehicle shall be enforced by the Guam Police Department and the  
14 vehicle shall be disposed of [in accordance with those provisions of  
15 law relating to assets forfeiture] by public sale or auction at such  
16 times as the Guam Police Department may choose to conduct such sale or  
17 auction. The Chief of Police of the Guam Police Department shall to  
18 convey clear title as owner of said confiscated vehicles, subject to any  
19 perfected security interests in said vehicles.

20 In those cases where a vehicle is owned by a person other than  
21 the one convicted of three (3) or more violations of this section, the  
22 owner had no knowledge that the vehicle would be driven by an intoxicated  
23 person and where the owner had no knowledge of any prior violations of  
24 this section by the convicted person, the Court, instead of ordering the  
25 forfeiture of the vehicle, may suspend the convicted person's driver's  
26 license for a period of a minimum of one (1) year and a maximum of five  
27 (5) years and no limited privilege to operate a motor vehicle shall be  
28 granted"

29 SECTION 9. Severability.. If any of the provisions of this Act or  
30 the application thereof to any person or circumstance are held invalid,  
31 such invalidity shall not affect any other provision or application of this  
32 Act which can be given effect without the invalid provision or application,  
33 and to this end the provisions of this Act are severable.

34 SECTION 10. The Department of Public Works' Office of Highway  
35 Safety, in concert with the Guam Police Department and the Guam Power  
36 Authority shall identify highways and roadways upon which motor vehicle



1 and pedestrian traffic are deemed hazardous. Within one hundred and  
2 eighty (180) days, the Department of Public Works' Office of Highway  
3 Safety shall submit to the Legislature a report of such identified areas  
4 and make recommendations centering on traffic and pedestrian safety in  
5 such areas. Such report shall include costs for development, construction,  
6 or purchase of traffic and pedestrian safety instruments and measures.

7 SECTION 11. The sum of Fifty Thousand (\$50,000) Dollars is  
8 hereby appropriated from the Tourist Attraction Fund to the Department of  
9 Public Works' Office of Highway Safety to carry out the purposes set forth  
10 in Section 9 of this Act.

11 SECTION 12. The Guam Telephone Authority in cooperation with  
12 the Guam Police Department and the Guam Fire Department shall form a  
13 task force (the "Task Force") to conduct a feasibility study on the  
14 procurement and installation of emergency call boxes along the roadways  
15 of the island. The findings and recommendations of such report shall be  
16 submitted to the Legislature within ninety (90) days of its completion.



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March 10, 1993

Honorable Senator Pilar C. Lujan  
Chairman  
Committee on Judiciary & Criminal Justice  
Twenty-second Guam Legislature  
Agana, Guam

Dear Senator Lujan:

After examining the proposed Safe Streets Act of 1993, Bill No. 244, the Prosecutor's Office supports the bill. The .08 per cent B.A.C. and the Administrative License Revocation provisions put Guam at the forefront of DWI enforcement and prosecution. There are several suggestions I would like to make which may not have been included in my oral testimony before your committee.

1. Administrative License Revocation

With regard to Administrative License Revocation for individuals refusing to submit to B.A.C. testing addressed in Bill No. 244 and Bill No. 186, our office completely supports the intent of those bills. However, in order to provide the Department of Revenue and Taxation discretion in developing rules and regulations governing this area, we suggest a task force be appointed. The task force should include individuals from Revenue and Taxation, Guam Police Department, the Prosecution Division of the Attorney General's Office and the Department of Highway Safety, Superior Court of Guam. The purpose of the task force would be to develop and implement appropriate procedures through the Administrative Adjudication Law which take into account the available resources of the Department of Revenue and Taxation.

Just as a matter of form, Section 3 on page 2, line 2, should read as follows:

COMMONWEALTH NOW!

Upon refusal to submit to a test any person holding a driver's license or permit issued by the Territory of Guam requested to submit to a test as provided in subsection (o)(1), above, ....

2. Operating with a suspended or revoked license.

In order to effectively deter offenders from driving while their license is suspended or revoked, we suggest the offense be a misdemeanor rather than the proposed petty misdemeanor.

3. Period of License Suspension and Impoundment of Vehicle

For first offenders, the period of license suspension should be between ninety (90) days and one (1) year. Second offenders should have their licenses suspended for at least one (1) year and should not be entitled to occupational privileges. Likewise, those individuals committing third offenses within a limited period should have their license suspended in excess of one (1) year.

The Guam Police Department temporarily impounds all vehicles involved in alcohol related traffic offenses and we support this as it gets the vehicle off the highway even if the offender is released after arrest and processing. However, impoundment of a vehicle during the entire period that an individual's privilege to operate a vehicle is suspended is not necessary for first offenders. Also, there may be problems where the vehicle is jointly owned or a family's sole means of transportation.

As a matter of form, Section 7, page 3, line 7, should read as follows:

conviction. In those cases where limited driving privileges are granted by ...

4. Jail Sentences

Second and third offenders are currently serving mandatory jail sentences under our office's and the court's guidelines. We recommend that provisions for jail sentences be included in the legislation.

5. Vehicle Forfeiture

Our office views vehicle forfeiture as an extremely effective method of deterrence. However, we want to ensure that the forfeiture does not deprive a defendant's right to due process. Where a third offender's vehicle is seized, the vehicle should be disposed of in accordance with those provisions of law relating to assets forfeiture.

Forfeiture problems may arise where a vehicle is jointly owned or a family's sole means of transportation. The court should be given latitude in these areas.

We are submitting a revision of the proposed DWI law which incorporates our suggestions and our proposed negligent homicide law. Hopefully this will be of assistance to your committee in enacting the most comprehensive DWI law possible.

Sincerely yours,



FRANCES TYDINGCO-GATEWOOD

9 G.C.A. § 16.70(a)

**VEHICULAR HOMICIDE**

A person is guilty of Vehicular Homicide if, while driving a vehicle, he does any act forbidden by law in the driving of the vehicle or if he negligently drives a vehicle, which act or negligence proximately causes death to any person other than the driver.

In proving that the person did any act forbidden by law, it shall not be necessary to prove that the person possessed a culpable mental state as allowed in section 4.45 of this Title.

For purposes of this section, "negligence" is defined as the failure to use the ordinary or reasonable care which a person of ordinary prudence would use in order to avoid injury to himself or to others under similar circumstances.

Vehicular Homicide is a felony of the third degree and shall be punishable by a term of incarceration of \_\_\_\_\_.

9 G.C.A. § 16.70(b)

**VEHICULAR HOMICIDE WHILE INTOXICATED**

A person is guilty of Vehicular Homicide While Intoxicated if, while driving a vehicle in violation of section 23405(a) or (b) of Title 16 of the Government Code, he does any act forbidden by law in the driving of the vehicle or if he negligently drives a vehicle, which act or negligence proximately causes death to any person other than the driver.

In proving that the person did any act forbidden by law, it shall not be necessary to prove that the person possessed a culpable mental state as allowed in Section 4.45 of this Title.

For purposes of this section, "negligence" is defined as the failure to use the ordinary or reasonable care which a person of ordinary prudence would use in order to avoid injury to himself or to others under similar circumstances.

Vehicular Homicide While Intoxicated is a felony of the second degree and shall be punishable by a term of incarceration of \_\_\_\_\_.

**Section 23405 Driving While Under  
The Influence of Alcohol or Drugs**

(a) It is unlawful for any person who is under the influence of alcohol or any drug or under the combined influence of alcohol and any drug, to drive or be in actual or physical control of any vehicle.

(b) It is unlawful for any person who has eight one-hundredths of one percent (.08%), or more, by weight, of alcohol in his blood to drive or be in actual or physical control of any vehicle.

(c) A person convicted of violating subsections (a) or (b) of this section shall be guilty of a misdemeanor, and upon conviction shall have his privilege to operate a motor vehicle suspended by the Court as provided in subsection (d) of this section and/or have the vehicle in which the offense was committed impounded by the Guam Police Department or its authorized agent at such locations as shall be designated by the Chief of Police, for the same period as the privilege to operate a motor vehicle is suspended. The towing and impoundment of vehicles pursuant to provisions of this section shall be at the expense of the person charged with the violation, in addition to any fine or restitution imposed and ordered by the Court.

(d) Upon conviction for any violation of this section a person shall be sentenced in accordance with the following:

(1) Any person convicted for a first offense under this section shall be sentenced to a minimum of forty-eight (48) hours imprisonment in the custody of the Department of Corrections or the Guam Police Department; provided however, that the Court may waive the mandatory minimum jail sentence a for first a time offender and impose other alternative sentencing. Additionally that person shall have his privilege

to drive suspended for a minimum mandatory period of ninety (90) days and a maximum of one year, but the Court may permit the person a limited privilege to drive if driving is required for that person to maintain his livelihood.

In those cases where limited driving privileges are granted by the Court, the Court shall issue a document to the individual granted limited privileges, signed by a Judge of the Superior Court, which shall specifically set forth the terms and conditions of such limited privileges. This document must be carried by the individual granted limited privileges at all times when he is driving. Failure to produce such document upon the request of a peace officer of the Territory of Guam shall be considered a violation of Section 3110 of Title 16, Guam Code Annotated. Proof by the Defendant that he had been issued limited privileges but at that time did not have the required document in his possession shall not be a defense.

(2) If any person is convicted of a violation of this section and the offense occurred within six (6) years of the date of conviction of a prior violation of this section or of sections ( \_\_\_\_\_ ), that person shall be sentenced to a mandatory minimum period of seven (7) days imprisonment in the custody of the Department of Corrections or the Guam Police Department, no part of which may be suspended. Additionally, that person shall have his driving privilege suspended without occupational privileges for a mandatory minimum period of one year period.

(3) If any person is convicted of a violation of this section and the offense occurred within eight (8) years of the dates of conviction of two or more prior violations of this section or of sections ( \_\_\_\_\_ ), that person shall be sentenced to a mandatory minimum period of twenty-one (21) days imprisonment in the custody of the



Department of Corrections or the Guam Police Department, no part of which may be suspended. Additionally, that person shall have his driving privilege suspended without occupational privileges for a mandatory minimum period of one (1) year and maximum of five (5) years.

(e) In addition to any other sentence imposed, the Court shall impose a mandatory fine of not less than One Thousand Dollars (\$1000) upon any person violating subsections (a) or (b) of this section and shall require restitution be made to persons injured or for property damaged.

(f) For purposes of this section date of conviction means the date on which a plea of guilty or nolo contendere was entered or the date on which a verdict of guilty was returned by either a judge or jury at trial. Notwithstanding any other law to the contrary, any conviction for vehicular homicide while intoxicated; for driving while under the influence with injuries; or for driving under the influence of alcohol, intoxicating liquor or drugs under this section or any predecessor statute, shall be considered a prior conviction within the meaning of subsections (d)(2) and (d)(3).

(g) Any person convicted of violating any provisions of this section for a third time, or more, shall forfeit the vehicle in which the third offense, or more, was committed. However, those cases where there is a showing of extreme circumstances or where a vehicle is owned by a person other than the one convicted of three (3) or more violations of this section, and the owner had no knowledge that the vehicle would be driven by an intoxicated person and where the owner had no knowledge of any prior violations of this section by the convicted person, the Court, instead of ordering the forfeiture of the vehicle, may suspend the convicted person's driving privilege for a minimum of one (1) year and a maximum of five (5) years and no limited privilege to operate a motor vehicle shall be granted.

At the time of arrest for any offense under this subsection, the vehicle in which the offense was committed shall be impounded by the Guam Police Department and released only upon the approval of the Prosecution Division of the Attorney General's Office when it is determined that the vehicle is not subject to asset forfeiture under this section. The forfeiture and seizure of the vehicle shall be enforced by the Guam Police Department and the vehicle shall be disposed of, in accordance with those provisions of law relating to assets forfeiture, by public sale or auction at such times as the Guam Police Department may choose to conduct such sale or auction. The Chief of Police of the Guam Police Department shall convey clear title as owner of said confiscated vehicles, subject to any perfected security interests in said vehicles.

(h) It is unlawful for any person, while under the influence of alcohol or any drug or under the combined influence of alcohol and any drug, to drive or be in actual or physical control of any vehicle and, when so driving or controlling, do any act forbidden by law in the driving of the vehicle or negligently drive a vehicle, which act or negligence proximately causes bodily injury to any person other than the driver.

(i) It is unlawful for any person, while having eight one-hundredths of one percent (.08%), or more, by weight of alcohol in his blood, to drive or be in physical control of a vehicle and, when so driving, do any act forbidden by law in the driving or control of the vehicle or negligently drive a vehicle, which act or negligence proximately causes bodily injury to any person other than the driver.

For the purposes of this section, "negligence" is defined as the failure to use the ordinary or reasonable care which a person of ordinary prudence would use in order to avoid injury to himself or to others under similar circumstances.

(j) A person convicted of violating subsections (h) or (i) of this section shall be guilty of a felony of the third degree.

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

(l) Upon the trial of any criminal action, or preliminary proceeding in a criminal action, arising out of acts alleged to have been committed by any person (while driving or being in control of a vehicle while under the influence of alcohol or any drug, or both), the amount of alcohol in the person's blood at the time a test is taken subsequent to the driving, as shown by an analysis of that person's breath, blood or urine, shall give rise to the following presumptions affecting the burden of proof:

(1) If there was at that time less than five one-hundredths of one percent (.05%) by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of alcohol at the time of the alleged offense.

(2) If there was at that time five one-hundredths of one percent (.05%) or more but less than eight one-hundredths of one percent (.08%) by weight of alcohol in the person's blood, that fact shall not give rise to any presumption that the person was or was not under the influence of alcohol, but the fact may be considered with other competent evidence in determining whether the person was under the influence of alcohol at the time of the alleged offense.

(3) If there was at that time eight one-hundredths of one percent (.08%) or more by weight of alcohol in the person's blood, it shall be presumed that the person was under the influence of alcohol at the time of the alleged offense.

(4) Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood.

(5) Before such presumptions are made in cases involving a breath test, the prosecuting attorney must show the following by a preponderance of the evidence:

(i) That the machine used for the test was properly checked and in proper working order at the time of conducting the test;

(ii) That the chemicals employed in the test were of the correct kind and compounded in the proper proportions;

(iii) That the person had nothing in his mouth at the time of the test and that he had taken no food or drink within fifteen (15) minutes prior to taking the test;

(iv) That the test be given by a qualified operator and in the proper manner.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person ingested any alcohol or was under the influence of alcohol at the time of the alleged offense.

Section 2. COUNSELING ON CONVICTION. Whenever the court penalizes a person, other than a first time offender, under this Chapter, it shall also require that the person be referred to a qualified substance abuse counselor at the Department of Mental Health and Substance Abuse for an assessment of the person's alcohol dependence and need for treatment. The counselor shall submit a report with recommendations to the Court, which may require the person to obtain appropriate treatment. All costs for such assessment or

treatment or both shall be borne by the penalized person except for one determined to be indigent.

Section 6. SEVERABILITY. If any of the provisions of this Act or the application thereof to any person or circumstance are held invalid, such invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

To Be Noted: The changes in this proposed law were drawn from the California Driving while under the influence law.

FR: JACK WRICE

TO: SENATOR PILAR C. LUJAN  
CHAIRMAN OF COMMITTEE ON  
JUDICIARY AND CRIMINAL JUSTICE

OFFICE OF THE LEGISLATIVE SECRETARY

ACKNOWLEDGMENT

Received By Dora

Time 8:30 A.M.

Date 2/24/93 000224

I applaud any legislation that provides for the welfare of all people of Guam. During almost any day while driving on the streets and highways of our island, trying to keep within the posted speed limits, it seems like I am amongst the very few that try's to obey the safety rules.

In the mornings, about six o'clock I drive down to Agat from Sta. Anna area to get a newspaper, as I enter the highway I look up toward the South and see no vehicles, about 1/4 mile by the time I have driven about 3/4 of a mile several cars driving about 30 ft. apart and at an estimated speed at about 50 mile per hour are pulling up to about 20 feet of my bumper and try to pass. When I stop in Agat they continue on at 45-50 miles per hour thru Agat. Later in the day while driving to Agat, going thru Old Sumay area near the new Taco Bell, in plain sight of a 35 MHP sign, people start passing me at about 45 to 60 MHP. This continues all the way to Piti. many of the cars are waiting at the light at U.S.O.

Going on thru the 25 MHP Construction Zone people are driving 45-50 MHP (estimated) thru the slow posted areas. I have observed nuns, priest, school teachers, off duty policemen, ex-senators, naval officers and or their drivers, Guam Public Transit, almost all of the cargo, dump and fuel trucks, also most Government Vehicles, I also apologize that I also observe some of my group that I retired from 22 years ago, "The Navy Sea Bees".

I know that in 1958 a Judge Advocate General Instruction 11240. IE pertaining to driver education was issued to all commands. I was an Instructor in Driver Improvement and Education for about 12 years before I retired on Guam in 1970. Last year in the U.S only about 40 thousand people were killed in driving incidents. About 1,500,000 were injured. I don't know how many of those were turned into vegetables, lost limbs and maimed for life.

I was told by a policeman here on Guam that during a drive on speeders a while back that over 3,000 speeding tickets were issued? I understand that they were ordered to back off. By putting water

bumpers on poles at about \$3,000 each and about 10,000 power poles, would be about 30 million. Study's have shown that where rules are enforced and obeyed that traffic incidences go down.

The Automobile is the most dangerous weapon on Earth. Yet we allow Parents to teach their children from birth to grave, "Bad Driving Habits". With several hundred of vehicles per year crowding our highways we will have to slow traffic down in order to speed it up.

If a person habitually drives 10 miles over the speed limit, in a 35 MPH Zone, they will only gain about 15 seconds per mile. If, as is most of Guam has stoplights every little ways any time gained by breaking the rules, is lost at the next stoplight. Most lights last about a minimum. Zoom to the next light only wait in line. With over 15 traffic incidents per day (Fender Benders) at about \$1,000 per incident, \$15,000 per day into our economy \$450,000 per month, 5,400,000 per year.

I do not see how an individual can gain time or any thing by thru traffic. I suggest raising speeding fines to at least \$100.00 for speeding plus \$25.00 per mile for every mile over the speed limit. This could raise about 600,000 per month if the police are given the tools to work with and are not hampered by Political Intervention. I am allowing 1,000 speeding tickets per month at \$100.00 each plus \$25.00 per mile for an average of 20 miles over the speed limit - \$7,200,000 over year. If these fines do not slow them down, allow in the legislation, for doubling the fine after one (1) year and for a second ticket.

These funds could be used for an Intensive Driver Improvement and Education Drive. More lights might cause our drivers to go that much faster between lights. A Radar System that allows for mailing out tickets would be great. If I get caught day dreaming it would be my fault. The human mind is capable of thinking of only one thing at a time. If you are thinking of dinner or your boy or girlfriend or any of the thousand of things that might come up, you are not thinking of driving. The Natural Laws that affect your driving are very important a few of which are

- 1). Friction- the entire control of your car depends on four (4) areas about the size of your hand, your tires that touch the pavement.
- 2). Inertia and Kinetic Energy - weight of car in motion wants to stay in motion - Energy is turned to heat by your brakes

which dissipates the energy by turning it to heat thru friction.  
3). Centrifugal Force - your car wants to go straight on curves.

On Guam, the Congestion Weather rain, heat change constantly. It  
about five (5) minutes to make a driver, about nine (9) months in the  
mixer, 17 years to get a license and one (1) second to kill him. I  
ask you to go down to Anigua Ace Hardware and park to watch the traf  
Put up Radar Stations to check the speeds at various areas.

In order to educate "Brain Wash" our drivers, we may have to give  
them an ENAMA.

We've got to tighten up that not behind the wheel.

Thank you,  
Jack Wrice

Box 7382  
Agat GM 96928



# Crosswalks won't solve safety problem

More Crosswalks? Say what! When I heard one of our representatives attempting to pass legislation for more crosswalks I was smashed. I don't believe that this is the solution. It's just an easy solution, but easy for who? Another crosswalk isn't going to force pedestrians to use them and most certainly won't prevent an innocent person from going to jail because he hit and killed someone who attempted to cross a busy street. What happens here is a jay walker, one who crosses a busy street out of a crosswalk, endangers their own life, jeopardizes the one who struck him or her. And until something is done about jay walking, you can install all the crosswalks you like and it won't do one bit of good. People will continue to be struck by motorists and in most cases it's the unfortunate motorist who'll need the money for a lawyer to prove he or she was in their right of way. This process costs taxpayers money and has no beneficial impact.

I'd like to suggest that we weigh the possibilities of installing catwalks over crosswalks. Those of you who don't know what a catwalk is, it is a steel-structured bridge that starts on one side of the street and ends on the other side of the same street. It is enclosed by chain-link fencing to prevent people from falling or being pushed into the street. It safely enables one to cross even the busiest streets without obstructing the flow of traffic and lastly eliminates the possibility of an unfortunate motorist landing in jail, for he or she might not have the money for proper representation, not to mention the court cost which in turn all burden the taxpayer.

The possibility of installing catwalks will not work alone. Penalties must be imposed for jay walking in the effort to force them to use this safe method of crossing the street. These penalties could be applied to the construction cost of erecting or maintaining these catwalks. Another beneficial factor is a large enough shoulder could be in place on either side of this catwalk for any transport buses, especially our school buses.



They are a contributing factor to our uneasy flow of traffic and make way the possibilities of an accident occurring. This easy remedy is capable of eliminating a good portion of our morning and afternoon traffic congestion and would prevent school children from mixing with hazardous traffic. While I'm on this subject let's not forget the possibility of adding a bicycle lane.

If jay walkers prefer to risk their lives, jeopardize someone else's when already in place are catwalks, is shouldn't be the motorist's fault if this offender is struck by a moving vehicle, for the pedestrian should not have the right of way in our already busy, not to mention dangerous streets. The implementation of catwalks would certainly cost more money than laying strips of tape on our street but look at the problems we'd solve with just one stone with catwalks in place. Weigh it, Don't Lay It.  
Michael L. Dotts  
Dedede

February 24, 1993

Senator Pilar Lujan  
Chairperson  
Committee on Judiciary and Criminal Justice  
Twenty-Second Guam Legislature  
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY  
ACKNOWLEDGMENT RECEIPT

Received By: B. L. W.

Time: 8:30 A.M.

Date: 2/24/93 000226

Subject: Testimony - proposed Bill 186

Dear Senator Lujan:

First of all, I want to thank you for allowing me the opportunity to express my sincere interest in and support of the following proposed bill:

**BILL NO. 186, AN ACT TO SECTION 23405.1 TO THE GOVERNMENT CODE PROVIDE FOR SUMMARY REVOCATION OF THE PRIVILEGES TO OPERATE A MOTOR VEHICLE OF ANY PERSON WHO REFUSES TO SUBMIT TO A BREATH OR URINE TEST UNDER THE IMPLIED CONSENT LAW AND TO AMEND SECTION 12101 AND 12102 OF TITLE 19 OF THE GUAM CODE ANNOTATED TO PERMIT JUDICIAL REFEREES TO HEAR APPEALS OF SUMMARY REVOCATIONS OF DRIVING PRIVILEGES.**

I am here today, not only as a concerned citizen but also as a concerned parent of three healthy adolescents for whom, my wife and I constantly pray for continued well-being and safety. Just like other normal parents wish for their loved ones.

I am appearing in front of this committee, pleading to each and every member to give proposed Bill No. 186 the highest consideration and priority for passage. We cannot continue to allow drunk drivers or anyone who is considered by law to be under the influence of alcohol or drugs, to operate a motor vehicle on our public streets, roads and highways and get away with a slap on the wrist and then walk out and drive again. We must not allow these time bombs to roam our streets behind the steering wheel and injuring, maiming or killing more innocent citizens.

If we don't take a stand now, it would be like enabling the drunk driver to continue with the suffering, nightmares and terrifying consequences that each alcohol and drug related accident brings to the innocent victims and their loved ones.

I know that this law will not completely eliminate the alcohol/drug related accidents, but if it prevents even one death, then it has served it's purpose.

It is high time that the drunk drivers realize that it is not a right to drive a motor vehicle here in Guam, but merely a privilege that requires great responsibility for one's action and conduct on the road.

  
PEDRO D. PAULINO

Your Honor:

It is almost one year since my wife died and the sound of her voice and the sound of the life support machines at intensive care unit still haunts me today. Many friends and relatives express their condolences with kind words would end up by saying "accept it, it was her destiny". What I have the most difficulty in accepting is the way that she died. Her death was caused by ~~an inconsiderate individual who does not value the life of others~~ by driving while the influence of alcohol.

My wife was hit by the defendant's truck and throwing her approximately 20 feet from the point of impact. She suffered a broken leg, broken pelvis and a broken neck. On the first night after the accident, she was infused with 24 pints of blood, by the time she died she took a total of 30 pints. During the whole time she was alive after the accident, she was not given any pain killers as administration of such drugs would cause her heart to stop. No one could imagine the amount of physical pain she had to endure. I cannot find the right words to describe our feelings of seeing someone you love suffering helplessly and there is nothing that you can do alleviate her pain.

My wife was beautiful woman, both physically and spiritually. She was a woman who loved life, she was full of life and with an infinite source of energy. She was a woman who loved God and valued her body God had given her. She had always taken care of her body by eating the right foods, not smoking, drinking and most of all by exercising. She was 46 years when she died but she could easily pass for a woman in her early 30's.

My wife was an accomplished woman despite having a limited education. She had held very good positions in big companies. She was a controller for Cocos Lagoon Development, Treasurer at Atkins Kroll, Special Assistant to Bob Black of Black Construction, Consultant to Mr. Charles Lee owner of Bunny Market and her last venture is opening a Human Resources Company.

My wife was a devoted Catholic. She had always been involved with the church. She maintained the books for the Barrigada Catholic Church for many years on a voluntary basis and President for Christian Mothers Association for many terms.

My wife was an accomplished athlete. A runner to be specific. She ran many marathons and competed in almost all races with the Guam Running Club.

Despite her career, church activities and sports, my wife was a family woman, and a full time mother. She was the driving force of our family. Our success as a family was attributed to her. She was not only the mother to my children but also a close and trusted friend. She was truly the wind beneath our wings.

The defendant has taken not just one life, but has taken a part of mine as well as my daughters. This part will be missing as long as we live.

We all the pain, grief and sorrow, we as a family had to endure, it is hard to believe that the defendant can only get a maximum of three years incarceration. I do not blame this court but by the way the present Guam Laws are written. I pray our legislature will review the laws affecting this case and make necessary revisions to protect future victims.

Your Honor, I will accept your fair and good judgement in sentencing the defendant. I know you have a very difficult job. Thank you for giving me the opportunity in expressing my feelings and making you familiar who the late Vicky D. Flores was.

OFFICE OF THE LEGISLATIVE SECRETARY

ACKNOWLEDGMENT RECEIPT

Received By DNA

Time 8:30 A.M.

Date 2-24-93 000227

*Monica Slora*  
*on behalf of Joe Slora*

**Testimony on Bill 186 and Bill 244**

**February 24, 1993**

**To: Senator Lujan; Committee on Judicial & Criminal Justice**

**From: Robert L. Wade; President, Guam Running Club**

**Re: Amendment to written testimony**

**Senator Lujan and Committee Members I have had a chance to review Bill 244 in addition to Bill 186 and am submitting this revised testimony.**

**Vicky Flores one of our members, a running partner and a friend was killed as the result of a car accident where the driver was DUI. The fact that I can present this testimony and Vicky cannot is a matter of two or three inches. I was walking beside her when she was hit. Life or death is sometimes a matter of inches.**

**This happened last March at 6:30 in the morning. Vicky and I were walking along Route 16 near Barrigada Heights. We were walking towards the airport access road on the shoulder facing on-coming traffic. The vehicle hit Vicky from behind and missed me, as I said, by inches. The driver had apparently fallen asleep and drifted across four lanes of the highway. The police investigation determined that the operator of the vehicle was legally drunk. An individual was legally drunk at 6:30 in the morning and chose to drive a vehicle. This experience has affected me a great deal and will continue to affect me. By presenting this testimony I**

am attempting to do some small part to make accidents that caused Vicky's death less likely to happen.

I believe we all have a job to do in this regard. The legislature needs to examine the laws relative to drunk driving and make sure there are serious penalties for operating a vehicle while under the influence of alcohol. You have taken some steps in the right directions. Bill 186 and Bill 244 are more steps in the right direction. It appears the substance of Bill 186 is included in Bill 244, perhaps the sponsors could combined the two bill under joint sponsorship. Individuals who operate motor vehicles on our highways take on a serious responsibility. Every time any of us drives a car, rides a bike or is a pedestrian we are risking our lives and the lives of others. This is an awesome responsibility. We all must work together to make sure that our crowded highways are as safe as we can possibly make them. Therefore an individual driving in a manner that causes a police officer to suspect he /she is driving impaired should be required to submit to an appropriate test. If the individual is convicted the penalties outlined in Bill 244 should go along way to discourage individuals from driving under the influence of alcohol or drugs. These penalties should also protect innocent people from being injured or killed by drunk drivers.

In light of the sentencing of the individual responsible for Vicky's death, I think the legislature should review and revise upward the mandatory sentence for vehicular homicide. When a person is sentenced to 5 years in jail for robbery, a sentence of one year in jail and two years probation for being drunk, driving a vehicle and killing somebody is ridiculous.

Section 10 of Bill 244 is a good idea. I would suggest however that the mentioned government departments be urged to confer with organizations like the Guam Running Club, The Guam Visitors Bureau, The Guam Bicycle Club and other groups who use the highways but are not in motor vehicles. I fear that one solution is to ban bikers, runners and walkers from many of Guams roads. This solution WOULD NOT be supported by the Guam Running Club.

One technical note, I believe section 11 of Bill 244 should refer to section 10 and not section 9.

In an effort to make some sense out of what happened to Vicky, I am taking some positive actions. I am not opposed to drinking alcohol and have a drink once in a while. However since this experience with Vicky, I am very, very cautious about drinking and driving. If I do drink, either I stop drinking alcohol long before I'm going to drive, or I let someone who

has not been drinking drive. I encourage all others to follow this example.

I also will take a public stand on this issue at every opportunity.

Our society is based on the premise the adults are responsible for their actions. As long as adults follow the rules of society they should be free to do as they wish. However if an adult chooses to drink and then drive, that person is endangering life, limb and property. Such an individual should not be able to refuse to have our sobriety tested with impunity. Also people who drink and drive should be severely punished. And the severity of the punishment should greatly increase if driving and drinking causes property damage, injury or death. I encourage this legislature to take a strong stand and pass Bill 186 and/or Bill 244.



copy;

Senator Brooks

Senator Santos.

emo 7571	# of pages
From	R. Wade
Co	CRC
Phone #	734-2244
Fax #	734-2246






Chambers of  
**ROBERT G.P. CRUZ, ESQ.**  
 Referee / Administrative  
 Hearing Officer

**SUPERIOR COURT OF GUAM**  
 Judicial Hearings Division  
 Judicial Center  
 120 West O'Brien Drive  
 Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY  
 RECEIPT  
 Received by Phil U  
 Time 4:45 pm  
 Date 2/24/93

062000  
 000230



February 24, 1993

Tel: (671) 475-475

Honorable Pilar C. Lujan  
 Chairperson, Committee on  
 Judicial and Legal Affairs  
 Twenty-Second Guam Legislature  
 Agana, Guam 96910

Re: Bills No. 186 and 244

Dear Senator Lujan:

This letter is submitted on both of the above bills being heard by your Committee at public hearing today. I have reviewed both measures with regard to their impact upon the Superior Court, and submit these comments on my own behalf.

Both measures would address the need for an implied consent statute to help in the effort to eliminate drunk drivers on our roads. Bill 224 would provide that an individual has the right to petition the Department of Revenue and Taxation for restoration of his drivers license which had been summarily suspended. Bill 186, on the other hand would provide for a hearing before the Superior Court referee(s) of the Judicial Hearings Division. While Bill 186 would place emphasis on the child support responsibilities of the Division, it would nevertheless place an additional burden which would make it more difficult for the Territory to meet federal requirements which mandate the creation of the Division and provide strict timetables for child support cases to be adjudicated. At this time, the Division does not yet meet federal standards.

Presently, the Superior Court may appoint referees for domestic or small claims matters. The use of referees certainly reduces time that judges are required to devote their time to the matters in which referees are required. However, the caseload of the entire Court remains high.

Rather than adding another set of cases to be processed by the Court, it may be appropriate to leave the process to the Executive Branch. The counsel for the Department of Revenue and Taxation currently serves as hearing officer for a variety of hearings, including conducting hearings for the ABC Board and the Cockpit License Board. It would be possible to add this responsibility to his duties. My own experience as an Assistant Attorney General for eight years performing a variety of hearings for the Contractors License Board, Workers Compensation Commission, Nursing Board, GEPA, and for the Department of Revenue and Taxation leads me to the conclusion that the Solicitors Division of the Department of Law is fully capable of fulfilling hearing requirements under the Administrative Adjudication Law, 5 GCA Section 9200 et seq.

In summary, I would suggest that the approach under Bill 244 would be more appropriate, leaving the responsibility for hearings within the Executive Branch of our government.

*Robert G.P. Cruz*  
 Robert G.P. Cruz