



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<i>Penning Garcia</i>
Time	<i>2:25 p.m.</i>
Date	<i>2-17-98</i>

FEB 16 1998

Refer to
Legislative Secretary

The Honorable Antonio R. Unpingco
Speaker
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

Dear Speaker Unpingco:

Enclosed please find a copy of Substitute Bill No. 371 (COR), "AN ACT TO ADD NEW §§3301.1, 3301.2 AND 3301.3 TO ARTICLE 3, CHAPTER 3 OF TITLE 16 OF THE GUAM CODE ANNOTATED, RELATIVE TO ELUDING A POLICE OFFICER", which I have signed into law today as **Public Law No. 24-123**.

This legislation gives police officers the clear authority to stop a vehicle operating on the road. Should a driver leave the scene or otherwise evade a police officer when the officer is in pursuit of a vehicle or has given a command for a vehicle to stop, the driver may be charged with a misdemeanor of "eluding a police officer" in addition to other charges which may be made.

I would like to thank Senator Elizabeth Barrett-Anderson for taking the lead to reform some of the statutes which enable police officers to remove persons from the road who are driving under the influence of drugs or alcohol.

The Legislature should consider making a change to page 4, lines 2-3 of this legislation to specify that if a driver is suspected of being under the influence of alcohol or drugs, this does not negate the necessary mental state to charge the offense of "eluding a police officer".

Very truly yours,

Carl T. C. Gutierrez

Attachment *00644*

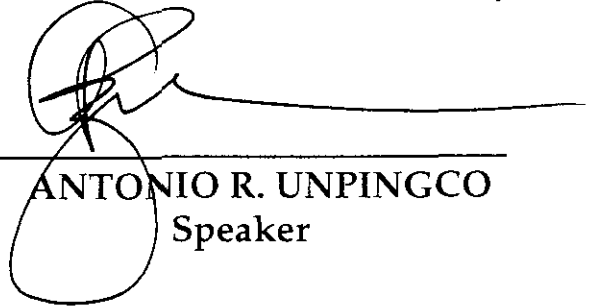
cc: The Honorable Joanne M. S. Brown
Legislative Secretary

Office of the Speaker
ANTONIO R. UNPINGCO
Date: *2-17-98*
Time: *10:50*
Rec'd by: *[Signature]*
Print Name: *Charlene Duena*

TWENTY-FOURTH GUAM LEGISLATURE
1998 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Substitute Bill No. 371 (COR), "AN ACT TO ADD NEW §§ 3301.1, 3301.2 AND 3301.3 TO ARTICLE 3, CHAPTER 3 OF TITLE 16 OF THE GUAM CODE ANNOTATED, RELATIVE TO ELUDING A POLICE OFFICER," was on the 4th day of February, 1998, duly and regularly passed.

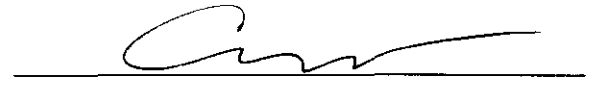

ANTONIO R. UNPINGCO
Speaker

Attested:

JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by the Governor this 6TH day of February, 1998, at
9:15 o'clock A.M.


Assistant Staff Officer
Governor's Office

APPROVED:

CARL T. C. GUTIERREZ
Governor of Guam

Date: 2-16-98
Public Law No. 24-123



**TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session**

Bill No. 371 (COR)

As substituted by the Committee on
Judiciary, Public Safety and Consumer
Protection and as amended on the Floor.

Introduced by:

E. Barrett-Anderson
T. C. Ada
F. B. Aguon, Jr.
A. C. Blaz
J. M.S. Brown
Felix P. Camacho
Francisco P. Camacho
M. C. Charfauros
E. J. Cruz
W. B.S.M. Flores
Mark Forbes
L. F. Kasperbauer
A. C. Lamorena, V
C. A. Leon Guerrero
L. Leon Guerrero
V. C. Pangelinan
J. C. Salas
A. L.G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

**AN ACT TO ADD NEW §§ 3301.1, 3301.2 AND 3301.3
TO ARTICLE 3, CHAPTER 3 OF TITLE 16 OF THE
GUAM CODE ANNOTATED, RELATIVE TO
ELUDING A POLICE OFFICER.**

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1.** A new §3301.1 is hereby added to Article 3, Chapter 3 of Title
2 16 of the Guam Code Annotated to read as follows:

3 **“Section 3301.1. Eluding a Police Officer.** (a) A driver commits
4 the offense of eluding a police officer if, knowing or having reason to
5 know that a uniformed police officer is in pursuit in a marked police
6 vehicle or is giving a visual or audible command to the driver to stop his
7 vehicle, he eludes the officer.

8 (b) In determining whether or not the driver knew or had
9 reason to know he was being pursued or commanded by the officer to
10 stop his vehicle, the arresting officer and the trier of fact shall consider
11 the totality of the circumstances as described in §3301.3 of this Chapter.

12 (c) Eluding a police officer is a misdemeanor. In addition to any
13 other penalty imposed for conviction of the offense, the sentencing judge
14 may order that defendant’s driver’s license be suspended for a
15 maximum of one (1) year.”

16 **Section 2.** A new §3301.2 is hereby added to Article 3, Chapter 3 of Title
17 16 of the Guam Code Annotated to read as follows:

18 **“Section 3301.2. Definitions.** As used in §3301.1 of this
19 Chapter:

20 (a) **‘Audible command’** means a siren, horn or electronically
21 magnified voice command.

22 (b) **‘Driver’** means the operator of a motor vehicle.

23 (c) **‘Eludes’** means that a driver fails or refuses to stop his
24 vehicle and accelerates or takes other evasive action in attempting to
25 avoid being apprehended by a police officer.

26 (d) **‘Police Officer’** means an officer of the Guam Police

1 Department acting within his statutory authority, or other peace officer
2 as defined by 8 GCA §5.55, while such other peace officer is acting
3 within his statutory law enforcement authority or is performing official
4 duty within the boundaries of property under the jurisdiction and
5 control of the government agency by whom he is employed, or while
6 such other peace officer is in authorized hot pursuit of a driver the
7 officer reasonably believes has committed a crime within such
8 boundaries.

9 (e) **‘Visual command’** means activation of emergency flashing
10 pursuit lights, flashing red or blue lights or visible hand signals by a
11 police officer.”

12 **Section 3.** A new §3301.3 is hereby added to Article 3, Chapter 3 of Title
13 16 of the Guam Code Annotated to read as follows:

14 **“Section 3301.3. ‘Totality of the Circumstances’ Described.** As
15 used in §3301.1 of this Chapter, factors to be considered in determining
16 whether or not a driver, at the time and place in question, had the
17 requisite knowledge to support a charge of eluding a police officer
18 include the following:

19 (a) Was the officer in a marked police car?

20 (b) Did the officer use audible or visual commands, or both, to
21 signal the driver?

22 (c) Was the officer in uniform?

23 (d) The time of day or night.

24 (e) Was the vehicle being operated on a public highway?

25 (f) Why was the officer trying to stop the driver?

26 (g) Time and distance involved in the pursuit.

- 1 (h) Maximum speed attained during the pursuit.
- 2 (i) Was the driver suspected of being under the influence of
- 3 alcohol or drugs?"



Committee on Judiciary, Public Safety and Consumer Protection

Twenty-Fourth Guam Legislature

Senator
Elizabeth Barrett-Anderson
Chairperson

Senator
John C. Salas
Vice-Chairman

Senator
Anthony C. Blaz
Member

Senator
Joanne M.S. Brown
Member

Senator
Mark Forbes
Member

Senator
Edwardo J. Cruz, M.D.
Member

Senator
Vicente C. Pangelinan
Member

Senator
Frank Blas Aguon, Jr.
Member

November 4, 1997

SPEAKER ANTONIO R. UNPINGCO
Twenty-Fourth Guam Legislature
155 Hesler St.
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Judiciary, Public Safety and Consumer Protection, to which was referred **Bill No. 371**, wishes to report back to the Legislature with its recommendation **TO DO PASS AS SUBSTITUTED BY THE COMMITTEE.**

The voting record is as follows:

8	TO PASS
—	NOT TO PASS
—	ABSTAIN
—	TO PLACE IN INACTIVE FILE

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated.

Sincerely,


ELIZABETH BARRETT-ANDERSON
Chairperson

Attachments

COMMITTEE ON JUDICIARY, PUBLIC SAFETY AND CONSUMER PROTECTION

TWENTY-FOURTH GUAM LEGISLATURE

173 ASPINALL AVENUE, ADA PLAZA CENTER SUITE 108A, AGANA, GUAM 96910


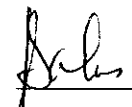



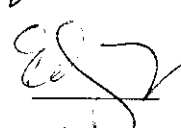
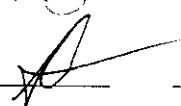

SENATOR ELIZABETH BARRETT-ANDERSON
Chairperson

SENATOR JOHN C. SALAS
Vice-Chairperson

SPEAKER ANTONIO R. UNPINGCO
Ex-Officio Member

VOTING SHEET

BILL No. 371 As Substituted by the Committee:
An Act to add new sections to 16 GCA, Relative to eluding a Police Officer

<u>COMMITTEE MEMBERS</u>	<u>INITIALS</u>	<u>TO PASS</u>	<u>NOT PASS</u>	<u>ABSTAIN</u>
1). Sen. Elizabeth Barrett-Anderson Chairperson		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2). Sen. John C. Salas Vice-Chairperson		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3). Sen. Frank B. Aguon, Jr. Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4). Sen. Anthony C. Blaz Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5). Sen. Joanne M.S. Brown Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6). Sen. Edwardo J. Cruz M.D. Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7). Sen. Mark Forbes Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8). Sen. Vicente C. Pangelinan Member		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9). Speaker Antonio Unpingco Ex-Officio Member		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Committee on Judiciary, Public Safety and Consumer Protection
ELIZABETH BARRETT-ANDERSON, CHAIRPERSON**

**Committee Report
on**

**Bill No. 371: AN ACT TO ADD NEW SECTIONS
16 GCA, RELATIVE TO ELUDING
A POLICE OFFICER.**

I. SUMMARY

The Committee on Judiciary, Public Safety and Consumer Protection held a public hearing on Bill No. 371 Tuesday, October 21, 1997, at 2:00 PM at the Legislative Public Hearing Room. Public Notice was published in the October 14 and October 21, 1997 editions of the Pacific Daily News.

Committee Members Present:

Senator Elizabeth Barrett-Anderson, Chairperson
Senator John C. Salas, Vice Chairperson
Senator Vicente C. Pangelinan
Senator Frank B. Aguon, Jr.

Senators Present:

Senator Lawrence F. Kasperbauer

Providing Public Testimony on the Bill:

James M. Marques, Acting Chief of Police, **oral and written (See Attachment)**

Purpose:

The bill creates the new major traffic offense of Eluding a Police Officer. It is principally meant to provide an additional enforcement tool to patrol officers of the Guam Police Department for dealing with offenders who, while operating a motor vehicle on a public highway, attempt to elude being stopped or arrested by an officer. The new provisions may be enforced also by other "peace officers" under certain limited circumstances.

II. SUMMARY of TESTIMONY

James M. Marques, Acting Chief of Police

Chief Marques stated that he and his management team members of the Guam Police Department fully support passage of the bill. He recommended two changes in the bill. First, that the definition of "visual command" in Section 2 also include hand signals by an officer when approaching a vehicle on foot, such as when conducting stationary

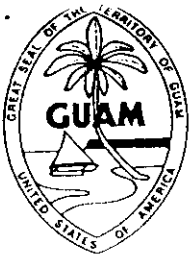
radar enforcement, etc.. Second, that if Subsection (m) is included in Section 3 of the bill, it might allow those persons who are drugged or intoxicated a means of avoiding an otherwise valid charge of eluding.

THERE WAS NO STATED OPPOSITION TO THE BILL.

III. FINDINGS and RECOMMENDATIONS

The Committee on Judiciary, Public Safety and Consumer Protection finds support for the passage of Bill No. 371. The amendment made by the Committee adopts the first change recommended by the Guam Police Department regarding hand signals by a police officer on foot. However, the recommended deletion of Subsection (m) from the description of "totality of the circumstances" in Section 3 of the bill was not adopted by the Committee. The members believe that the reference to the driver's being under the influence of alcohol or drugs should remain on the list in order to take into account whether the officer's suspicion that the serious offense of DUI was being committed was the initial reason for attempting to stop the vehicle. The legislative history of the bill, including this report, is intended to make it clear that Subsection (m) of the new 16 GCA §3301.3 is not meant to be any defense to a charge of eluding a police officer, but, on the contrary, is an aggravating factor to be considered as a motivation of the driver for attempting to elude the officer, while simultaneously serving as a cause for the initial pursuit of the driver, *i.e.*, the officer had reason to suspect that the vehicle was being operated by an intoxicated driver. Only when the facts are present in a particular case to support it will Subsection (m) be one of the factors to be considered by either the arresting officer or the trier of fact.

The Committee submits its report with the recommendation **TO DO PASS.**



Guam Police Department



Government of Guam

Bldg. No. 233, Central Avenue, Tiyán, Guam 96913
Tel: (671) 475-8473 (Switchboard) • (671) 475-8509/8512/8514
Fax: (671) 472-4036

**CARL T.C.
GUTIERREZ**
Governor of Guam

OCT 21 1997

Chief of Police

**MADELEINE Z.
BORDALLO**
Lieutenant Governor

The Honorable Senator Elizabeth Barrett-Anderson
Chairperson, Committee on Judiciary, Public Safety
& Consumer Protection
Twenty-Fourth Guam Legislature
Ada Plaza Center
Suite 108A
173 Aspinall Avenue
Agana, Guam 96932

RECEIVED

24th Guam Legislature
Committee on Judiciary, Public
Safety and Consumer Protection
Date: 10/21/97 *kg*

Dear Madame Chairperson:

On behalf of the men and women of the Guam Police Department, I would like to take this opportunity to express my sincerest Si Yuus Maase to you and your committee for your untiring and continuous efforts aimed at improving the quality of life for the people of Guam through meaningful, just and comprehensive legislation.

Copies of Bill Nos. 370, 371, 372, 373, and 374 have been staffed by management team members of the Guam Police Department and with the exception of just some very minor adjustments, it is the consensus of management that we are in concurrence with the overall context of the bills and endorse it fully, as to form.

The recommended changes are as follows:

**AN ACT TO AMEND 16 GCA §§18121 and 18122, RELATING TO
POSSESSION OR STORAGE OF MARIJUANA IN A MOTOR VEHICLE**

COMMENTS:

Section 1. §§18121

Possession of marijuana is already a misdemeanor. Including it is not necessary.

Section 2. §§18122

Drug Free Guam Para Todos

Need to provide definition of usable quantity - amounts over one ounce are still usable.

AN ACT TO ADD NEW SECTIONS TO 16 GCA, RELATIVE TO ELUDING A POLICE OFFICER

COMMENTS:

Section 1. "§3301.2. Definitions

Visual command could mean hand signals when approaching a vehicle on foot such as when conducting stationary radar enforcement, etc.

Section 3. "§3301.3.

If included, sub-section (m) may allow those persons who are drugged or intoxicated a means of avoiding an otherwise valid charge.

AN ACT TO AMEND 16 GCA §181201(d), RELATIVE TO PROVIDING THE RESULTS OF BLOOD ALCOHOL OR TESTS TO POLICE OR PROSECUTORS

COMMENTS:

1. As a consideration, it may be helpful if the proposed legislation include urine samples.
2. There is no guidance as to when the blood test shall be conducted, at whose request or under what conditions, and whether doctors may refuse. Mandatory blood or urine testing for all victims of accidents would certainly bolster efforts at prosecuting repeat offenders who realize the implications of the tests.

Again on behalf of the Guam Police Department, to you and your fine committee, Dangkulu na Si Yu'us Ma'ase yan agradesimo!

Sincerely,


J.M. MARQUES
Acting

cc: Sen. John C. Salas
Sen. Anthony C. Blaz
Sen. Joanne M.S. Brown
Sen. Mark Forbes
Sen. Edwardo J. Cruz, M.D.
Sen. Vicente C. Pangelinan
Sen. Frank Blas Aguon, Jr.

FISCAL NOTE
BUREAU OF BUDGET AND MANAGEMENT REVENUE ARCH

BBMR-F7

Bill Number: 371(COR)
 Amendatory Bill: Yes

Date Received: 9/25/97
 Date Reviewed: 10/20/97

Department/Agency Affected: Guam Police Department
 Department/Agency Head: James Marquez, Chief of Police
 Total FY Appropriation to Date: \$27,500,000

Bill Title (preamble): An act to add new sections to 16 GCA, relative to eluding a police officer.

Change in Law: Yes

Bill's Impact on Present Program Funding:
 Increase X Decrease Reallocation No Change

Bill is for:
 Operations X Capital Improvement Other

FINANCIAL/PROGRAM IMPACT

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)			
PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
Public Safety			

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL						
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? IF NO, ADD'L AMOUNT REQUIRED \$
 AGENCY/PERSON/DATE CONTACTED:

ESTIMATED POTENTIAL MULTI-YEAR REVENUES						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND						
OTHER						
TOTAL						

ANALYST Christine Quichocho DATE 10/20/97 DIRECTOR Joseph E. Rivera DATE OCT 22 1997
 Christine Quichocho Joseph E. Rivera, Acting

FOOTNOTES: *The proposed legislation is an act to add new sections to 16 GCA, relative to eluding a police officer. The proposed legislation may impact the General Fund however is dependent upon the rate of offenses in this specific area as is in any other category of offense committed.*