



Office of the Governor of Guam

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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

13 JAN 2009

2009 JAN 14 AM 8:43

30-09-0036

1/13/09
10:40A
apl

The Honorable Judith T. Won Pat, Ed.D.
Speaker
Mina' Trenta Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Bill No 263 entitled "AN ACT TO ADD A NEW §19107 TO CHAPTER 19 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO THE PRESENTATION OF INSURANCE DOCUMENT TO ESTABLISH "PROOF OF INSURANCE" was signed into law as Public Law No. 29-117.

Mandatory automobile insurance is a necessary requirement for the safety of those who utilize our roadways. Unfortunately, some attempt to abuse the system by applying for insurance and obtaining a policy with no intention of paying the insurance premiums and keeping the insurance active. Although this legislation attempts to help rectify this type of problem by making it illegal to operate a vehicle without proof of insurance and criminalizing the act of knowingly providing invalid or expired insurance as proof of coverage, it may require further legislation to ensure compliance with the mandates to have automobile insurance.

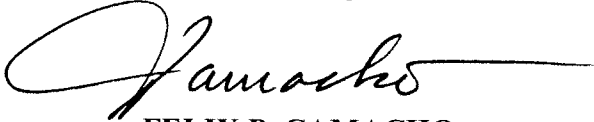
The bill uses the term proof of insurance in quotes, which implies that it is a defined term, yet the legislation does not define the term which is important when enforcing the provisions criminally. This could expose a person to criminal liability without clear concrete requirements as to the type of information or document the person needs to possess.

At the heart of the bill is subsection (f) which attempts to make the presentment of insurance that has not been paid as "prima facia evidence" that a owner or driver knowingly presented a fraudulent proof of insurance in violation of law. Placing the non-owner driver of a vehicle, for example an employee driving a company vehicle, with the burden of ensuring that insurance premiums are paid seems fundamentally unfair if not impossible. The language used within the section fails to obtain its objective as it only provides that it is the prima facia evidence when the driver knowingly presented a fraudulent proof of insurance. In order for the prima facia evidence language to meet the intent of the law, it should state that the failure to pay premiums under the policy is prima facia evidence that the owner knowingly presented proof of insurance

for a vehicle that is not properly insured. Presenting proof of insurance is not the malice act that the legislature is trying to prevent but it is the presentment of proof of vehicle insurance where the driver should have known that the vehicle does not have a current insurance policy.

We laud the author of this bill and the intent to provide new requirements aimed at insuring that all vehicles on Guam are covered by the requisite insurance policies. However, we note some deficiencies contained within the bill and respectfully request that they be addressed in order to ensure the prevention of this type of abuse.

*Sins eru yan Magâhet,*

A handwritten signature in black ink, appearing to read 'Famacho', with a long horizontal flourish extending to the right.

**FELIX P. CAMACHO**

*I Maga'låhen Guåhan*

*Governor of Guam*

Attachment: copy of Bill

cc: The Honorable Tina Rose Muña Barnes,  
Senator and Legislative Secretary

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN  
2008 (SECOND) Regular Session

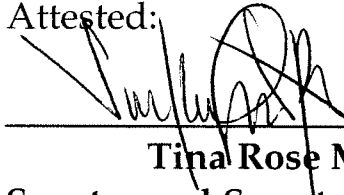
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Bill No. 263 (EC)**, " AN ACT TO *ADD A NEW §19107 TO CHAPTER 19 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO THE PRESENTATION OF INSURANCE DOCUMENTS TO ESTABLISH "PROOF OF INSURANCE",*" was on the 21<sup>st</sup> day of November, 2008, duly and regularly passed.



Judith T. Won Pat, Ed. D.  
Speaker

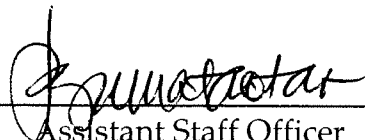
Attested:



Tina Rose Muña Barnes  
Senator and Secretary of the Legislature

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This Act was received by *I Maga'lahen Guåhan* this 25 day of nov., 2008, at  
9:41 o'clock a.M.



Assistant Staff Officer  
Maga'lahi's Office

APPROVED:



MIKE W. CRUZ, MD  
GOVERNOR OF GUAM ACTING

Date:

12/2/08

Public Law No. 29-117

***MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN***  
**2008 (SECOND) Regular Session**

**Bill No. 263 (EC)**

As amended by the Author  
and further amended.

Introduced by:

Ray Tenorio  
J. T. Won Pat, Ed.D.  
Judith P. Guthertz, DPA  
Frank F. Blas, Jr.  
Edward J.B. Calvo  
B. J.F. Cruz  
James V. Espaldon  
Mark Forbes  
Frank T. Ishizaki  
J. A. Lujan  
Tina Rose Muña Barnes  
A. B. Palacios, Sr.  
v. c. pangelinan  
R. J. Respicio  
Dr. David L.G. Shimizu

**AN ACT TO *ADD* A NEW §19107 TO CHAPTER 19 OF TITLE  
16, GUAM CODE ANNOTATED, RELATIVE TO THE  
PRESENTATION OF INSURANCE DOCUMENTS TO  
ESTABLISH “PROOF OF INSURANCE”.**

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

2           **Section 1.** A new §19107 is hereby *added* to Chapter 19 of Title 16, Guam  
3 Code Annotated, to read:

4                   “§19107.   **Presentation of Insurance Documents to Establish**  
5           **'Proof of Insurance.'** All drivers *shall* provide, upon request of a law

1 enforcement officer during a traffic stop, proof of insurance coverage  
2 sufficient to comply with the provisions of this Chapter.

3 The penalties for failure to comply with the provisions of this Section  
4 are as follows:

5 (a) Any driver who does *not* possess 'proof of insurance' for  
6 the vehicle in his possession, that is properly insured as required by  
7 this Chapter, commits a violation.

8 (b) Any driver who does *not* possess 'proof of insurance' for  
9 the vehicle in his possession, that is *not* properly insured as required  
10 by this Chapter, *shall* be punished in accordance with the penalties  
11 prescribed by this Chapter.

12 (c) Any driver that *knowingly* presents any insurance  
13 certificate, policy *or* other documentation to establish 'proof of  
14 insurance' for the vehicle in his possession, that is *not* properly  
15 insured as required by this Chapter, commits a petty misdemeanor.

16 (d) Any driver that *knowingly* presents any insurance  
17 certificate, policy *or* other documentation to establish 'proof of  
18 insurance' for the vehicle in his possession, that is *not* properly  
19 insured as required by this Chapter, and is at fault in an automobile  
20 accident in which the total value of the loss to the innocent party(s) is  
21 Five Thousand Dollars (\$5,000) or *less*, commits a misdemeanor.

22 (e) Any driver that *knowingly* presents any insurance  
23 certificate, policy *or* other documentation to establish 'proof of  
24 insurance' for the vehicle in his possession, that is *not* properly  
25 insured as required by this Chapter, and is at fault in an automobile  
26 accident in which the total value of the loss to the innocent party(s) is

1           *more* than Five Thousand Dollars (\$5,000), commits a third degree  
2 felony.

3           (f) For purposes of subsections (c), (d) and (e) of this  
4 Section, failure to pay premiums as prescribed by the automobile  
5 insurance policy *or* other payment agreement with the insurer *or* the  
6 insurer's general agent, sub-agent, broker *or* solicitor is *prima facie*  
7 *evidence* that an owner and *or* driver *knowingly* presented an  
8 insurance certificate, policy *or* other documentation to establish  
9 'proof of insurance', to comply with the provisions of this Chapter."