

2012 JUN 11 11:30 AM
COM

MINA' TRENTAI UNU NA LIHESLATURAN GUAHAN
2012 (SECOND) Regular Session

Bill No. 407-31(COR)

Introduced by:

D.G. RODRIGUEZ, JR. 

AN ACT TO PROVIDE FOR THE COURT IMPOSED PENALTY REQUIRING THE TAKING OF AN DEFENSIVE DRIVING PROGRAM FOR THE OFFENSE OF RECKLESS DRIVING, BY ADDING A NEW SUBSECTION (rr) TO §1102 OF CHAPTER 1, 16 GCA; AND AMENDING SUBSECTION (c) OF §9107, CHAPTER 9, 16 GCA; AND ADDING A NEW §9107.1 TO CHAPTER 9, 16 GCA.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent: *I Liheslaturan Guåhan* finds that defensive driving is a method of driving that minimizes the number of driving risks, using more advanced skills than just your basic training. When you employ defensive driving techniques, you become a better, safer, and smarter driver; one who is better prepared for the hazards ahead on Guam's roads.

Because more than 41,000 people die in motor vehicle crashes each year, many states require defensive driving programs for people who've accumulated too violations on their driving records or had their driving privileges suspended. Defensive driving programs teach drivers to be cautious and maintain an awareness of their surroundings, the current rules of the road, and the latest techniques in vehicle handling. These skills may help reduce traffic accidents across the board.

Defensive driver programs are used worldwide by several branches of the Armed Forces, police forces, and ambulance and fire departments. Defensive driving class has been court-approved by at least 28 states to reduce deaths and

1 injuries caused by inexperienced drivers, aggressive drivers, and alcohol and drug
2 related motor vehicle crashes.

3 Alabama, Alaska, Arizona, California, Colorado, Delaware, Florida, Idaho,
4 Indiana, Kansas, Kentucky, Louisiana , Maine, Michigan, Missouri, Nevada, New
5 Jersey, New Mexico, North Carolina , North Dakota, New York, Ohio , Oklahoma,
6 South Carolina, Tennessee, Texas, Virginia, Washington are the states that requires
7 defensive driving program upon conviction of multiple offense of reckless driving.

8 *I Liheslaturan Guåhan* takes due note that defensive driving programs are
9 also an opportunity for drivers to learn more about safe driving while possibly
10 lowering their auto insurance rates, and ultimately making streets safer. A
11 qualified defensive driving program utilizes lesson plans that are proven with
12 studies to be effective, to include operating a vehicle in adverse weather conditions
13 such as heavy rains, and dealing with driving around larger vehicles, pedestrians,
14 cyclists, and, aggressive, distracted and impaired drivers.

15 An average of over six thousand (6,000) motor vehicle crashes are reported
16 every year on Guam, with a crash rate of about forty (40) accidents for every one
17 thousand (1,000) people on the island, as compared to a national average of 19
18 accidents for every one thousand motorists. This is twice the national average.
19 Over the past eight (8) years there has been an annual average of seventeen (17)
20 fatalities caused by motor vehicle crashes on Guam. It is the intent of *I*
21 *Liheslaturan* to improve the safety of Guam's roads by adding a new penalty for
22 the conviction of reckless driving. A program in defensive driving may be
23 required at the discretion of the judge for a first offense. Education as a prevention
24 measure helps ensure that convicted reckless drivers are better educated and more
25 aware of the severity of their offense. A second offense within eighteen months of

1 the first or last offense *shall* require the mandatory taking of *both* a driver
2 education course *and* a defensive driving program.

3 **Section 2.** A new Subsection (rr) is hereby added to §1102 of Chapter 1,
4 Title 16, Guam Code Annotated, to read:

5 “(rr) *Defensive driving:* Defensive driving is "driving to save lives, time,
6 and money, in spite of the conditions around you and the actions of others.
7 Defensive driving is a form of training for motor vehicle drivers that goes
8 beyond mastery of the rules of the road and the basic mechanics of driving.
9 Its aim is to reduce the risks associated with driving by anticipating
10 dangerous situations, despite adverse conditions or the mistakes of others.
11 Defensive driving is also known as driver improvement as well as traffic
12 school. For the purposes of this Title and §9107 and §9107.1, the terms are
13 interchangeable.”

14 **Section 3.** Subsection (c) of §9107, Chapter 9, Title 16, Guam Code
15 Annotated, is hereby amended, to read:

16 “(c) Whenever such reckless driving of a vehicle proximately causes a
17 collision in which bodily injury or property damage result, the person so driving
18 such vehicle shall, upon conviction, and in addition to the penalties provided in
19 Subsections (a) and (b), be required to attend a course in driver education not less
20 than six (6) weeks in length and to obtain a certificate of attendance at the
21 satisfactory completion of such course, and/or a defensive driving program at the
22 discretion of the court, for a first offense. Such course or program shall be
23 conducted under the auspices of the Department of Public Safety and shall be
24 attended by the convicted reckless driver after serving his sentence or paying his

1 fine, or both. Failure of such convicted reckless driver to attend such course or
2 program shall constitute a separate offense and shall be punishable as a petty
3 misdemeanor.

4 (i) In addition to the penalties provided in Subsections (a) and (b) of this
5 Section, where the person driving the vehicle has one or more prior
6 convictions for the offense of reckless driving which have resulted in
7 bodily injury or property damage, shall upon conviction of an
8 additional violation of reckless driving, within eighteen (18) months
9 of the first violation, require the driver to take and complete an
10 defensive driving program, in addition to taking, or retaking, a driver
11 education course.”

12 **Section 4.** A new §9107.1 is hereby added to Chapter 9, Title 16, Guam
13 Code Annotated, to read:

14 **“§9107.1 Defensive Driving Program Guidelines.** The defensive driving
15 training and certification shall be offered in a traditional classroom setting and
16 virtual/online learning (student verification mechanism shall be verified throughout
17 the program if online training is elected). Both must be offered but either satisfies
18 the training and certification requirement. The defensive driving program shall be
19 a minimum of 400 minutes and a final test shall be administered and passed to get
20 certification. The defensive driving program must have an on island administrator
21 who has a minimum of 2 years experience in the administration of a nationally
22 recognized defensive driving program that is certified to train by any authorizing
23 recognized organization that meets the criteria herein. And further provided, that
24 the defensive driving program has a demonstrated performance record of reducing
25 reckless driving directly attributable to the program, within the any of the 50 U.S.

1 states, counties, municipalities, cities, and/or in providing like services for federal
2 agency programs.

3 (a) Defensive Driving Schools and Programs shall be regulated by the
4 Motor Vehicle Division, Guam Department of Revenue and Taxation;

5 (b) Defensive Driving Schools and Programs established on Guam shall
6 meet the standards to become certified and licensed by the Guam Department of
7 Revenue and Taxation, Motor Vehicle Division;

8 (c) Defensive Driving programs shall be completed in no less than four
9 hundred (400) minutes;

10 (d) The organizations authorized to provide this training shall retain
11 student records for 5 years. Company drivers must take a refresher program every
12 2 years that is a minimum of four hours to maintain the certification status. Any
13 defensive driving organization that is recognized as being authorized by any local,
14 federal or state body can offer these program as long as the meet the standards set
15 forth herein. Any person that drives for a company, either in a company vehicle or
16 private vehicle for company business, must have this training, as well as have
17 certification of current training in their personnel file as well as on their person
18 when driving for company purposes. For purposes of clarification, *defensive*
19 *driving training* is not drivers education or drivers education as defined by §3103
20 of Chapter 3, Title 16, Guam Code Annotated; and

21 (e) Defensive driving programs on Guam *shall* have a verifiable success
22 rate (statistical studies by any U.S. government agency, state government agency
23 or private recognized contracted agency) and shall cover such areas as Guam
24 specific needs and general defensive driving training in traffic law, methods of
25 accident avoidance and force reduction, human limitations, the effects of alcohol
26 and drugs on the driver and driving, the serious dangers of driving distractions, and

1 a translation of traffic violations into their resultant damages including property,
2 injury, death, and societal impact.”

3 **Section 5. Promulgation of Rules and Regulations.**

4 (a) The Department of Revenue and Taxation *shall*, within 120 days of the
5 enactment of this Act, promulgate the necessary rules and regulations, to include
6 administrative fees for the issuance of a certification of program completion,
7 required to implement the provisions of §9107 and §9107.1, of Chapter 9, Title 16,
8 Guam Code Annotated, as provided pursuant to Article 3 [Rule-Making
9 Procedures], Chapter 9 [Administrative Adjudication Law], Division 1, Title 5,
10 Guam Code Annotated [Government Operations].

11 (b) The Unified Courts of Guam *shall*, within 120 days of the enactment of
12 this Act, promulgate the necessary rules and regulations, to include administrative
13 fees and court costs, required to implement the provisions of §9107 and §9107.1 of
14 Chapter 9, Title 16, Guam Code Annotated, as provided pursuant to applicable
15 law, rules and regulations, and Judicial procedures.

16 **Section 6. Prospective Applicability.** The amendments to Subsection (c)
17 of §9107, as provided pursuant to Section 3 of this Act, and the new§9107.1, as
18 provided pursuant to Section 4 of this Act, shall not be effective as to any charge
19 that has been brought against any person prior to the effective date of this Act. The
20 intent of this paragraph is that no person shall be subject to a more stringent
21 penalty than would have been the case under the law as it existed at the time that
22 such person has been charged with the offense of reckless driving.

23 **Section 7. Severability.** *If* any provision of this Act or its application to
24 any person or circumstance is found to be invalid or contrary to law, such
25 invalidity shall *not* affect other provisions or applications of this Act which can be

1 given effect without the invalid provisions or application, and to this end the
2 provisions of this Act are severable.

3 **Section 8. Effective Date.** This Act shall become immediately effective
4 upon enactment.