


I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

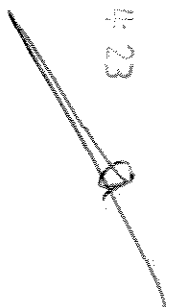
Bill No. 147-33 (COR)

Introduced by:

T. C. Ada 

AN ACT TO *AMEND* §§ 5101, 5104, 5107, 5109, 5112, AND 5114, AND TO *ADD* A NEW § 5118, ALL OF CHAPTER 5, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO THE AUTHORITIES AND RESPONSIBILITIES OF THE DEPARTMENT OF REVENUE AND TAXATION AND THE DEPARTMENT OF PUBLIC WORKS TO ENFORCE WEIGHT LIMITS AND SAFE OPERATIONS OF COMMERCIAL VEHICLES ON GUAM'S HIGHWAYS; ESTABLISHING PENALTIES FOR VIOLATIONS; ESTABLISHING PERMIT REQUIREMENTS; AND ESTABLISHING A TRUCK ENFORCEMENT SCREENING STATION (TESS) FACILITY FUND.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3 finds that Guam's public highways, road, and streets must be protected from
4 undue wear and tear caused by commercial vehicles that exceed weight
5 limits that the highways and roads are designed to carry.

6 *I Liheslaturan Guåhan* further finds that safe travel of vehicles on the
7 highways is equally important. It is imperative that commercial vehicles
8 used to transport material throughout the island are mechanically sound, the
9 operators are properly licensed, and their loads are properly secured. Safe
10 travel can be further assured by establishing inspection programs that would
11 serve to verify the weight of vehicles and their loads, the mechanical
12 soundness of the vehicles, and the proper securement of loads thereon.

1 *I Liheslaturan Guåhan* intends to establish the respective authorities
2 and responsibilities of the Department of Public Works (DPW) and the
3 Department of Revenue and Taxation (DRT) to stop, inspect, and weigh
4 commercial vehicles operating on Guam’s roads and highways.

5 **Section 2.** § 5101 of Chapter 5, Title 16, Guam Code Annotated, is
6 hereby *amended* to read as follows:

7 **“§ 5101. Definitions.**

8 As used in this Chapter, the following definitions will hold true:

9 *Axle:* The common axis of rotation of one (1) *or* more wheels,
10 whether in one (1) *or* more segments and regardless of the number of
11 wheels carried thereon.

12 *Axle Group:* An assemblage of two (2) *or* more consecutive axles
13 considered together in determining their combined load effect on a
14 bridge *or* pavement structure.

15 *Axle Load:* The total ~~load~~ weight transmitted to the road by a
16 single axle all wheels whose centers are included between the two (2)
17 parallel transverse vertical planes forty (40) inches apart, extending
18 across the full width of the vehicle.

19 *Connecting Mechanism:* An arrangement of parts interconnecting
20 two (2) *or* more consecutive axles to the frame of a vehicle in such a
21 manner as to equalize the load between the axles.

22 *Continuous Trip Permit:* A special permit issued for oversize or
23 overweight loads, valid for multiple days, multiple routes and/or
24 between multiple points of destination, for the duration of a specific
25 project, but not to exceed 90-days, unless deemed warranted
26 otherwise by the DPW Director.

1 *Gross Combination Weight (GCW)*: The total weight of the
2 power unit and the total weight of the towed unit and any load
3 thereon.

4 *Gross Combination Weight Rating (GCWR)*: The value specified
5 by the manufacturer as the loaded weight of a combination
6 (articulated) motor vehicle. In the absence of a value specified by the
7 manufacturer, GCWR will be determined by adding the GVWR of the
8 power unit and the total weight of the towed unit and any load
9 thereon.

10 *Gross Vehicle Weight (GVW)*: The total weight of the loaded
11 vehicle. This includes the vehicle itself and the cargo that is loaded
12 within that vehicle.

13 *Gross Vehicle Weight Rating (GVWR)*: The value specified by
14 the manufacturer as the loaded weight of a single motor vehicle.

15 *Gross Weight*: The weight of a vehicle *and/or* vehicle
16 combination without load, plus the weight of any load thereon.

17 *Height*: The total vertical dimension of any vehicle above the
18 ground surface including any load and load holding device thereon.

19 *Highway*: The entire width between the boundary lines of every
20 publicly maintained surface, when any part thereof is open to the use
21 of the public for purposes of vehicular travel; synonymous and
22 interchangeable in usage with "street".

23 *Length*: The total longitudinal dimension of any vehicle *or*
24 combination of vehicles, including any load *or* load holding devices
25 thereon.

26 *Load*: A weight *or* quantity of anything resting upon a support.

1 *Motor Vehicle:* A vehicle which is self-propelled *or* propelled by
2 electric power obtained from overhead trolley wires, but not operating
3 upon rails.

4 *Owner:* A person, other than a lienholder, having the property in
5 *or* title to a vehicle, including a person entitled to use and possession
6 of a vehicle subject to a security interest in another person, but
7 excluding a lessee under a lease not intended as security.

8 *Portable Scales:* A movable weighing device.

9 *Primary Road:* A primary road is a road with two (2) *or more*
10 lanes each way, *or* any road with at least two (2) contiguous miles
11 with a speed limit of thirty-five (35) mph *or* greater.

12 *Scale Tolerance:* An allowable variation in the static weight of an
13 axle load in accordance with, but *not exceeding*, the precision of the
14 scale involved.

15 *Secondary Road:* A secondary road is any road, paved *or*
16 unpaved, that does not meet the definition of “primary road” as herein
17 stated.

18 *Semi-Trailer:* A vehicle designed for carrying persons *or*
19 property and drawn by a truck-tractor on which parts of its weight and
20 load rests.

21 *Single Axle:* An assembly of two (2) *or more* wheels, whose
22 centers are on one (1) transverse vertical plane *or* may be included
23 between two (2) parallel transverse vertical planes forty (40) inches or
24 less apart extending the full width of the vehicle.

25 *Single Axle Weight:* The total weight transmitted to the road by a
26 single axle.

1 Single Trip Permit: A special permit issued for oversize or
2 overweight loads, valid for a single trip on a specified route between
3 predetermined points of origin and destination and shall expire within
4 24-hours.

5 *Special Permit:* A written authorization to move *or* operate on a
6 highway, a vehicle *or* vehicles with indivisible load of a size *and/or*
7 weight exceeding the limits prescribed for vehicles in regular
8 operation. Said permit may be for a single trip or for a continuous trip.

9 *Static Scales:* An immovable measuring scale, similar to a ruler,
10 that is attached to the edge of an optical comparator screen.

11 *Tandem Axle:* Any two (2) *or more* consecutive axles whose
12 centers are more than forty (40) inches ~~but less than~~ and not more than
13 ninety-six (96) inches apart, and are individually attached *and/or*
14 articulated from a common attachment to the vehicle including a
15 connecting mechanism designed to equalize the load between the
16 axles.

17 *Tandem Axle Weight:* The total weight transmitted to the road by
18 a tandem axle ~~two (2) or more consecutive axles whose centers may~~
19 ~~be included between parallel transverse planes spaced forty (40)~~
20 ~~inches but less than ninety-six (96) inches apart, extending the full~~
21 ~~width of the vehicle.~~

22 *Trailer:* A vehicle designed for carrying persons *or* property and
23 drawn by a motor vehicle which carries no part of the weight and load
24 of the trailer on its own wheels.

25 *Truck:* A motor vehicle designed, used *or* maintained primarily
26 for the transportation of property.

1 *Truck-Tractor:* A motor vehicle designed for drawing other
2 vehicles, but not for a load other than a part of the weight of the
3 vehicle and load drawn.

4 *Vehicle:* A device in, upon *or* by which any person *or* property
5 may be transported *or* drawn upon a highway.

6 *Vehicle Combination:* A truck-tractor and semi-trailer, either
7 with *or* without a full trailer, *or* a truck with one (1) *or* more full
8 trailers.

9 *Weigh-in-Motion Scales:* Weighing-in-Motion (WIM) is, as the
10 name implies, the process of weighing a vehicle as it is moving along
11 the highway in an effort to estimate the equivalent static weight of the
12 vehicle.

13 *Wheel Load:* The total load transmitted to the road by a wheel.
14 Dual wheels that share an axle mounting are considered a single
15 wheel for load requirements.

16 *Width:* The total outside transverse dimension of a vehicle,
17 including any load *or* load holding devices thereon, but excluding
18 approved safety devices and tire bulge due to load.”

19 **Section 3.** § 5104 of Chapter 5, Title 16, Guam Code Annotated, is
20 hereby *amended* to read as follows:

21 **“§ 5104. Height of Vehicles and Loads.**

22 No vehicle, including any load and load holding devices
23 thereon, *shall* exceed a total height of ~~fourteen (14) feet for secondary~~
24 ~~roads and~~ fifteen (15) feet for primary public roads, streets or
25 highways.”

1 **Section 4.** § 5107 of Chapter 5, Title 16, Guam Code Annotated, is
2 hereby *amended* to read as follows:

3 “~~§ 5107. Maximum Permissible Load Limit. Gross Weight, Axle,~~
4 and Wheel Loads.”

5 ~~Vehicle Gross Weight: The total gross weight imposed on the~~
6 ~~highway surface by a vehicle, or combination of vehicles, shall~~
7 ~~be determined by the application of Table I:~~

8 ~~TABLE I~~

9 ~~20 Maximum Load per Axle (1000 lbs)~~

10 ~~36 Maximum Load per Tandem Axle (1000 lbs)~~

11 ~~36 2-Axle Single Unit~~

12 ~~56 3-Axle Single Unit~~

13 ~~54 2-Axle Tractor 1-Axle Trailer~~

14 ~~68 2-Axle Tractor 2-Axle Trailer~~

15 ~~76.8 3-Axle Tractor 2-Axle Trailer~~

16 ~~76.8 Maximum Gross Weight~~

17 No motor vehicle or combination of vehicles equipped wholly
18 with pneumatic tires, which has a gross weight, an axle load, or a
19 wheel load in excess of the limits set forth in this Section shall be
20 operated or moved upon any public road, street, or highway; and no
21 vehicle or combination of vehicles shall be operated on or moved over
22 any bridge or other highway structure if the gross weight, including
23 vehicle and load, exceeds the posted maximum gross weight
24 limitation for the bridge or other highway structure.

25 (a) The total gross weight, in pounds, imposed on any
26 public road, street, or highway by any axle group on a vehicle
27 or combination of vehicles shall not exceed the following when

1 the distance between the first and last axles of the group under
2 consideration is:

3 (1) Forty (40) inches or less; the axle load shall not
4 exceed twenty thousand (20,000) pounds.

5 (2) More than forty (40) inches but not more than
6 eight (8) feet; the tandem axle weight imposed shall not
7 exceed thirty-four thousand (34,000) pounds.

8 (b) The total gross weight, in pounds, imposed on any
9 public road, street, or highway by any axle group on a vehicle
10 or combination of vehicles shall not exceed that resulting from
11 application of the Bridge Formula:

$$12 \quad \mathbf{W = 500 (LN/(N-1) + 12N + 36)}$$

13 when the distance between the first and last axles of the axle
14 group under consideration is over eight (8) feet and where

15 W = maximum gross weight in pounds carried on any
16 axle group,

17 L = Distance in feet between the outer axles of any axle
18 group, to the nearest foot, and

19 N = Number of axles in group under consideration;
20 provided that two (2) consecutive sets of tandem axles may
21 carry a gross load of thirty-four thousand (34,000) pounds
22 each providing the overall distance between the first and last
23 axles of such consecutive sets of tandem axles is thirty-six
24 (36) feet or more and provided also that the overall gross
25 weight does not exceed eighty thousand (80,000) pounds.

26 (c) No vehicle or combination of vehicles shall be used
27 or operated on any public road, street, or highway with:

1 (1) a load upon any single or tandem axle or
2 combination of axles which exceeds the carrying capacity
3 of the axles specified by the manufacturer, or

4 (2) with a total weight in excess of its designed
5 capacity as indicated by its designed gross vehicle
6 weights or gross combination weights.

7 (d) The single axle weight shall not exceed twenty
8 thousand (20,000) pounds.

9 (e) The maximum wheel load imposed upon any public
10 road, street, or highway shall not exceed Ten thousand (10,000)
11 pounds.

12 (f) The Director of the Department of Public Works
13 (DPW Director) may place and maintain signs to limit the gross
14 weight of a vehicle or combination of vehicles traveling over a
15 bridge or other highway structure in the interest of public safety
16 when it is determined that the theoretical load carrying capacity
17 of the bridge or structure is less than the maximum gross
18 vehicular weight allowed by this Chapter.

19 (g) The DPW Director may issue an Overweight Vehicle
20 Load Permit for a vehicle that meets the axle group load
21 requirements of the formula in paragraph (b) above but with a
22 gross vehicle weight in excess of eighty thousand (80,000)
23 pounds. Such special permit shall be issued in accordance with
24 § 5114 of this Chapter.”

25 **Section 5.** § 5109 of Chapter 5, Title 16, Guam Code Annotated, is
26 hereby *amended* to read as follows:

1 **“§5109. Authority to Stop, Inspect and Weigh Vehicles; Removal**
2 **of Excess Loads.**

3 (a) For purposes of the enforcement of this part, the Director of
4 Revenue and Taxation (DRT Director) and the DPW Director, *shall*
5 have such powers of enforcement as may be necessary to implement
6 ~~this part~~ their respective responsibilities under this Chapter.

7 (1) The DRT Director, whose department is primarily
8 responsible for implementing and enforcing this chapter as such
9 relates to the registration and safety of vehicles, may delegate the
10 ~~enforcement of this part~~ to the Administrator of the Division of
11 Motor Vehicles/Motor Carrier Safety Assistance Program
12 (DMV/MCSAP).

13 (2) The DPW Director, whose department is primarily
14 responsible for implementing and enforcing this Chapter as such
15 relates to truck gross weight and the safety and maintenance of
16 Guam’s public roads, streets and highways, may delegate the
17 enforcement of this part to the Administrator of the Division of
18 Highways.

19 (b) For the purpose of safety, welfare and health of the general
20 public, and the safe transportation of hazardous materials, and waste
21 and other materials on any public highway, or primary, road, street or
22 highway, and the enforcement of this part and of all rules adopted
23 pursuant to this part, the Director, and persons appointed by the
24 Director, may (1) inspect lands, buildings, freight and equipment of
25 motor carriers; the responsibilities of each agency shall be as follows:

26 (1) Department of Revenue and Taxation (DRT):

1 (A) inspect business premises, buildings, freight
2 and equipment of commercial motor carriers;

3 (2) (B) stop and inspect freight and equipment of
4 all motor carriers operating on any public highway or
5 primary road, street or highway;

6 (3) (C) inspect shipping papers and hazardous
7 waste manifests of all motor carriers and persons subject
8 to this part operating on any public road, street or
9 highway ; and

10 (4) ~~stop and inspect similar documents and~~
11 ~~equipment status of military vehicles traveling on a~~
12 ~~Guam public highway or primary road.~~

13 (D) during the course of an inspection, weigh any
14 vehicle and/or combination of vehicles equipped wholly
15 with pneumatic tires to ensure compliance with the
16 provisions of Subsections 5107(c)(1) and 5107(c)(2) of
17 this Chapter;

18 ~~Every police officer or Division of Motor~~
19 ~~Vehicles/Motor Carrier Safety Assistance Program~~
20 ~~(DMV/MCSAP) inspector shall assist in the enforcement~~
21 ~~of this part and of all rules adopted pursuant to this part~~
22 ~~and issue citations for violations as appropriate.~~

23 (4) (E) Whenever an police officer or
24 DMV/MCSAP inspector, upon inspection of a vehicle
25 and/or load, determines the existence of a ~~minor~~
26 infraction violation, a citation ~~will~~ may be issued, ~~and the~~
27 vehicle allowed to proceed to its own shop for correction.

1 The vehicle may be allowed to proceed directly to its
2 own shop or facility for correction. When a vehicle is
3 found to be ~~hazardous~~ unsafe to the driver or the public,
4 the police officer or DMV/MCSAP inspector has the
5 authority to direct the discontinuance of the vehicle
6 passage and require ~~the vehicle to be moved to a storage~~
7 ~~area or government facility, and said vehicle shall remain~~
8 ~~there until such repairs or corrections as stated can be~~
9 ~~effected either there, or its own shop.~~ corrective action
10 on the spot as appropriate and ~~Such vehicle will~~ shall
11 not be allowed back into normal operations until
12 corrections are made;

13 (F) Every police officer, or DMV/MCSAP
14 inspector shall assist in the enforcement of this part and
15 of all rules adopted pursuant to this part and may issue
16 citations for violations as appropriate; and

17 (G) Fines collected from citations issued by
18 DMV/MCSAP inspectors for violations of this
19 Subsection shall be deposited in the Better Public Service
20 Fund and expended in accordance with § 16101 of
21 Chapter 161, Title 11, Guam Code Annotated.

22 (2) Department of Public Works (DPW):

23 (A) operate the Truck Enforcement Screening
24 Station Facility (TESS Facility) located at Route 11 to
25 weigh vehicles and/or combinations of vehicles operating
26 on Guam's roads, streets, or highways.

1 ~~(e)~~(B) Every police officer ~~or DMV/MCSAP DPW~~
2 inspector having reason to believe that the weight ~~or~~
3 dimension of a vehicle operating on a public road, street or
4 highway, either ~~unladen or with~~ or without load, is
5 ~~unlawful~~ in violation of the provisions of this Chapter, is
6 shall be authorized to require the driver to stop and submit
7 to an inspection weighing of the same by means of
8 portable scales, static scales, or weigh-in-motion scales ~~or~~
9 as otherwise appropriate. Violations for any dimensions or
10 GVW in excess of permissible limits, as established by the
11 provisions of this Chapter, shall be subject to the penalties
12 cited in §5112(a) of this Chapter.

13 ~~(d)~~(C) Whenever ~~an~~ police officer or ~~DMV/MCSAP~~
14 DPW inspector, upon weighing a vehicle and load, as
15 provided above, determines that the ~~weight is unlawful~~
16 GVW exceeds allowable limits, such officer or
17 ~~DMV/MCSAP DPW~~ inspector ~~will~~ may require the driver
18 to stop the vehicle in a suitable place and remain standing
19 ~~until such portion of the load is removed as may be~~
20 ~~necessary to reduce the weight of such vehicle such limit~~
21 ~~as permitted under this Chapter. A two thousand (2000)~~
22 ~~pound tolerance over and above the maximum permissible~~
23 ~~weight will be allowed before the removal of load will be~~
24 ~~required. All material so unloaded shall be cared for by the~~
25 ~~owner or driver of such vehicle at the risk of said owner or~~
26 ~~driver~~ area where corrective action can be determined by
27 the officer or DPW inspector. Corrective action may

1 include removal of the non-conforming portion of the load
2 and distribution to another vehicle, or allowance of the
3 vehicle to proceed to another location for unloading.

4 Nothing herein is intended to waive any applicable fines;

5 (D) Every police officer or DPW inspector shall
6 assist in the enforcement of this part and of all rules
7 adopted pursuant to this part and issue citations for
8 violations as appropriate;

9 (E) Fines collected from citations issued by DPW
10 inspectors for violations of this Subsection shall be
11 deposited in the TESS Facility Fund and shall be expended
12 in accordance with § 5118 of this Chapter.

13 (c) (e) Any driver of a vehicle who fails or refuses to stop and
14 submit the vehicle, either ~~unladen or~~ with or without load, to an
15 inspection and/or weighing, or who fails or refuses when directed by
16 the a police officer, or ~~DMV/MCSAP~~ DMV inspector, or DPW
17 inspector upon inspection and/or weighing of the vehicle to stop
18 discontinue the operation of the vehicle and otherwise comply with
19 the provisions of this Section shall be guilty of a ~~misdemeanor~~ civil
20 violation. Each violation for failure or refusal to stop and submit the
21 vehicle to an inspection and/or take subsequent corrective actions
22 shall be subject to the following:

23 (1) First violation shall be subject to a penalty of \$100;

24 (2) Second violation of the provisions of this Subsection
25 within a six (6) month period from the date of the first violation
26 shall be subject to a penalty of \$200;

1 (3) Third violation of the provisions of this Subsection
2 within a six (6) month period from the date of a second
3 violation shall be subject to a penalty of \$500;

4 (4) A fourth violation of the provisions of this Subsection
5 within a six (6) month period from the date of the third
6 violation shall be subject to a penalty of \$1,000 and the
7 operator shall be subject to revocation of their driver's license."

8 **Section 6.** § 5112 of Chapter 5, Title 16, Guam Code Annotated, is
9 hereby *amended* to read as follows:

10 **"§ 5112. Penalties.**

11 (a) Every person, entity *or* organization convicted of a violation
12 of any of the provisions of this Chapter for which another penalty is
13 not provided shall be guilty of a civil violation and subject to a
14 penalty of up to \$500. Every person, entity or organization found to be
15 in violation of the weight limitations established in this Chapter shall
16 be subject to the following:

17 (1) ~~for a first conviction thereof;~~ for a first violation, such
18 person, entity or organization shall be guilty of a misdemeanor
19 civil violation and punished by a fine of ~~not more than~~ up to
20 Five Hundred Dollars (\$500.00) and \$0.25/pound over the
21 maximum allowable load as authorized in § 5107;

22 (2) ~~for a second such conviction violation~~ within a ~~two~~
23 (2) years thereafter six (6) month period from the date of the
24 first violation, such person, entity or organization shall be guilty
25 of a misdemeanor civil violation and punished by a fine of up to
26 ~~not less than~~ Five Hundred Dollars (\$500.00) Seven Hundred
27 Fifty Dollars (\$750.00) and \$0.2550/pound over the maximum

1 allowable load authorized in § 5107 ~~but not more than~~ Seven
2 ~~Hundred Fifty Dollars (\$750.00) and \$0.50/pound over the~~
3 ~~maximum allowable load authorized in § 5107; and~~

4 (3) should a person, entity or organization be found
5 guilty of a third violation of the weight limitations established
6 by this Chapter upon a third or subsequent conviction within
7 two (2) years six (6) months after a the first conviction second
8 violation, such person, entity or organization shall be guilty of a
9 misdemeanor civil violation and subject to fine of not less than
10 Seven Hundred Fifty Dollars (\$750.00) and \$0.50/pound over
11 the maximum allowable load authorized in § 5107 but not more
12 than One Thousand Dollars (\$1,000.00) and \$0.75/pound over
13 the maximum allowable load authorized in § 5107 and the
14 responsible party, as defined in Subsection (d) of this Part, may
15 have their Guam business license revoked in accordance with
16 the following: - In no event shall any fine exceed One
17 Thousand Dollars (\$1,000.00).

18 (A) The Director of the Department of Public
19 Works (DPW Director) shall notify the responsible party,
20 (respondent), in writing, of the finding of a third violation
21 of this Section.

22 (B) The respondent may request, in writing, an
23 administrative hearing to dispute the findings of the
24 Director. Said request for a hearing must be delivered, in
25 writing, to the Office of the DPW Director within fifteen
26 (15) calendar days from the date of receipt of the DPW
27 Director's Findings.

1 (C) Notwithstanding § 9220 of Chapter 9 of Title 5
2 of the Guam Code Annotated, the hearing *shall* be
3 conducted by the DPW Director who *shall* be the hearing
4 officer. The Office of the Attorney General or a Special
5 Assistant Attorney General, appointed by the Attorney
6 General, *shall* assist in providing advice to the DPW
7 Director when matters of law arise. The Hearing Process
8 *shall* be subject to the procedures of Chapter 9 of Title 5
9 of the Guam Code Annotated with the exception noted
10 above, to § 9220 of the same. The findings of the
11 Director, upon the delivery to the respondent, *shall* fulfill
12 the requirements of § 9201 of Chapter 9 of Title 5, Guam
13 Code Annotated.

14 (D) In the event that the DPW Director affirms the
15 finding of a third violation is valid, or if no hearing is
16 requested in writing within fifteen (15) calendar days
17 from the date of receipt of the findings by the respondent,
18 the DPW Director may request, in writing, that the
19 appropriate licensing entity revoke the respondent's
20 license to do business on Guam immediately, for a period
21 of up to three years, as determined by the Director. Upon
22 receipt of the DPW Director's written recommendation,
23 the appropriate licensing entity may suspend such license
24 to do business on Guam in accordance with the
25 recommendation of the DPW Director. The hearing
26 required of this Subsection *shall* fulfill the requirements

1 to suspend a business license found in Chapter 9, of Title
2 5 GCA.

3 (4) Any person found to be in violation of the
4 dimensional limitations established by this Chapter *shall* be
5 guilty of a civil violation and subject to the following:
6

7	If the excess dimension (length or width) is:	The fine <i>shall</i> be:
8	Up to 5 ft	\$ 50
9	Over 5 ft and up to 10 ft	\$100
10	Over 10 ft and up to 15 ft	\$150
11	Over 15 ft	\$200, plus \$10 for each
12		additional foot.

13 ~~(6)~~(5) Any person who commits any of the acts
14 prohibited by this Section or any Rules adopted to enforce this
15 Chapter where no penalty is provided for *shall* be guilty of a
16 civil violation and *shall* be fined *not less than* \$500, as
17 determined by the DPW Director.

18 (b) All ~~permit fees and~~ fines levied by a DMV/MCSAP
19 inspector in accordance with the applicable provisions of this Chapter
20 *shall* be deposited into the Better Public Service Fund of the
21 Department of Revenue and Taxation, to be used by the Division of
22 Motor Vehicles in accordance with § 16101 of Chapter 16, Title 11,
23 Guam Code Annotated.

24 (c) All fines levied by a DPW/TESS Inspector and any permits
25 and administrative fees collected by the Department of Public Works
26 in accordance with this Chapter *shall* be deposited into the TESS

1 Facility fund and shall be expended in accordance with § 5118 of this
2 Chapter.

3 (e d) Responsible Party.

4 (1) ~~Imported~~ Shipping Containers Under Seal. Any
5 importer *or* consignee, whether an individual *or* an entity,
6 organization, or company, whose shipping container placed
7 under seal has been determined to be in violation of § 5107 of
8 this part *shall* be responsible for any fine, penalty, handling,
9 additional transportation or other associated cost (including
10 storage).

11 (2) Export Shipping Containers Under Seal. Any
12 exporter, whether an individual *or* an entity, organization, *or*
13 company, whose shipping container placed under seal has been
14 determined to be in violation of § 5107 of this part *shall* be
15 responsible for any fine, penalty, handling, additional
16 transportation or other associated cost (including storage).

17 (3) Local Containers Under Seal. Any individual and any
18 organization, entity, or company loading a shipping container
19 under seal not designated for export that has been determined to
20 be in violation of § 5107 of this part *shall* be responsible for
21 any fine, penalty, handling, additional transportation or other
22 associated cost (including storage).

23 (4) All Other Local Transport Not Under Seal. Any
24 individual or any cargo transporting entity, organization, *or*
25 company determined to be in violation of § 5107 of this part
26 *shall* be responsible for any fine, penalty, handling, additional

1 transportation or other associated cost (including storage)
2 prescribed in this Section.

3 (d e) The fine schedules of the Superior Court of Guam and the
4 Commercial Vehicle Safety Alliance (CVSA) for violations cited
5 during roadside inspections, and the method for penalty assessment
6 outlined in the Federal Uniform Fine Assessment (UFA) Program,
7 specifically for violations identified as a result of a Compliance
8 Review, are hereby adopted pursuant to fines and fees as applicable to
9 Guam.

10 (f) For the purposes of this Section, "person" means the driver
11 of the vehicle unless the driver is an employee is operating the vehicle
12 in the scope and course of employment, in which case "person" means
13 the employer of the driver. In the case of the transportation of a sealed
14 container or transportation by flatrack, "person" means:

15 (1) The individual or company the cargo is consigned to;

16 or

17 (2) The individual or company located in Guam shipping
18 the cargo.

19 The owner of the vehicle or combination of vehicles may
20 request the operator be held harmless and the citation be transferred to
21 that owner of the vehicle or combination of vehicles. The consignee or
22 the shipper shall not be cited if the power units' (tractors') drive axle
23 group is overweight, and the weight is not more than that allowed for
24 a tandem axle with any applicable tolerances.

25 (g) All permit and administrative fees, fines and
26 reimbursements generated under this Chapter (Applicable to the
27 Department of Public Works) shall be deposited into the Tess Facility

1 Fund, and shall not lapse at the end of the fiscal year, but shall roll
2 over into the next fiscal year or until expended in accordance with §
3 5118 of this Chapter.”

4 **Section 7.** § 5114 of Chapter 5, Title 16, Guam Code Annotated, is
5 hereby *amended* to read as follows:

6 **“§ 5114. Permits for Excess Size and Weight.**

7 (a) A surety bond in a minimum amount of Five Hundred
8 Dollars (\$500.00), or proper evidence of adequate insurance, must be
9 filed with the Director of Public Works before a permit will be issued
10 for transporting over-width, over-length or over-weight loads on the
11 highway, except when the applicant is a Territorial or Federal
12 Government Agency.

13 (b) The Director of Public Works, or his authorized
14 representative, may in his discretion, upon application, in writing
15 good cause being shown therefore, issue a special permit in writing
16 authorizing the applicant to operate or move a vehicle or combination
17 of vehicles of a size or weight exceeding the maximum specified in
18 this Chapter, or otherwise not in conformity with the provisions of this
19 Chapter, upon the highways of Guam. A permit issued under this
20 Section shall not authorize the operation or moving of any vehicle or
21 combination of vehicles without the compliance with Chapter 7 of this
22 Title.

23 (c) The application for any such permit shall specifically
24 describe the vehicle or combination of vehicles and load to be
25 operated or moved, and the particular highways for which the permit
26 to operate is requested, and whether such permit is requested for a
27 single trip, or for continuous operation for a designated period of time.

1 (d) The Director of Public Works or his authorized
2 representative is authorized to issue or withhold such permit at his
3 discretion, or, if such a permit is issued, to limit the number of trips or
4 to establish time limitations within which the vehicles described may
5 be operated, or to prescribe conditions of operations of such vehicle or
6 vehicles when necessary to assure against undue damage to the
7 highway foundations, surfaces or structures and may require such
8 undertaking or other security as may be deemed necessary to
9 compensate for any injury to any such highway foundations, surfaces
10 or structure. Each permit shall be valid only for a designated number
11 of consecutive calendar days as specified in the permit, but in no
12 event shall a permit be granted for a period longer than ten (10) days.

13 (e) At the discretion of the Director of Public Works or his
14 authorized representative, blanket permits will be issued for over-
15 sized vehicles presently on island, and said over-sized vehicles may
16 be subject to time-of operations restrictions.

17 (f) Every such permit shall be carried in the vehicle or
18 combination of vehicles to which it refers and shall be open to
19 inspection by any police officer. It shall be unlawful for any person to
20 violate any of the terms or conditions of such permits.

21 (g) All permitted vehicle or combination of vehicle to which it
22 refers must display two (2) warning signs in addition to the permit
23 number. Each warning sign shall consist of black letters at least
24 twelve (12") high and not less than one and a half inches (1.1/2") wide
25 on a yellow background. The sign shall state "OVERSIZED LOAD"
26 or "WIDE LOAD," as provided in the permit, and include the permit
27 number. One sign will either be bumper-mounted or roof-mounted. If

1 one of the signs is roof-mounted, then the other sign must be at the
2 rear of the towed unit or at the rear of the load. The permit number
3 shall consist of black letters at least ten inches (10") high and not less
4 than one and a half inches (1.1/2") wide. Clearance lights are also
5 required during nighttime travel. Voids (holes) may be cut in
6 warnings signs as signs must not cover any vehicle light or reflector.

7 ~~(g-h)~~ A fee of ~~Five Dollars \$5.00~~ shall be charged for each
8 permit and no such permit shall be issued until said fee has been paid
9 by the DPW Director as follows:

10 (1) Single trip permit for oversize and overweight loads:
11 \$50.00.

12 (2) Continuous trip permit for oversize and overweight
13 loads: \$100.00.

14 All permits may include date, time and route restrictions as
15 determined by the DPW Director. Such fees shall be deposited in the
16 TESS Facility Fund for the Department of Public Works and shall be
17 expended in accordance with § 5118 of this Chapter.

18 ~~(h-i)~~ Any vehicle issued with a permanent special equipment
19 license or requiring a special permit, as required under this Chapter,
20 shall be prohibited from operating on the highways during the hours
21 of 7:00 to 9:00 a.m., 12:00 to 1:00 p.m. and 4:00 to 6:00 p.m.,
22 Mondays through Fridays, except in cases of emergencies or at the
23 direction of the Director of Public Works.

24 ~~(i) In the event of disputes over Department of Public Works~~
25 ~~policy an Appeal Board shall be convened upon written request to the~~
26 ~~chairman of the Appeal Board. The Board shall consist of three (3)~~
27 ~~members. One (1) member from the Guam Contractors Association or~~

1 ~~a member from the community at large, the Director of Public Safety~~
2 ~~or his authorized representative and the Chairman of the Guam Transit~~
3 ~~Authority, who shall serve as chairman of this Appeal Board. The~~
4 ~~decision of the Appeal Board shall be binding on all parties.”~~

5 **Section 8.** A new § 5118 is hereby *added* to Chapter 5, Title 16,
6 Guam Code Annotated:

7 **§ 5118. TESS Facility Fund.**

8 Notwithstanding any law to the contrary, a revolving fund,
9 designated as the “TESS Facility Fund,” (the “Fund”) shall be
10 established separate and apart from other funds of the government of
11 Guam, and separate records shall be kept therefore. The Director of
12 Public Works shall administer the Fund and shall issue vouchers
13 properly certifying the use of the Fund’s monies. The DPW Director
14 is authorized to use revenues in the Fund and any interest derived
15 therefrom for the operation and maintenance of the TESS FACILITY
16 or to establish, operate and maintain similar compliance facilities or
17 programs. All monies in the Fund are hereby appropriated and are not
18 subject to *I Maga’láhi*’s transfer authority.”

19 **Section 9. Severability.** *If any provision of this Law or its*
20 *application to any person or circumstance is found to be invalid or contrary*
21 *to law, such invalidity shall not affect other provisions or applications of this*
22 *Law that can be given effect without the invalid provisions or application,*
23 *and to this end the provisions of this Law are severable.*

24 **Section 10. Effective Date.** This Act *shall* become effective sixty (60)
25 days after enactment.