

*I Mina'Trentai Kuáttro Na Liheslaturan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
203-34 (LS) As substituted by the Committee on Culture and Justice; and amended on the Floor.	Therese M. Terlaje	AN ACT TO AMEND AND MOVE CHAPTER 18, TITLE 16, GUAM CODE ANNOTATED TO CHAPTER 92, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO THE SAFE STREETS ACT OF 2018.	10/27/17 11:52 a.m.	11/7/17	Committee on Culture and Justice	11/21/17 2:00 p.m.	5/21/18 9:27 a.m.  As substituted by the Committee on Culture and Justice	Fiscal Note Request 11/03/17  Fiscal Note 11/21/17	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW	DATE SIGNED	NOTES	
	5/21/18	AN ACT TO REPEAL AND TRANSFER CERTAIN PROVISIONS OF CHAPTER 18, TITLE 16, GUAM CODE ANNOTATED; AND TO ADD A NEW CHAPTER 92 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ENACTING THE "SAFE STREETS ACT OF 2018"; AND TO ADD A NEW SUBSECTION (d) TO § 2101 OF CHAPTER 2, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A DRIVING WHILE IMPAIRED TREATMENT COURT.	5/23/18	5/24/2018 4:30 p.m.	6/5/18	34-107	6/5/18	Received: 6/6/18 Mess and Comm. Doc. No. 34GL-18-1961.	



**EDDIE BAZA CALVO**  
Governor

**RAY TENORIO**  
Lieutenant Governor

*Office of the Governor Of Guam.*

**JUN 05 2018**

Honorable Benjamin J.F. Cruz  
Speaker  
*I Mina'trentai Kuåttro Na Liheslaturan Guåhan*  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

*GLA 34-10-1961*  
Speaker Benjamin J.F. Cruz

**JUN 06 2018**

Time: 9:55 [ ] AM [ ] PM File No. \_\_\_\_\_  
Received By: [Signature]

Dear Mr. Speaker:

Transmitted herewith is Substitute Bill No. 203-34 (LS), "AN ACT TO REPEAL AND TRANSFER CERTAIN PROVISIONS OF CHAPTER 18, TITLE 16, GUAM CODE ANNOTATED; AND TO ADD A NEW CHAPTER 92 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ENACTING THE "SAFE STREETS ACT OF 2018"; AND TO ADD A NEW SUBSECTION (D) TO § 2101 OF CHAPTER 2, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A DRIVING WHILE IMPAIRED TREATMENT COURT," which was signed on June 5, 2018, as Public Law 34-107.

*Senseramente,*

**RAY TENORIO**  
*I Maga'låhen Guåhan, para pa'go*  
Acting Governor of Guam

2018 JUN -6 AM 10:01 MS

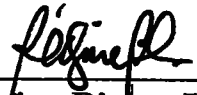
**I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN  
2018 (SECOND) Regular Session**

**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LÁHEN GUÁHAN**

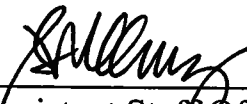
This is to certify that Substitute Bill No. 203-34 (LS), "AN ACT TO REPEAL AND TRANSFER CERTAIN PROVISIONS OF CHAPTER 18, TITLE 16, GUAM CODE ANNOTATED; AND TO ADD A NEW CHAPTER 92 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ENACTING THE "SAFE STREETS ACT OF 2018"; AND TO ADD A NEW SUBSECTION (D) TO § 2101 OF CHAPTER 2, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A DRIVING WHILE IMPAIRED TREATMENT COURT," was on the 23<sup>rd</sup> day of May 2018, duly and regularly passed.

  
Benjamin J.F. Cruz  
Speaker


Attested:

  
Régine Biscoe Lee  
Legislative Secretary

-----  
This Act was received by *I Maga'láhen Guáhan* this 24 day of May 2018,  
at 4:30 o'clock P.M.

  
Assistant Staff Officer  
*Maga'láhi's Office*

APPROVED:

  
RAYMOND S. TENORIO  
Acting Governor of Guam

Date: JUN 05 2018

Public Law No. 34-107

***I MINA'TRENTAI KU'ATTRO NALIHESLATURANGU'AHAN***  
**2017 (FIRST) Regular Session**

**Bill No. 203-34 (LS)**

As substituted by the Committee on Culture  
and Justice; and amended on the Floor.

Introduced by:

Therese M. Terlaje  
Thomas C. Ada  
FRANK B. AGUON, JR.  
William M. Castro  
B. J.F. Cruz  
James V. Espaldon  
Fernando Barcinas Esteves  
Régine Biscoe Lee  
Tommy Morrison  
Louise B. Muña  
Telena Cruz Nelson  
Dennis G. Rodriguez, Jr.  
Joe S. San Agustin  
Mary Camacho Torres

**AN ACT TO REPEAL AND TRANSFER CERTAIN PROVISIONS OF CHAPTER 18, TITLE 16, GUAM CODE ANNOTATED; AND TO ADD A NEW CHAPTER 92 OF TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO ENACTING THE "SAFE STREETS ACT OF 2018"; AND TO ADD A NEW SUBSECTION (d) TO § 2101 OF CHAPTER 2, TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A DRIVING WHILE IMPAIRED TREATMENT COURT.**

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

2 **Section 1. Legislative Intent.** It is the intent of *I Liheslaturan Guåhan* to  
3 amend the 1996 enactment of Guam's drunk and drugged driving statute, known as

1 the “Safe Streets Act,” to improve Guam’s enforcement of those laws, and to further  
2 improve the criminal justice response to arrests and prosecution in line with theories  
3 of therapeutic jurisprudence, rehabilitation of persons addicted to alcohol and drugs,  
4 and immediate accountability. *I Liheslaturan Guåhan* further supports the efforts of  
5 the Judiciary of Guam in the continued operation of therapeutic courts, such as Adult  
6 Drug Court, Juvenile Drug Court, Family Violence Court, Mental Health Court, and  
7 Veterans Court, and the establishment of a Driving While Impaired Treatment Court.

8 **Section 2.** A new Subsection (d) is *added* to § 2101 of Chapter 2, Title 7,  
9 Guam Code Annotated, to read as follows:

10 “(d) Establishment of a Driving While Impaired (DWI) Treatment  
11 Court. The Supreme Court of Guam may establish a Driving While Impaired  
12 Treatment Court (DWI Treatment Court). Participation in the Driving While  
13 Impaired Treatment Court *shall* be limited to those defendants who meet the  
14 legal and clinical requirements in accordance with orders as promulgated by  
15 the Supreme Court of Guam. Nothing herein requires the Judiciary to  
16 implement a DWI Treatment Court if it would result in a need for an increase  
17 in local funding for the program or impede the ability of judges to address  
18 current caseloads under current time restrictions or increase the need for  
19 additional judges at the court.”

20 **Section 3.** §§ 18101 through 18124, and 18125 of Article 1, Chapter 18,  
21 Title 16, Guam Code Annotated, are hereby *repealed*.

22 **Section 4.** § 18124.1 of Chapter 18, Title 16, Guam Code Annotated, is  
23 hereby *transferred* to “Rules of the Road” Article 3 of Chapter 3, Title 16, Guam  
24 Code Annotated, and numbered accordingly by the Compiler of Laws.

25 **Section 5.** A new Chapter 92 is hereby *added* to Title 9, Guam Code  
26 Annotated, to read as follows:

27 **“CHAPTER 92**

1 **SAFE STREETS ACT OF 2018**

2 Article 1. Offenses Involving Alcohol and Controlled Substances.

3 **ARTICLE 1**

4 **OFFENSES INVOLVING ALCOHOL AND CONTROLLED**  
5 **SUBSTANCES**

- 6 § 92101. Definitions.
- 7 § 92102. Driving While Impaired.
- 8 § 92103. Reckless Driving While Impaired.
- 9 § 92104. First Offender Conviction: Punishment.
- 10 § 92105. Second Offender Conviction: Punishment.
- 11 § 92106. Third Offender Conviction: Felony Punishment.
- 12 § 92107. Fourth Offender Conviction: Felony Punishment.
- 13 § 92108. Vehicular Negligence: Bodily Injuries.
- 14 § 92109. Driving While Impaired with Child On Board: Felony  
15 Punishment.
- 16 § 92110. Vehicular Homicide: Felony Punishment.
- 17 § 92111. Vehicular Homicide While Driving Impaired: Felony  
18 Punishment.
- 19 § 92112. Drinking While Driving a Motor Vehicle: Misdemeanor:  
20 Punishment.
- 21 § 92113. Drinking While Riding in a Motor Vehicle: Misdemeanor:  
22 Punishment.
- 23 § 92114. Opened Container of Alcohol: Misdemeanor: Punishment.
- 24 § 92115. Marijuana Use While Driving a Motor Vehicle: Petty  
25 Misdemeanor: Punishment.
- 26 § 92116. Exceptions for Alcohol Use in Tour Buses and Limousines.
- 27 § 92117. Occupational Driving Permit: First Offender Only.

- 1           § 92118.     Suspension or Revocation of Driver’s License: Process.
- 2           § 92119.     Driving While License Suspended or Revoked for Driving While
- 3                     Impaired.
- 4           § 92120.     Participation in the Driving While Impaired Treatment Court.
- 5           § 92121.     Dismissal for Completion of Driving While Impaired Treatment
- 6                     Court; Permitted.
- 7           § 92122.     No Conditional Discharge and Dismissal Permitted for Offenses
- 8                     Involving Serious Injuries.
- 9           § 92123.     Probation Allowed.
- 10          § 92124.     Safe Streets Fund.
- 11          § 92125.     Electronic Alcohol Monitoring Device, Rules and Regulations.
- 12          § 92126.     Presumptions Affecting the Burden of Proof: Defenses.
- 13          **§ 92101.     Definitions.**

14          As used in this Chapter:

15                 (a)   *Alcohol* means a volatile or, flammable liquid synthesized or

16                     obtained by fermentation of sugars and starches, and widely used, either pure

17                     or denatured, as a solvent and in drugs; an intoxicating beverage with the same

18                     characteristics.

19                 (b)   *Bodily injury* carries the same meaning for bodily injury as

20                     defined in 9 GCA, Chapter 16, § 16.10(b).

21                 (c)   *Breath alcohol ignition interlock device (BAIID)* means a device

22                     that attaches to a vehicle and prevents its starting unless a breath alcohol test

23                     is passed.

24                 (d)   *Bus* means a vehicle chartered for transportation of persons for

25                     hire. It shall not mean a school bus, open vehicles resembling trolleys, or a

26                     vehicle operated pursuant to a public or private franchise operating over a

27                     regularly scheduled route.

1 (e) *Controlled substance* is as defined in 9 GCA, Chapter 67 (Guam  
2 Uniform Controlled Substances Act).

3 (f) *Driving while impaired, or while driving impaired (DWI)* means  
4 any person driving, operating, or in physical control of a motor vehicle under  
5 the influence of alcohol or any controlled substance, or the ingestion or  
6 administration of any controlled substance, or any combination of these, when  
7 as a result, his physical or mental abilities are impaired to such a degree that  
8 he or she no longer has the ability to drive a motor vehicle with the  
9 characteristics of a sober person of ordinary prudence under the same or  
10 similar circumstances.

11 (g) *Electronic alcohol monitoring device* means a portable device  
12 capable of automatically and periodically testing and recording alcohol  
13 consumption levels and automatically and periodically transmitting such  
14 information and tamper attempts regarding such device, regardless of the  
15 location of the person being monitored.

16 (h) *Oral fluid (saliva) test* means a method used to collect a saliva  
17 sample from a test subject and analyze it for the presence of hormones, drugs,  
18 antibodies or other molecules.

19 (i) *Limousine* means a chauffeur-driven motor vehicle, other than a  
20 bus or taxicab, designed and used for transportation of persons for  
21 compensation.

22 (j) *Negligence* as used in this Chapter has the same meaning for  
23 criminal negligence as defined under 9 GCA § 4.30(d).

24 (k) *Officer* means an officer of the Guam Police Department, or a  
25 law enforcement officer of the A.B. Won Pat International Airport Authority  
26 or the Jose D. Leon Guerrero Commercial Port Authority, but only while such  
27 law enforcement officer is carrying out his duties within the confines of the



1 property under the control and jurisdiction of the Authority by which the law  
2 enforcement officer is employed.

3 (l) *Percent of alcohol by weight* shall be based upon grams of  
4 alcohol per 100 milliliters of blood, or grams of alcohol per 210 liters of  
5 breath.

6 (m) *Physical control of a vehicle* means being physically present in  
7 the driver's seat of a motor vehicle while the engine is turned on, whether  
8 moving or stationary on a public highway, a shoulder adjacent to a public  
9 highway, or parked in any public area.

10 (n) *Prior conviction for driving while impaired* means a conviction  
11 of an offense in violation of any Section of this Chapter, or an offense based  
12 on a violation of Chapter 18 of Title 16 in effect prior to the enactment of this  
13 Chapter, or under driving while impaired laws of any other jurisdiction in the  
14 world if the offense upon which the conviction is based would, if committed  
15 on Guam, be a violation of this Chapter.

16 (o) *Public highway* means any primary or secondary roadway, street,  
17 or alley used by the general public, including a public easement.

18 (p) *Serious bodily injury* carries the same meaning for serious bodily  
19 injury as defined in 9 GCA § 16.10(c).

20 (q) *Suspended driver's license* means an operator's license,  
21 chauffeur's license, or driving privilege that has been suspended by the court,  
22 or by administrative action, or seized by an officer pursuant to law.

23 **§ 92102. Driving While Impaired.**

24 It is unlawful for a person to drive, operate, or be in physical control of any  
25 motor vehicle within Guam:

26 (a) While driving impaired, as defined in § 92101(f);

1 (b) having an alcohol concentrate of 0.08 percent, or more, by  
2 weight, of alcohol in his blood as shown by a chemical analysis of such  
3 person's breath or blood administered as authorized by this Chapter;

4 (c) having an alcohol concentrate of 0.04 percent, or more, by  
5 weight, of alcohol in the blood of a person under the age of twenty-one (21),  
6 as shown by a chemical analysis of such person's breath or blood administered  
7 as authorized by this Chapter;

8 (d) having inhaled, ingested, applied or otherwise used any  
9 chemical, poison or organic solvent, or any compound, or combination of any  
10 of these, when as a result, his physical or mental abilities are impaired to such  
11 a degree that he no longer has the ability to drive a motor vehicle with the  
12 characteristics of a sober person of ordinary prudence under the same or  
13 similar circumstances; or

14 (e) Having any combination of Subsections (a) through (d) of this  
15 Section.

16 **§ 92103. Reckless Driving While Impaired.**

17 (a) Any person who, in reckless disregard for the safety of persons  
18 or property, operates a motor vehicle while driving impaired shall be guilty of  
19 a petty misdemeanor.

20 (b) If the People agree to a plea of guilty or nolo contendere to a  
21 charge of a violation of this Section in satisfaction of, or as a substitute for, an  
22 original charge of a violation of § 92102, the People shall state for the record  
23 a factual basis for the satisfaction or substitution, including whether or not the  
24 defendant was driving while impaired in connection with the offense.

25 (c) The court shall notify the Department of Revenue and Taxation  
26 of each conviction of this Section.

1 (d) A defendant placed on probation for a conviction under this Section  
2 shall enroll in an alcohol or drug education program at the expense of the  
3 participant, and complete the same as a condition of probation.

4 **§ 92104. First Offender Conviction: Punishment.**

5 A person convicted of a first violation of driving while impaired is guilty of a  
6 misdemeanor and shall be sentenced as follows:

7 (a) A term of incarceration of not less than a mandatory forty-eight  
8 (48) hours, nor more than one (1) year.

9 (b) A mandatory minimum fine of not less than One Thousand  
10 Dollars (\$1,000), and not more than Five Thousand Dollars (\$5,000).

11 (c) The court shall order the person to be placed on probation for not  
12 more than one (1) year.

13 (d) Suspension of a person's driving privilege for six (6) months,  
14 which may include an occupational driving permit. The court may modify this  
15 suspension prior to the end of the six (6) months' suspension; provided, that  
16 the person can show proof that he or she has successfully completed a drug or  
17 alcohol treatment program acceptable to the court.

18 (e) The court shall notify the Department of Revenue and Taxation  
19 of each conviction of this Section.

20 **§ 92105. Second Offender Conviction: Punishment.**

21 A person convicted of a second violation of driving while impaired, and the  
22 offense occurred within five (5) years of a prior conviction, is guilty of a  
23 misdemeanor, and shall be sentenced as follows:

24 (a) A term of incarceration of not less than a mandatory seven (7)  
25 days, nor more than one (1) year.

26 (b) A mandatory minimum fine of not less than Two Thousand  
27 Dollars (\$2,000), and not more than Five Thousand Dollars (\$5,000).

1 (c) The court shall order the person to be placed on probation for not  
2 more than three (3) years.

3 (d) Suspension of a person's driving permit for one (1) year, with no  
4 occupational driving privileges, which time period may be reduced at the  
5 discretion of the Court, provided on motion by the defendant that he has: (1)  
6 completed court-approved treatment; (2) paid all fines and fees; (3) has not  
7 been charged with a subsequent criminal offense; and (4) the probation officer  
8 recommends reduction based on satisfactory performance. The court may  
9 further reduce the period of suspension by no more than fifty percent (50%),  
10 provided the defendant agrees to have installed either a breath alcohol ignition  
11 interlock device (BAIID) as ordered by the court, or an electronic alcohol  
12 monitoring device approved by the court.

13 (e) The court shall notify the Department of Revenue and Taxation  
14 of each conviction of this Section.

15 **§ 92106. Third Offender Conviction: Felony Punishment.**

16 A person convicted of a third violation of driving while impaired, and  
17 the offense occurred within five (5) years of two (2) separate prior convictions  
18 for such an offense, is guilty of a felony of the third degree and,  
19 notwithstanding any other provision of law, shall be sentenced as follows:

20 (a) A term of incarceration of not less than a mandatory of ninety  
21 (90) days, nor more than five (5) years; provided, however, that if the  
22 defendant agrees to voluntarily participate in, and successfully complete all  
23 the terms and conditions of the DWI Treatment Court Program, the court may  
24 reduce the mandatory incarceration time from ninety (90) days to no less than  
25 thirty (30) days, otherwise the defendant shall serve the full ninety (90) days.

26 (b) A mandatory fine of not less than Four Thousand Dollars  
27 (\$4,000), and not more than Seven Thousand Dollars (\$7,000).

1 (c) Revocation of a person's driving privilege for not less than two  
2 (2) years, which time period may be reduced at the discretion of the court  
3 provided on motion by the defendant that he has (1) completed court-approved  
4 treatment; (2) paid all fines and fees; (3) has not been charged with a  
5 subsequent criminal offense; and (4) the probation officer recommends  
6 reduction based on satisfactory performance. The court may further reduce  
7 the period of suspension by no more than fifty percent (50%), provided the  
8 defendant agrees to have installed either a breath alcohol ignition interlock  
9 device (BAIID) as ordered by the court, or an electronic alcohol monitoring  
10 device approved by the court.

11 (d) The court shall order the person to be placed on probation for not  
12 less than three (3) years, and not more than five (5) years.

13 (e) The court shall notify the Department of Revenue and Taxation  
14 of each conviction of this Section.

15 **§ 92107. Fourth Offender Conviction: Felony Punishment.**

16 A person convicted of a fourth violation of driving while impaired, and the  
17 offense occurred within seven (7) years of three (3) separate prior convictions for  
18 driving while under the influence, is guilty of a felony of the third degree, and  
19 notwithstanding any other provision of law, shall be sentenced as follows:

20 (a) A term of incarceration of not less than a minimum mandatory  
21 one (1) year, nor more than six (6) years. A mandatory minimum fine of not  
22 less than Four Thousand Dollars (\$4,000), and not more than Seven Thousand  
23 Dollars (\$7,000).

24 (b) Revocation of a person's driving privilege for not less than three  
25 (3) years, which time period may be reduced at the discretion of the court,  
26 provided on motion by the defendant that he has (1) completed court-approved  
27 treatment; (2) paid all fines and fees; (3) has not been charged with a

1 subsequent criminal offense; and (4) the probation officer recommends  
2 reduction based on satisfactory performance. The court may further reduce  
3 the period of suspension by no more than fifty percent (50%), provided the  
4 defendant agrees to have installed either a breath alcohol ignition interlock  
5 device (BAIID) as ordered by the court, or an electronic alcohol monitoring  
6 device approved by the court.

7 (c) The court shall order the person to be placed on probation for not  
8 less than four (4) years, and not more than six (6) years.

9 (d) The court shall notify the Department of Revenue and Taxation  
10 of each conviction of this Section.

11 **§ 92108. Vehicular Negligence: Bodily Injuries.**

12 (a) It is unlawful for any person to operate or be in physical control  
13 of a motor vehicle while driving impaired and, when doing so, do any act  
14 forbidden by law or neglect any duty imposed by law in the driving of the  
15 vehicle, or who negligently drives a vehicle, which act or neglect or  
16 negligence proximately causes bodily injury to any person other than the  
17 driver.

18 (b) It is unlawful for any person to operate or be in physical control  
19 of a motor vehicle while having 0.08 percent or more, by weight, of alcohol  
20 in his or her blood and, when doing so, do any act forbidden by law or neglect  
21 any duty imposed by law in the driving of the vehicle, or who negligently  
22 drives a vehicle, which act or neglect or negligence proximately causes bodily  
23 injury to any person other than the driver.

24 (c) It is unlawful for any person under the age of twenty-one (21) to  
25 operate or be in physical control of a motor vehicle if such person is found to  
26 have 0.04 percent or more, by weight, of alcohol in his or her breath or blood,  
27 and, when doing so, do any act forbidden by law or neglect any duty imposed

1 by law in the driving of the vehicle, or who negligently drives a vehicle, which  
2 act or neglect or negligence proximately causes bodily injury to any person  
3 other than the driver.

4 (d) Any violation of Subsection (a), (b) or (c) shall be punished as a  
5 felony of the third degree, and notwithstanding any other provision of law,  
6 shall be sentenced as follows:

7 (1) A term of incarceration of up to three (3) years for a first  
8 conviction under this Section, and up to five (5) years in the event of a  
9 prior conviction of driving while impaired.

10 (2) A mandatory fine of not less than Three Thousand Dollars  
11 (\$3,000), and not more than Five Thousand Dollars (\$5,000).

12 (3) The court shall order the person to be placed on probation  
13 for not more than five (5) years.

14 (4) Suspension of a person's driving privilege for not more  
15 than five (5) years, which time period may be reduced in the discretion  
16 of the Court, provided on motion by the defendant that he has (A)  
17 completed court-approved treatment; (B) paid all fines and fees; (C) has  
18 not been charged with a subsequent criminal offense; and (D) the  
19 probation officer recommends reduction based on satisfactory  
20 performance. The court may further reduce the period of suspension by  
21 no more than fifty percent (50%), provided the defendant agrees to have  
22 installed either a breath alcohol ignition interlock device (BAIID) as  
23 ordered by the court, or an electronic alcohol monitoring device  
24 approved by the court.

25 (5) The court shall notify the Department of Revenue and  
26 Taxation of each conviction of this Section.

1 (e) In proving the person neglected any duty imposed by law in  
2 driving the vehicle, it is not necessary to prove that any specific section of this  
3 Chapter was violated.

4 **§ 92109. Driving While Impaired With Child On Board: Felony**  
5 **Punishment.**

6 A person convicted of driving while impaired is guilty of a felony of the third  
7 degree if at the time of arrest, he or she was operating a motor vehicle in which a  
8 child under the age of sixteen (16) was a passenger, or if a child under the age of  
9 sixteen (16) was injured as a result of an accident in which the motor vehicle  
10 operated by the impaired person was involved, and notwithstanding any other  
11 provision of law, shall be sentenced as follows:

12 (a) A term of incarceration of not more than five (5) years.

13 (b) A mandatory fine of not less than Three Thousand Dollars  
14 (\$3,000), and not more than Five Thousand Dollars (\$5,000.00).

15 (c) Suspension of a person's driving privilege for not less than one  
16 (1) year without occupational driving privileges, which time period may be  
17 reduced at the discretion of the court, provided on motion by the defendant  
18 that he has: (1) completed court-approved treatment; (2) paid all fines and  
19 fees; (3) has not been charged with a subsequent criminal offense; and (4) the  
20 probation officer recommends reduction based on satisfactory performance.  
21 The court may further reduce the period of suspension by no more than fifty  
22 percent (50%), provided the defendant agrees to have installed either a breath  
23 alcohol ignition interlock device (BAIID) as ordered by the court, or an  
24 electronic alcohol monitoring device approved by the court.

25 (d) The court shall notify the Department of Revenue and Taxation  
26 of each conviction of this Section.

27 **§ 92110. Vehicular Homicide: Felony Punishment.**



1 A person is guilty of vehicular homicide if he or she does any act forbidden  
2 by law in operating or driving a vehicle, or if he or she negligently operates or drives  
3 a vehicle, which act or negligence proximately causes death to any person other than  
4 himself or herself. Vehicular homicide while driving a vehicle is a felony of the  
5 second degree, and notwithstanding any other provision of law, shall be sentenced  
6 as follows:

7 (a) A term of incarceration not to exceed eight (8) years.

8 (b) A fine not to exceed Ten Thousand Dollars (\$10,000).

9 (c) Revocation of a person's driving privilege for five (5) years  
10 without occupational driving privileges.

11 (d) The court shall notify the Department of Revenue and Taxation  
12 of each conviction of this Section.

13 **§ 92111. Vehicular Homicide While Driving Impaired: Felony**  
14 **Punishment.**

15 A person is guilty of vehicular homicide while driving impaired if he or she  
16 does any act forbidden by law in driving while impaired, or if he or she negligently  
17 operates or drives a vehicle while impaired, which act or negligence proximately  
18 causes death to any person other than himself or herself. Vehicular homicide while  
19 driving impaired is a felony of the second degree, and notwithstanding any other  
20 provision of law, shall be sentenced as follows:

21 (a) A term of incarceration of not less than a mandatory eight (8)  
22 years, and not more than fifteen (15) years.

23 (b) A fine of not more than Ten Thousand Dollars (\$10,000.).

24 (c) Revocation of driving privileges for eight (8) years without  
25 occupational driving privileges.

26 (d) The court shall notify the Department of Revenue and Taxation  
27 of each conviction of this Section.

1           **§ 92112.    Drinking While Driving a Motor Vehicle: Misdemeanor:**  
2 **Punishment.**

3           It is unlawful for any person to drink any alcoholic beverage or consume a  
4 controlled substance while driving a motor vehicle within Guam. Any person  
5 convicted of violating this Section shall be guilty of a misdemeanor.

6           **§ 92113.    Drinking While Riding in a Motor Vehicle: Misdemeanor:**  
7 **Punishment.**

8           It is unlawful for any person to drinks any alcoholic beverage or consumes a  
9 controlled substance while riding in a motor vehicle within Guam. Any person  
10 convicted of violating this Section shall be guilty of a misdemeanor.

11           **§ 92114.    Opened Container of Alcohol: Misdemeanor: Punishment.**

12           (a)    It is unlawful for any person to transport or possess alcohol in a  
13 container in which the original cap or seal of the container has been opened,  
14 broken, or the contents of which have been partially removed when the vehicle  
15 is upon a public highway. Any person convicted of violating this Section shall  
16 be guilty of a misdemeanor.

17           (b)    It is unlawful for the registered owner of a vehicle, when the  
18 registered owner is not then present in the vehicle, to knowingly permit  
19 another person to store in the registered owner's motor vehicle alcohol in a  
20 container in which the original cap or seal of the container has been opened,  
21 broken, or the contents of which have been partially removed when the vehicle  
22 is upon a public highway. Any person convicted of violating this Section shall  
23 be guilty of a misdemeanor.

24           (c)    Subsection (a) does not prohibit the transport, possession or  
25 storage of alcoholic in which the original cap or seal of the container has been  
26 opened, broken, or the contents of which have been partially removed if the  
27 container is secured in a rear compartment or trunk of the vehicle not normally

1 occupied by the driver or a passenger, or a rear compartment which is not  
2 immediately accessible to the driver or any other passenger, while the vehicle  
3 is upon a public highway. A front passenger glove or utility compartment is  
4 not acceptable for purposes of this exemption.

5 (d) This Section does not apply to living quarters of a motor home  
6 or camper, a bus, or a limousine; provided, that the driver is enclosed within  
7 a compartment not accessible to passengers, clients, or customers where  
8 alcohol is present while the vehicle is upon a public highway.

9 **§ 92115. Marijuana Use While Driving a Motor Vehicle: Petty**  
10 **Misdemeanor: Punishment.**

11 It is unlawful for any person, whether a driver or passenger, to consume  
12 marijuana in any manner including, but not limited to, smoking or ingesting in a  
13 motor vehicle when the vehicle is upon a public highway. Any person convicted of  
14 violating this Section shall be guilty of a petty misdemeanor.

15 **§ 92116. Exceptions for Alcohol Use in Tour Buses and Limousines.**

16 Alcoholic beverages may be sold, offered for sale, and consumed only by  
17 passengers, not to include the driver, within the premises of a tour bus or limousine  
18 only by a business authorized and issued a license, as prescribed by the Alcoholic  
19 Beverage Control Board permitting the sale of alcoholic beverages within the  
20 premises of a tour bus or limousine, and only during authorized hours as permitted  
21 by the license, and which license is prominently display within the tour bus or  
22 limousine. This exemption does not apply in the event any passenger is under the  
23 age of twenty-one (21), unless accompanied by a parent or legal guardian. It is the  
24 duty of the operator of the tour bus or limousine to verify the ages of every passenger  
25 whom alcoholic beverages are intended to be sold or consumed. Any person or  
26 company found in violation this Subsection shall be guilty of a misdemeanor.

27 **§ 92117. Occupational Driving Permit: First Offender Only.**

1           An Occupational Driving Permit may be issued to a person convicted of a first  
2 offender violation under § 92104 by the court authorizing the person to drive for  
3 employment purposes, and as permitted by the court for therapeutic rehabilitation.  
4 The person whose privilege to drive is suspended shall immediately surrender to the  
5 court his or her driver's license, and if valid, may be granted an Occupational  
6 Driving Permit for six (6) months. The court may establish by rule and procedure  
7 the manner of issuance of an Occupational Driving Permit, and must notify the  
8 Department of Revenue and Taxation promptly regarding the person's restriction on  
9 his or her driving privileges. The court is authorized to charge a reasonable fee for  
10 issuance of the Occupational Driving Permit which must be fully paid before the  
11 permit can be issued. The cost of the permit shall be borne by the person whose  
12 privilege to operate a motor vehicle has been restricted by the court. In the event a  
13 person does not possess a valid driver's license at the time of conviction, the person's  
14 privilege to apply for a driver's license shall be prohibited for the full period of the  
15 suspension.

16           **§ 92118.    Suspension or Revocation of Driver's License: Process.**

17           (a)    The driver's license of a person whose privilege to operate a  
18 motor vehicle has been suspended or revoked under this Chapter shall be  
19 mutilated with a hole punched on the lower right-hand corner of the license  
20 so as to identify it is a restricted license.

21           (b)    A license that has been revoked shall be permanently seized from  
22 a defendant by the court and promptly transmitted to the Department of  
23 Revenue and Taxation with a copy of the abstract of judgment. The court is  
24 authorized to maintain custody of a driver's license which is suspended  
25 without occupational driving privileges until reinstatement.

26           (c)    The Department of Revenue and Taxation shall immediately  
27 suspend or revoke the privilege of any person to operate a motor vehicle for

1 the time period required by the judgment, and in accordance with this Chapter,  
2 upon receipt of an abstract of judgment from the Clerk of Court showing that  
3 the person has been convicted of a violation of this Chapter. The Department  
4 shall reinstate a person's driving privileges upon receipt of an order of the  
5 court granting such reinstatement in accordance with this Chapter, or upon  
6 expiration of the time restriction.

7 (d) The court may establish by rule and procedure the process for  
8 suspension or revocation of a person's privilege to drive, not inconsistent with  
9 the provisions herein.

10 **§ 92119. Driving While License Suspended or Revoked for Driving**  
11 **While Impaired.**

12 (a) It is unlawful for a person to drive a motor vehicle on Guam  
13 knowing, or having reason to know, that his or her driver's license is  
14 suspended or revoked under this Chapter. Any person convicted of violating  
15 this Section shall be guilty of a misdemeanor.

16 (b) In any prosecution under this Section, competent evidence that  
17 the defendant's driver's license was surrendered to an officer, or was  
18 suspended or revoked under this Chapter by an order of the court, shall be  
19 prima facie evidence of the defendant's knowledge of the suspension or  
20 revocation.

21 **§ 92120. Participation in the Driving While Impaired Treatment**  
22 **Court.**

23 The court may remove or reduce any restriction on a person's privilege to  
24 drive and/or reduce any fine imposed resulting from a conviction of any offense in  
25 this Chapter upon that person's participation in the Driving While Impaired (DWI)  
26 Treatment Court, and the completion of any terms and conditions imposed

1 therefrom; provided, that the person has also demonstrated full compliance with  
2 probationary conditions.

3       **§ 92121. Dismissal for Completion of Driving While Impaired**  
4 **Treatment Court; Permitted.**

5       Upon satisfactory completion of all the conditions of probation and treatment  
6 in DWI Treatment Court, the judge shall order the case dismissed and expunged.

7       **§ 92122. No Conditional Discharge and Dismissal Permitted for**  
8 **Offenses Involving Serious Injuries.**

9       The provisions of §§ 92120 and 92121 shall not apply in the case of a violation  
10 defined as a third degree felony in this Chapter, and that involves bodily injury to  
11 any person other than the driver.

12       **§ 92123. Probation Allowed.**

13       Any person convicted under this Chapter may be granted probation at the  
14 discretion of the court, which may include, but is not limited to, prohibition from  
15 consuming alcohol or controlled substance(s), payment of restitution, mandatory  
16 alcohol and drug testing, obey all laws, perform community service, agree to use an  
17 alcohol electronic device or BAIID, random searches of home, vehicle and person,  
18 regularly reporting to the probation office, and any other condition the court deems  
19 reasonable.

20       **§ 92124. Safe Streets Fund.**

21       (a) There is created within the Superior Court of Guam the Safe  
22 Street Fund (Fund), which shall be maintained separate and apart from the  
23 other funds of the Superior Court of Guam. The Fund shall be held in an  
24 interest bearing account, and all interest earned shall remain in the Fund.

25       (b) All fines collected for any of the acts made unlawful in this  
26 Chapter shall be deposited in the Safe Streets Fund.

1 (c) So much of the Fund as is required is appropriated to the  
2 Department of Corrections to be used to compensate staff and provide  
3 supplies or facilities to house incarcerated persons convicted of misdemeanors  
4 and persons convicted of acts made unlawful in this Chapter.

5 (d) The Director of Corrections may expend no more than Eight  
6 Thousand Dollars (\$8,000) per month from the Fund for the purpose outlined  
7 in Subsection (c) of this Section, which the Administrative Director of the  
8 Courts shall pay over to the Director of Corrections on a regular basis. Any  
9 funds in excess of the monthly payment to the Director of Corrections and all  
10 funds accumulated shall be disbursed in accordance with § 9211(c) of Article  
11 2, Chapter 9, Title 7, Guam Code Annotated.

12 (e) The Administrator of the Courts and the Director of Corrections  
13 shall submit an annual report to *I Maga'låhen Guåhan* and the Speaker of *I*  
14 *Liheslaturan Guåhan* regarding the status of the Fund no later than ninety (90)  
15 days after the close of the preceding fiscal year. Such report shall be included  
16 in the financial statements of the Judiciary of Guam, including its year-end  
17 financial statements.

18 **§ 92125. Electronic Alcohol Monitoring Device, Rules and**  
19 **Regulations.**

20 The Judicial Council may promulgate rules, regulations, and proposed fees  
21 relative to the use of electronic alcohol monitoring devices by defendants convicted  
22 under this Chapter.

23 **§ 92126. Presumptions Affecting the Burden of Proof: Defenses.**

24 (a) The amount of alcohol in a person's blood as shown by an  
25 analysis of that person's blood or breath shall give rise to the following  
26 presumptions affecting the burden of proof:

1 (1) If there was at that time less than 0.08 percent by weight  
2 of alcohol in the person's blood, that fact shall not give rise to any  
3 presumption that the person was or was not under the influence of an  
4 alcoholic beverage, but the fact may be considered with other  
5 competent evidence in determining whether the person was driving  
6 while under the influence of alcohol at the time of the alleged offense.

7 (2) If there was at that time 0.08 percent or more by weight of  
8 alcohol in the person's blood, or 0.04 percent or more by weight of  
9 alcohol in a person's blood who is under the age of twenty-one (21), it  
10 shall be presumed that the person was under the influence of an  
11 alcoholic beverage at the time of the alleged offense.

12 (b) Before such presumptions are made in cases involving a breath  
13 test, the People must show the following by a preponderance of the evidence:

14 (1) that the instrument used for the breath test was properly  
15 checked and in proper working order at the time of conducting of the  
16 breath test;

17 (2) that the person had nothing in his mouth at the time of the  
18 breath test, and that he had taken no food or drink within fifteen (15)  
19 minutes prior to taking the breath test; and

20 (3) that the breath test was given by a qualified operator and  
21 in the proper manner;

22 (4) The provisions of this Subsection shall not be construed as  
23 limiting the introduction of any other competent evidence bearing upon  
24 the question whether the person ingested alcohol, or was driving while  
25 impaired at the time of the alleged offense.

26 (c) It is a rebuttable presumption that a person was under the  
27 influence of alcohol if the person had 0.08 percent or more, by weight, of



1 alcohol in his or her blood at the time of the performance of a blood or breath  
2 test within three (3) hours after driving.

3 (d) It is a rebuttable presumption that a person under the age of  
4 twenty-one (21) was under the influence of alcohol if the person had 0.04  
5 percent or more, by weight, of alcohol in his or her blood at the time of the  
6 performance of a blood or breath test within three (3) hours after driving.

7 (e) As allowed under Title 9 GCA, Chapter 4, § 4.45, in proving that  
8 the person did any act forbidden by law, it shall not be necessary to prove that  
9 the person possessed a culpable mental state.

10 (f) The fact that any person, charged in violation of this Chapter, is  
11 or has been entitled to use a controlled substance shall not constitute a  
12 defense.”

13 **Section 6.** Article 2 (Implied Consent Law) of Chapter 18, Title 16, Guam  
14 Code Annotated, is hereby *transferred* to Chapter 92 of Title 9, Guam Code  
15 Annotated, and renumbered accordingly by the Compiler of Laws.

16 **Section 7.** Article 3 of Chapter 18, Title 16, Guam Code Annotated, is  
17 hereby *repealed*.

18 **Section 8.** Article 4 (Ignition Interlock Devices) of Chapter 18, Title 16,  
19 Guam Code Annotated, is hereby *transferred* to Chapter 92 of Title 9, Guam Code  
20 Annotated, and renumbered accordingly by the Compiler of Laws.

21 **Section 9. Effective Date.** This Act *shall* become effective upon enactment.