



FILE COPY

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN

THIRTY-THIRD GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

November 19, 2015

The Honorable Edward J.B. Calvo
I Maga'låhen Guåhan
Ufisinan I Maga'låhi
Hagåtña, Guam

Dear *Maga'låhi* Calvo:

Transmitted herewith are Bill Nos. 75-33 (COR), 124-33 (COR), 147-33 (COR), 163-33 (LS), and 188-33 (COR); and Substitute Bill Nos. 133-33 (COR), 196-33 (LS) and 203-33 (COR), which were passed by *I Mina'Trentai Tres Na Liheslaturan Guåhan* on November 19, 2015.

Sincerely,



TINA ROSE MUNA BARNES
Legislative Secretary

Enclosure (8)

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

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that Bill No. 147-33 (COR), "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," was on the 19th day of November 2015, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 19th day of November, 2015, at 550 o'clock P.M.


Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: _____

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

Bill No. 147-33 (COR)

As amended by the Sponsor.

Introduced by:

T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
Frank F. Blas, Jr.
B. J.F. Cruz
James V. Espaldon
Brant T. McCreddie
Tommy Morrison
T. R. Muña Barnes
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F.Q. San Nicolas
Mary Camacho Torres
N. B. Underwood, Ph.D.
Judith T. Won Pat, Ed.D.

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.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that Guam’s public highways, road, and streets must be protected from undue wear
4 and tear caused by commercial vehicles that exceed weight limits that the
5 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 used to
8 transport material throughout the island are mechanically sound, the operators are
9 properly licensed, and their loads are properly secured. Safe travel can be further
10 assured by establishing inspection programs that would serve to verify the weight
11 of vehicles and their loads, the mechanical soundness of the vehicles, and the
12 proper securement of loads thereon.

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

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

19 **“§ 5101. Definitions.**

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

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

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

27 *Axle Load:* The total weight transmitted to the road by a single axle.

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

4 *Continuous Trip Permit:* A special permit issued for oversize or
5 overweight loads, valid for multiple days, multiple routes and/or between
6 multiple points of destination, for the duration of a specific project, but not
7 to exceed ninety (90) days, unless deemed warranted otherwise by the DPW
8 Director.

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

11 *Gross Combination Weight Rating (GCWR):* The value specified by
12 the manufacturer as the loaded weight of a combination (articulated) motor
13 vehicle. In the absence of a value specified by the manufacturer, GCWR will
14 be determined by adding the GVWR of the power unit and the total weight
15 of the towed unit and any load thereon.

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

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

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

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

25 *Highway:* The entire width between the boundary lines of every
26 publicly maintained surface, when any part thereof is open to the use of the

1 public for purposes of vehicular travel; synonymous and interchangeable in
2 usage with "street".

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

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

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

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

13 *Portable Scales:* A movable weighing device.

14 *Primary Road:* A primary road is a road with two (2) or more lanes
15 each way, or any road with at least two (2) contiguous miles with a speed
16 limit of thirty-five (35) miles per hour or greater.

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

20 *Secondary Road:* A secondary road is any road, paved or unpaved,
21 that does not meet the definition of "primary road" as herein stated.

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

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

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

3 *Single Trip Permit:* A special permit issued for oversize or
4 overweight loads, valid for a single trip on a specified route between
5 predetermined points of origin and destination, and which *shall* expire
6 within twenty-four (24) hours.

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

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

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

18 *Tandem Axle Weight:* The total weight transmitted to the road by a
19 tandem axle.

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

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

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

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

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

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

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

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

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

16 “**§ 5104. Height of Vehicles and Loads.**

17 No vehicle, including any load and load holding devices thereon, shall
18 exceed a total height of fifteen (15) feet for public roads, streets or
19 highways.”

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

22 “**§ 5107. Gross Weight, Axle, and Wheel Loads.**

23 No motor vehicle or combination of vehicles equipped wholly with
24 pneumatic tires, which has a gross weight, an axle load, or a wheel load in
25 excess of the limits set forth in this Section shall be operated or moved upon
26 any public road, street, or highway; and no vehicle or combination of
27 vehicles shall be operated on or moved over any bridge or other highway

1 structure if the gross weight, including vehicle and load, exceeds the posted
2 maximum gross weight limitation for the bridge or other highway structure.

3 (a) The total gross weight, in pounds, imposed on any public
4 road, street, or highway by any axle group on a vehicle or
5 combination of vehicles *shall not* exceed the following when the
6 distance between the first and last axles of the group under
7 consideration is:

8 (1) forty (40) inches or less; the axle load *shall not*
9 exceed twenty thousand (20,000) pounds;

10 (2) more than forty (40) inches, but not more than
11 eight (8) feet; the tandem axle weight imposed *shall not* exceed
12 thirty-four thousand (34,000) pounds.

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

17 $W = 500 (LN/(N-1) + 12N + 36)$ when the distance between
18 the first and last axles of the axle group under
19 consideration is over eight (8) feet and where

20 $W =$ maximum gross weight in pounds carried on any axle
21 group,

22 $L =$ distance in feet between the outer axles of any axle
23 group, to the nearest foot, and

24 $N =$ number of axles in group under consideration; provided
25 that two (2) consecutive sets of tandem axles may carry a
26 gross load of thirty-four thousand (34,000) pounds each
27 providing the overall distance between the first and last

1 axles of such consecutive sets of tandem axles is thirty-
2 six (36) feet or more; and provided also that the overall
3 gross weight *does not* exceed eighty thousand (80,000)
4 pounds.

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

7 (1) a load upon any single or tandem axle or
8 combination of axles which exceeds the carrying capacity of the
9 axles specified by the manufacturer; or

10 (2) with a total weight in excess of its designed
11 capacity as indicated by its designed gross vehicle weights or
12 gross combination weights.

13 (d) The single axle weight *shall not* exceed twenty thousand
14 (20,000) pounds.

15 (e) The maximum wheel load imposed upon any public road,
16 street, or highway *shall not* exceed ten thousand (10,000) pounds.

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

24 (g) The DPW Director may issue an Overweight Vehicle
25 Load Permit for a vehicle that meets the axle group load requirements
26 of the formula in Subsection (b) of this Section, but with a gross
27 vehicle weight in excess of eighty thousand (80,000) pounds. Such

1 special permit *shall* be issued in accordance with § 5114 of this
2 Chapter.”

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

5 **“§ 5109. Authority to Stop, Inspect and Weigh Vehicles;**
6 **Removal of Excess Loads.**

7 (a) For purposes of the enforcement of this Chapter, the Director of
8 Revenue and Taxation (DRT Director) and the DPW Director *shall* have
9 such powers of enforcement as may be necessary to implement their
10 respective responsibilities under this Chapter.

11 (1) The DRT Director, whose Department is primarily
12 responsible for implementing and enforcing this Chapter as such
13 relates to the registration and safety of vehicles, may delegate
14 enforcement to the Administrator of the Division of Motor
15 Vehicles/Motor Carrier Safety Assistance Program (DMV/MCSAP).

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

22 (b) For the purpose of the safety, welfare and health of the general
23 public, and the safe transportation of hazardous materials, waste and other
24 materials on any public road, street or highway, and the enforcement of this
25 Chapter and of all rules adopted pursuant to this Chapter, the responsibilities
26 of each agency *shall* be as follows:

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

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

3 (B) stop and inspect freight and equipment of all motor
4 carriers operating on any public road, street or highway, except
5 that any motor carrier with military cargo shall be permitted to
6 proceed, unless safety to the general public dictates otherwise,
7 to the vehicle's destination for appropriate review therein and
8 such action shall not be a violation of this Chapter;

9 (C) inspect shipping papers and hazardous waste
10 manifests of all motor carriers and persons subject to this
11 Chapter operating on any public road, street or highway;

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

16 (E) whenever a police officer or DMV/MCSAP
17 inspector, upon inspection of a vehicle and/or load, determines
18 the existence of a violation, a citation may be issued. The
19 vehicle may be allowed to proceed directly to its own shop or
20 facility for correction. When a vehicle is found to be unsafe to
21 the driver or the public, the police officer or DMV/MCSAP
22 inspector has the authority to direct the discontinuance of the
23 vehicle passage and require corrective action on the spot as
24 appropriate, and such vehicle *shall not* be allowed back into
25 normal operations until corrections are made;

26 (F) every police officer, or DMV/MCSAP inspector
27 *shall* assist in the enforcement of this Chapter and of all rules

1 adopted pursuant to this Chapter and may issue citations for
2 violations as appropriate; and

3 (G) fines collected from citations issued by
4 DMV/MCSAP inspectors for violations of this Subsection *shall*
5 be deposited in the Better Public Service Fund and expended in
6 accordance with § 16101 of Chapter 161, Title 11, Guam Code
7 Annotated.

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

9 (A) operate the Truck Enforcement Screening Station
10 (TESS) Facility located on Route 11 to weigh vehicles and/or
11 combinations of vehicles operating on Guam's roads, streets, or
12 highways;

13 (B) every police officer or DPW inspector having
14 reason to believe that the weight or dimension of a vehicle
15 operating on a public road, street or highway, either with or
16 without load, is in violation of the provisions of this Chapter,
17 *shall* be authorized to require the driver to stop and submit to an
18 inspection of same by means of portable scales, static scales, or
19 weigh-in-motion scales, or as otherwise appropriate, except that
20 any motor carrier with military cargo shall be permitted to
21 proceed, unless safety to the general public dictates otherwise,
22 to the vehicle's destination for appropriate review therein and
23 such action shall not be a violation of this Chapter. Violations
24 for any dimensions or GVW in excess of permissible limits, as
25 established by the provisions of this Chapter, *shall* be subject to
26 the penalties cited in § 5112(a) of this Chapter;

1 (C) whenever a police officer or DPW inspector, upon
2 weighing a vehicle and load, as provided above, determines that
3 the GVW exceeds allowable limits, such police officer or DPW
4 inspector may require the driver to stop the vehicle in a suitable
5 area where corrective action can be determined by the police
6 officer or DPW inspector. Corrective action may include
7 removal of the non-conforming portion of the load and
8 distribution to another vehicle, or allowance of the vehicle to
9 proceed to another location for unloading. Nothing herein is
10 intended to waive any applicable fines;

11 (D) every police officer or DPW inspector *shall* assist
12 in the enforcement of this Chapter and of all rules adopted
13 pursuant to this Chapter and issue citations for violations as
14 appropriate;

15 (E) fines collected from citations issued by DPW
16 inspectors for violations of this Subsection *shall* be deposited in
17 the TESS Facility Fund, and *shall* be expended in accordance
18 with § 5118 of this Chapter.

19 (c) Any driver of a vehicle who fails or refuses to stop and submit
20 the vehicle, either with or without load, to an inspection and/or weighing, or
21 who fails or refuses when directed by a police officer, DMV inspector, or
22 DPW inspector upon inspection and/or weighing of the vehicle to
23 discontinue the operation of the vehicle and otherwise comply with the
24 provisions of this Section *shall* be guilty of a civil violation. Each violation
25 for failure or refusal to stop and submit the vehicle to an inspection and/or
26 take subsequent corrective actions *shall* be subject to the following:

1 (1) a first violation *shall* be subject to a penalty of One
2 Hundred Dollars (\$100.00);

3 (2) a second violation of the provisions of this Subsection
4 within a six (6) month period from the date of the first violation *shall*
5 be subject to a penalty of Two Hundred Dollars (\$200.00);

6 (3) a third violation of the provisions of this Subsection
7 within a six (6) month period from the date of a second violation *shall*
8 be subject to a penalty of Five Hundred Dollars (\$500.00);

9 (4) a fourth violation of the provisions of this Subsection
10 within a six (6) month period from the date of the third violation *shall*
11 be subject to a penalty of One Thousand Dollars (\$1,000.00) and the
12 operator *shall* be subject to revocation of their driver's license."

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

15 **"§ 5112. Penalties.**

16 (a) Every person, entity or organization convicted of a violation of
17 any of the provisions of this Chapter for which another penalty is not
18 provided *shall* be guilty of a civil violation and subject to a penalty of up to
19 Five Hundred Dollars (\$500.00). Every person, entity or organization found
20 to be in violation of the weight limitations established in this Chapter *shall*
21 be subject to the following:

22 (1) for a first violation, such person, entity or organization
23 *shall* be guilty of a civil violation and punished by a fine of up to Five
24 Hundred Dollars (\$500.00) and Twenty-five Cents (\$0.25)/pound over
25 the maximum allowable load authorized in § 5107;

26 (2) for a second violation within a six (6) month period from
27 the date of the first violation, such person, entity or organization *shall*

1 be guilty of a civil violation and punished by a fine of up to Seven
2 Hundred Fifty Dollars (\$750.00) and Fifty Cents (\$0.50)/pound over
3 the maximum allowable load authorized in § 5107; and

4 (3) should a person, entity or organization be found guilty of
5 a third violation of the weight limitations established by this Chapter
6 within six (6) months after a second violation, such person, entity or
7 organization *shall* be guilty of a civil violation and subject to fine of
8 *not less than* One Thousand Dollars (\$1,000.00) and Seventy-five
9 Cents (\$0.75)/pound over the maximum allowable load authorized in
10 § 5107; and the responsible party, as defined in Subsection (d) of this
11 Section, may have their Guam business license revoked in accordance
12 with the following:

13 (A) The Director of the Department of Public Works
14 (DPW Director) *shall* notify the responsible party (respondent),
15 in writing, of the finding of a third violation of this Section.

16 (B) The respondent may request, in writing, an
17 administrative hearing to dispute the findings of the Director.
18 Said request for a hearing must be delivered, in writing, to the
19 Office of the DPW Director within fifteen (15) calendar days
20 from the date of receipt of the DPW Director's findings.

21 (C) Notwithstanding § 9220 of Chapter 9 of Title 5,
22 Guam Code Annotated, the hearing *shall* be conducted by the
23 DPW Director who *shall* be the hearing officer. The Office of
24 the Attorney General or a Special Assistant Attorney General,
25 appointed by the Attorney General, *shall* assist in providing
26 advice to the DPW Director when matters of law arise. The
27 hearing process *shall* be subject to the procedures of Chapter 9

1 of Title 5, Guam Code Annotated, with the exception noted
2 above, to § 9220 of the same. The findings of the Director,
3 upon the delivery to the respondent, *shall* fulfill the
4 requirements of § 9201 of Chapter 9 of Title 5, Guam Code
5 Annotated.

6 (D) In the event that the DPW Director affirms the
7 finding of a third violation is valid, or if no hearing is requested
8 in writing within fifteen (15) calendar days from the date of
9 receipt of the findings by the respondent, the DPW Director
10 may request, in writing, that the appropriate licensing entity
11 revoke the respondent's license to do business on Guam
12 immediately, for a period of up to three (3) years, as determined
13 by the Director. Upon receipt of the DPW Director's written
14 recommendation, the appropriate licensing entity may suspend
15 such license to do business on Guam in accordance with the
16 recommendation of the DPW Director. The hearing required of
17 this Subsection *shall* fulfill the requirements to suspend a
18 business license found in Chapter 9 of Title 5 GCA.

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

22 If the excess dimension (length or width) is as follows, the fine
23 *shall* be:

24 Up to 5 feet	\$ 50.00
25 Over 5 feet and up to 10 feet	\$100.00
26 Over 10 feet and up to 15 feet	\$150.00
27 Over 15 feet	\$200.00,

1 plus \$10.00 for each additional foot.

2 (5) Any person who commits any of the acts prohibited by
3 this Section or any rules adopted to enforce this Chapter where no
4 penalty is provided for *shall* be guilty of a civil violation and *shall* be
5 fined *not less than* Five Hundred Dollars (\$500.00), as determined by
6 the DPW Director.

7 (b) All fines levied by a DMV/MCSAP inspector in accordance
8 with the applicable provisions of this Chapter *shall* be deposited in the
9 Better Public Service Fund of the Department of Revenue and Taxation, to
10 be used by the Division of Motor Vehicles in accordance with § 16101 of
11 Chapter 16, Title 11, Guam Code Annotated.

12 (c) All fines levied by a DPW/TESS inspector and any permits and
13 administrative fees collected by the Department of Public Works in
14 accordance with this Chapter *shall* be deposited in the TESS Facility Fund
15 and *shall* be expended in accordance with § 5118 of this Chapter.

16 (d) Responsible Party.

17 (1) Import Shipping Containers Under Seal. Any importer or
18 consignee, whether an individual or an entity, organization, or
19 company, whose shipping container placed under seal has been
20 determined to be in violation of § 5107 of this Chapter *shall* be
21 responsible for any fine, penalty, handling, additional transportation
22 or other associated cost (including storage).

23 (2) Export Shipping Containers Under Seal. Any exporter,
24 whether an individual or an entity, organization, or company, whose
25 shipping container placed under seal has been determined to be in
26 violation of § 5107 of this Chapter *shall* be responsible for any fine,

1 penalty, handling, additional transportation or other associated cost
2 (including storage).

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

9 (4) All Other Local Transport Not Under Seal. Any
10 individual or any cargo transporting entity, organization, or company
11 determined to be in violation of § 5107 of this Chapter *shall* be
12 responsible for any fine, penalty, handling, additional transportation
13 or other associated cost (including storage) prescribed in this Section.

14 (e) The fine schedules of the Superior Court of Guam and the
15 Commercial Vehicle Safety Alliance (CVSA) for violations cited during
16 roadside inspections, and the method for penalty assessment outlined in the
17 Federal Uniform Fine Assessment (UFA) Program, specifically for
18 violations identified as a result of a Compliance Review, are hereby adopted
19 pursuant to fines and fees as applicable to Guam.

20 (f) For the purposes of this Section, *person* means the driver of the
21 vehicle, unless the driver is an employee and is operating the vehicle in the
22 scope and course of employment, in which case *person* means the employer
23 of the driver. In the case of the transportation of a sealed container or
24 transportation by flatrack, *person* means:

- 25 (1) the individual or company the cargo is consigned to; or
26 (2) the individual or company located on Guam shipping the
27 cargo.

1 The owner of the vehicle or combination of vehicles may request the
2 operator be held harmless and the citation be transferred to that owner of the
3 vehicle or combination of vehicles. The consignee or the shipper *shall not* be
4 cited if the power units' (tractors') drive axle group is overweight, and the
5 weight is *not more than* that allowed for a tandem axle with any applicable
6 tolerances.

7 (g) All permit and administrative fees, fines and reimbursements
8 generated under this Chapter (applicable to the Department of Public Works)
9 *shall* be deposited in the Tess Facility Fund, and *shall not* lapse at the end of
10 the fiscal year, but *shall* roll over into the next fiscal year or until expended
11 in accordance with § 5118 of this Chapter.”

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

14 **“§ 5114. Permits for Excess Size and Weight.**

15 (a) A surety bond in a minimum amount of Five Hundred Dollars
16 (\$500.00), or proper evidence of adequate insurance, must be filed with the
17 Director of Public Works before a permit will be issued for transporting
18 over-width, over-length or over-weight loads on the highway, except when
19 the applicant is a territorial or federal government agency.

20 (b) The Director of Public Works, or his authorized representative,
21 may in his discretion, upon application in writing and good cause being
22 shown therefore, issue a special permit in writing authorizing the applicant
23 to operate or move a vehicle or combination of vehicles of a size or weight
24 exceeding the maximum specified in this Chapter, or otherwise not in
25 conformity with the provisions of this Chapter, upon the highways of Guam.
26 A permit issued under this Section *shall not* authorize the operation or

1 moving of any vehicle or combination of vehicles without the compliance
2 with Chapter 7 of this Title.

3 (c) The application for any such permit *shall* specifically describe
4 the vehicle or combination of vehicles and load to be operated or moved,
5 and the particular highways for which the permit to operate is requested, and
6 whether such permit is requested for a single trip, or for continuous
7 operation for a designated period of time.

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

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

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

1 (g) All permitted vehicle or combination of vehicles to which it
2 refers must display two (2) warning signs in addition to the permit number.
3 Each warning sign *shall* consist of black letters at least twelve inches (12")
4 high and not less than one and a half inches (1½") wide on a yellow
5 background. The sign *shall* state "OVERSIZED LOAD" or "WIDE LOAD,"
6 as provided in the permit, and include the permit number. One sign will
7 either be bumper-mounted or roof-mounted. If one of the signs is roof-
8 mounted, then the other sign must be at the rear of the towed unit or at the
9 rear of the load. The permit number shall consist of black letters at least ten
10 inches (10") high and not less than one and a half inches (1½") wide.
11 Clearance lights are also required during night time travel. Voids (holes)
12 may be cut in the warning signs, as the signs must not cover any vehicle
13 light or reflector.

14 (h) A fee *shall* be charged for each permit issued by the DPW
15 Director as follows:

16 (1) Single trip permit for oversize and overweight loads:
17 Fifty Dollars (\$50.00).

18 (2) Continuous trip permit for oversize and overweight
19 loads: One Hundred Dollars (\$100.00).

20 All permits may include date, time and route restrictions as
21 determined by the DPW Director. Such fees *shall* be deposited in the TESS
22 Facility Fund of the Department of Public Works, and *shall* be expended in
23 accordance with § 5118 of this Chapter.

24 (i) Any vehicle issued with a permanent special equipment license
25 or requiring a special permit, as required under this Chapter, *shall* be
26 prohibited from operating on the highways during the hours of 7:00 to 9:00
27 a.m., 12:00 to 1:00 p.m., and 4:00 to 6:00 p.m., Mondays through Fridays,

1 except in cases of emergencies or at the direction of the Director of Public
2 Works.”

3 **Section 8.** A new § 5118 is hereby *added* to Chapter 5, Title 16, Guam
4 Code Annotated, to read as follows:

5 “§ 5118. **Truck Enforcement Screening Station (TESS) Facility**
6 **Fund.**

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

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

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