

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 97 (COR)

Introduced by:

T. C. Ada

2009 APR 4 PM 4:32 MC

**AN ACT TO AMEND §26101, §26102, §26103, §26104 AND
§26105 OF TITLE 16, GUAM CODE ANNOTATED,
RELATIVE TO REQUIRING THE USE OF A SEAT BELT
ASSEMBLY AND CHILD RESTRAINT SYSTEM.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings. On December 10, 1986, Public Law 18-45 mandated the use of passenger restraint devices. National studies have shown that lives have been saved and numerous injuries rendered less life-threatening by simply buckling up. P.L. 18-45, however, only mandated the use of seat belt assemblies for the driver and front seat passenger. Additionally, P.L. 18-45 no longer meets current federal standards for child restraint systems, particularly in regards to child booster seat requirements. It is the intent of *I Mina' Trenta Na Liheslaturan Guåhan* to require the use of appropriate passenger restraining devices for all occupants within a car, van or pickup truck, and to clarify and establish certain restrictions for passengers in the bed of a pickup truck.

Section 2. § 26101 of Title 16, Guam Code Annotated, is hereby amended to read as follows:

“§ 26101. Child Restraint: Requirement for Child Restraint System, non-Booster Seat. The driver of a car, van or pickup truck in which a child under ~~two~~ four (4) years of age is being transported shall secure such child during transit ~~by~~ in a child

1 passenger restraint system which meets federal motor vehicle safety standards, is in good
2 working order, and is used in accordance with the manufacturer's operating instructions,
3 ~~provided that if a child under two years of age has outgrown a standard size child~~
4 ~~passenger restraint system, the driver shall secure the child by federally approved safety~~
5 ~~belts or safety harnesses."~~

6 **Section 3.** § 26102 of Title 16, Guam Code Annotated, is hereby amended to read as
7 follows:

8 **"§ 26102. Child Restraint: Standards Requirement for Child Restraint**
9 **System, Booster Seat.** The driver of a car, van or pickup truck in which a ~~child two~~
10 ~~years of age or more but under twelve years of age~~ passenger less than four feet and nine
11 inches tall (4'9") and between four (4) and eleven (11) years of age is being transported
12 shall secure such child during transit in a booster seat which by either a child passenger
13 ~~restraint system that meets federal motor vehicle safety standards, is in good working~~
14 order, and is used in accordance with the manufacturer's operating instructions, ~~or by~~
15 ~~federally approved safety belts or safety harness."~~

16 **Section 4.** § 26103 of Title 16, Guam Code Annotated, is hereby amended to read as
17 follows:

18 **"§ 26103. Driver and Passenger(s). Seat Belts Required.** ~~Each Driver and front~~
19 ~~seat passenger of a car, van or pickup truck shall wear a properly adjusted and fastened~~
20 ~~seat safety belt.~~

- 21 a. No driver shall operate a car, van or pickup truck upon any highways, either
22 primary or secondary, unless all passengers taller than four feet and nine inches
23 (4'9") and/or twelve (12) years of age or older are restrained by a seat belt

1 assembly that meets federal motor vehicle safety standards, is in good working
2 order, and is used in accordance with the assembly manufacturer's operating
3 instructions.

4 b. Passengers riding in the bed of a pickup truck are exempted from the requirement
5 to utilize a seat belt assembly, as stated in § 26103.a, provided that the following
6 criteria are met:

- 7 i. The bed of the pickup truck is surrounded on four sides by a secure vertical
8 body extension, inclusive of a tailgate, that is at least 16-inches high; and,
9 ii. There are no unoccupied seats in the cab of the pickup truck; and,
10 iii. Passengers in the bed of the truck are twelve (12) years of age or older; and,
11 iv. Passengers in the bed of a pickup truck remain seated on the floor of the
12 truck bed at all times; and,
13 v. A speed limit of twenty-five miles per hour (25 mph) or the posted speed
14 limit, whichever is lower, is not exceeded; and,
15 vi. The pickup truck travels in the outermost lane when prudent and safe, unless
16 otherwise directed by an individual lawfully directing traffic; and,
17 vii. Passengers are not leaning against the tailgate of the pickup truck; and,
18 viii. Passengers, when seated, do not cumulatively occupy more than seventy-
19 five percent (75%) of the available floor area of the pickup truck."

20 **Section 5.** § 26104 of Title 16, Guam Code Annotated, is hereby amended to read as
21 follows:

1 “§ 26104. **Violations and Exemptions**. Any driver of a car, van or pickup truck
2 who violates § 26101, § 26102 and/or § 26103 of this Chapter ~~is~~ shall be guilty of a
3 misdemeanor and subject to penalties pursuant to § 26105 of this Chapter,
4 provided however that no person shall be guilty of violating this statute if:

- 5 a. The motor vehicle being driven is participating in a slow-moving parade, with
6 said motor vehicle not exceeding a speed of ten miles per hour (10 mph); or,
7 b. The inadequately restrained individual has a condition that prevents appropriate
8 restraint by the seat belt assembly or child restraint system. Such a condition must
9 be duly certified by a physician who shall state the nature of the condition, as well
10 as the reason such restraint is inappropriate. For a physician’s statement to
11 qualify under this section, the physician giving the statement must state why use
12 of a child restraint system or seat belt assembly by the person would be
13 impractical or harmful to the person by reason of physical condition, medical
14 issue or body size; or,
15 c. The inadequately restrained individual is a passenger of an emergency or
16 passenger transport vehicle. As used in this section, unless the context otherwise
17 requires:
18 i. Emergency vehicle means an on-duty ambulance, firefighting or rescue
19 vehicle, or law enforcement vehicle;
20 ii. Passenger transport vehicle means any vehicle operated to carry
21 passengers en masse with a gross vehicle rate rating over ten thousand
22 (10,000) pounds.
23 d. The vehicle being operated was manufactured before January 1, 1967.”

1 **Section 6.** § 26105 of Title 16, Guam Code Annotated, is hereby amended to read as
2 follows:

3 **“§ 26105. Penalties.**

4 a. Any ~~operator driver~~ convicted of ~~failing to secure a child with a child passenger~~
5 ~~restraint system in violation~~ violating §26101, §26102, or violates §26103 shall
6 may be fined a sum no greater than Fifty Dollars (\$50.00) for each violation
7 stemming from an initial incident, and a sum no greater than Ninety Dollars (\$90)
8 for each violation stemming from subsequent incidents. For the purposes of this
9 section, a *subsequent incident* means an encounter with a law enforcement officer
10 prior to which a traffic citation was issued to said driver for violating §26101,
11 §26102, or §26103.

12 b. With each violation stemming from subsequent incidents, and notwithstanding the
13 Central Accounting Act, any fines collected in excess of Fifty Dollars (\$50) shall
14 be credited to a special fund to be known as the Seat Belt Safety Fund. This Fund
15 shall be kept in a bank licensed to do business on Guam and funds shall be used
16 by Government of Guam law enforcement agencies for the purposes of traffic
17 safety educational programs, traffic safety public awareness campaigns, and to
18 cover capital and operational expenses incurred through seat belt inspection
19 initiatives, inclusive of traffic safety checkpoints. All monies in this Fund shall
20 require legislative appropriation.

21 ~~b. The penalty pursuant to subsection (a) of this Section shall be suspended in the~~
22 ~~case of a person who has never before been convicted of a violation of §26101 or~~
23 ~~§26102 of this Chapter and who did not own a child passenger restraint system~~

1 that met federal safety standards at the time of the violation, provided that such
2 person establishes to the satisfaction of the court, within a reasonable period of
3 time as set by the court, that such person owns such a child passenger restraint
4 system.

5 e. ~~A driver shall be exempted from the penalty pursuant to subsection (a) of this~~
6 ~~Section in the case of a child who for medical or physical reasons is unable to~~
7 ~~utilize a child passenger restraint system.”~~