



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY

ACKNOWLEDGMENT RECEIPT

Received By Tania Guzman

Time 2:15 p.m.

Date 5-7-98

**MAY 06 1998**

The Honorable Antonio R. Unpingco  
Speaker  
Mina'Bente Kuåttro na Liheslaturan Guåhan  
Twenty-Fourth Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Hagåtña, Guam 96910

Refer to  
**Legislative Secretary**


Dear Speaker Unpingco:

Enclosed please find Bill No. 592 (C0R), "AN ACT TO AMEND §§18201, 18203(a) AND 18203(g) OF ARTICLE 2, CHAPTER 18 OF TITLE 16 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE IMPLIED CONSENT LAW AND SURRENDER OF A DRIVER'S LICENSE.", which I have **signed** into law today as **Public Law No. 24-197**.

This legislation is a corrective measure. Previous legislation mistakenly cited "blood **and** urine" tests to be given to those suspected of driving under the influence, however, the correct terminology is "blood **or** urine" tests, in addition to breath tests. Any of these tests will reveal the presence of alcohol and other substances in the body of a driver who is driving under the influence of the substance.

Also, previous legislation implied that only physicians or nurses could perform the tests, where in fact, as with other medical tests, licensed clinical laboratory personnel are the proper individuals to administer this testing.

Very truly yours,

  
Carl T. C. Gutierrez  
I Maga'láhen Guåhan  
Governor of Guam

00804

Attachment: copy attached for signed bill  
original attached for vetoed bill

cc: The Honorable Joanne M. S. Brown  
Legislative Secretary

Office of the Speaker  
ANTONIO R. UNPINGCO

Date: 5/7/98

Time: 10:45 am

Rec'd by: g

Print Name: Tania Guzman

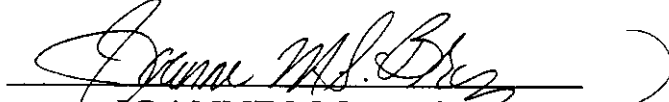
MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN  
1998 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Bill No. 592 (COR), "AN ACT TO AMEND §§18201, 18203(a) AND 18203(g) OF ARTICLE 2, CHAPTER 18 OF TITLE 16 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE IMPLIED CONSENT LAW AND SURRENDER OF A DRIVER'S LICENSE," was on the 27<sup>th</sup> day of April, 1998, duly and regularly passed.


  
\_\_\_\_\_  
ANTONIO R. UNPINGCO  
Speaker

Attested:

  
\_\_\_\_\_  
JOANNE M.S. BROWN  
Senator and Legislative Secretary

.....

This Act was received by *I Maga'lahaen Guahan* this 30<sup>th</sup> day of April, 1998,  
at 10:40 o'clock 9 .M.

  
\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

APPROVED:

  
\_\_\_\_\_  
CARL T. C. GUTIERREZ  
*I Maga'lahaen Guahan*

Date: 5-6-98

Public Law No. 24-197

**MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN**  
**1998 (SECOND) Regular Session**

**Bill No. 592 (COR)**

As amended on the Floor.

Introduced by:

E. J. Cruz  
J. C. Salas  
Felix P. Camacho  
T. C. Ada  
F. B. Aguon, Jr.  
A. C. Blaz  
J. M.S. Brown  
Francisco P. Camacho  
M. C. Charfauros  
W. B.S.M. Flores  
Mark Forbes  
L. F. Kasperbauer  
A. C. Lamorena, V  
C. A. Leon Guerrero  
L. Leon Guerrero  
V. C. Pangelinan  
A. L.G. Santos  
F. E. Santos  
A. R. Unpingco  
J. Won Pat-Borja

**AN ACT TO AMEND §§18201, 18203(a) AND  
18203(g) OF ARTICLE 2, CHAPTER 18 OF TITLE 16  
OF THE GUAM CODE ANNOTATED, RELATIVE  
TO THE IMPLIED CONSENT LAW AND  
SURRENDER OF A DRIVER'S LICENSE.**

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

1       **Section 1.**   Section 18201 of Article 2, Chapter 18 of Title 16 of the  
2   Guam Code Annotated, as repealed and reenacted by P.L. No. 24-122, is  
3   hereby amended to read as follows:

4               **"Section 18201. Implied Consent of Driver of Motor Vehicle to**  
5       **Submit to Blood or Urine, or Breath Testing to Determine Alcohol or**  
6       **Controlled Substances Content of Blood and Urine.       (a)   Any**

7       person who operates a motor vehicle on the public highways or  
8       roadways of Guam shall be deemed to have given consent to a blood or  
9       urine, or breath test for the purpose of determining the alcohol or  
10      controlled substance content of the person's blood or urine.

11             (b)   The blood or urine, or breath tests shall be administered at  
12      the request of the peace officer having reasonable cause to believe the  
13      person driving or in actual physical control of a motor vehicle upon the  
14      public highways or roadways is under the influence of alcohol or  
15      controlled substances only after: (1) a lawful arrest, and (2) the person  
16      has been informed by a peace officer of the sanctions that may result  
17      from his or her refusal to be tested.

18             (c)   If there is probable cause to believe that a person is in  
19      violation of §18102 of this Chapter, then the person shall have the option  
20      of using a blood or urine, or breath test for the purpose of determining  
21      the alcohol or controlled substance content of that person's blood or  
22      urine.

23             (d)   No person other than the authorized staff of a licensed  
24      clinical laboratory certified by Health Care Financing Administration  
25      Clinical Laboratory Improvement Act ('HCFA-CLIA'), or by the Joint

1 Commmisssion of Accreditation of Health Organization may withdraw  
2 blood or urine for the purpose of determining the alcohol or controlled  
3 substance content thereof. This limitation shall *not* apply to the taking  
4 of a breath specimen. As soon as the results of a blood or urine test  
5 performed pursuant to this Section are available, the custodian of the  
6 record of the test shall provide, without subpoena, a true copy of the  
7 results of the tests to the Guam Police Department or criminal  
8 prosecutors. No physician, nurse, hospital, clinical laboratory or any  
9 employee thereof, shall be subject to civil liability or suit for providing  
10 blood or urine test results as required by the Subsection.

11 (e) The implied consent of a person to be tested shall not be  
12 withdrawn by reason of the person's being dead, unconscious or in any  
13 state which renders the person incapable of consenting or refusing to be  
14 tested. In such event, a test of the person's blood or urine shall be  
15 administered.

16 (f) If a person under arrest refuses to submit to a breath or  
17 blood or urine test, none shall be given. The person shall be warned,  
18 however, that his or her failure to be tested may be used in evidence  
19 against him or her in any charge arising from the arrest.

20 (g) In addition to the warnings provided in Subsection (f) of this  
21 Section, the arresting officer shall warn the person that refusal to submit  
22 to a blood or urine, or breath test will result also in the following:

23 (1) the person must immediately surrender his or her  
24 driver's license to the officer;

1           (2) the officer will take custody of the license and will  
2 forward it to the Department of Revenue and Taxation, Motor  
3 Vehicle Division, along with the officer's sworn statement,  
4 affidavit or written declaration as required by §18202 of Title 16 of  
5 the Guam Code Annotated; and

6           (3) the driver's license will not be returned and the  
7 person's driving privileges restored until completion of all  
8 administrative and court proceedings against the person, and it is  
9 so ordered by the Director of Revenue and Taxation or the courts."

10       **Section 2.** Section 18203(a) of Article 2, Chapter 18 of Title 16 of the  
11 Guam Code Annotated, as amended by P.L. No. 24-122, is hereby amended to  
12 read as follows:

13           "(a) If a person is arrested for a violation of §18102 of this  
14 Chapter, on a determination by the police officer that there was  
15 reasonable cause for the arrest then: (1) the police officer shall inform  
16 the person that he or she has the option of taking blood or urine, or  
17 breath test, (2) the police officer shall also inform the person that a  
18 refusal to submit to or a failure to complete the blood or urine, or breath  
19 tests may be used in evidence against him or her in criminal  
20 proceedings, and that he or she may be subject to administrative  
21 suspension or revocation by the Department of his or her privileges and  
22 license or permit to operate a motor vehicle, and (3) the officer also shall  
23 inform the person that a refusal to take the test or a failure to complete

1 the test requires the officer to immediately take custody of the person's  
2 driver's license for forwarding to the Department."

3 **Section 3.** Section 18203(g) of Article 2, Chapter 18 of Title 16 of the  
4 Guam Code Annotated, as amended by P.L. No. 24-122, is hereby amended to  
5 read as follows:

6 "(g) At the commencement of the initial or continued hearing, if  
7 for any reason the person who is alleged to have refused to submit to or  
8 failed to complete blood or urine, or breath testing did not surrender his  
9 or her driver's license to the arresting officer, the person shall surrender  
10 to the Department any license or permit issued in the name of the  
11 person which authorizes the person to drive and be in physical control  
12 of a vehicle, and which license or permit was not previously suspended  
13 or revoked."

PL 24-197

**Committee on Health and Human Services**  
**24<sup>th</sup> Guam Legislature**

155 Hesler Street  
Agana, Guam 96910  
Tel: (671) 472-3581 • Fax: (671) 472-3582

April 20, 1997

Honorable Antonio R. Unpingco  
Speaker  
Twenty Fourth Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

VIA: Chairperson, Committee on Rules, Government Reform and Federal Affairs

Dear Mr. Speaker:

The Committee on Health and Human Services, to which was referred Bill No. 592, "AN ACT TO FURTHER AMEND §§18201, 18203(a) AND (g) ALL OF ARTICLE 2, CHAPTER 18 OF TITLE 16 OF THE GUAM CODE ANNOTATED, AS REPEALED AND REENACTED BY P.L. NO. 24-122, RELATIVE TO THE IMPLIED CONSENT LAW AND SURRENDER OF A DRIVER'S LICENSE," has had the same under consideration and now wishes to report back the same with the recommendation to do pass.

The Committee votes are as follows:

☒ To Do Pass  
☐ Not to Pass  
☐ Abstain  
☐ Inactive File

A copy of the Committee Report and other pertinent documents are attached for your immediate reference and information.

Sincerely,


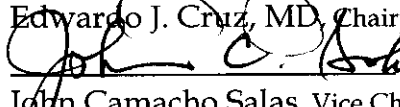
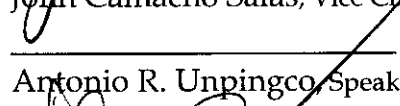
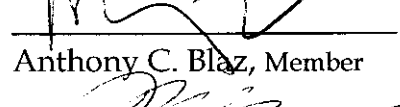
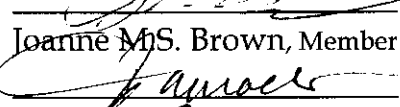
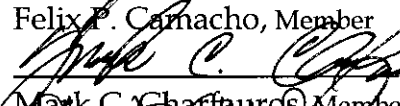
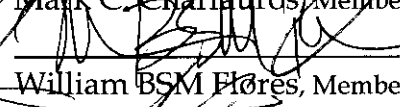
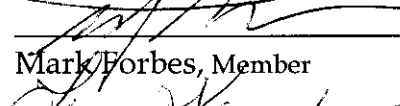
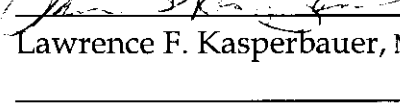
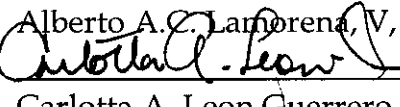
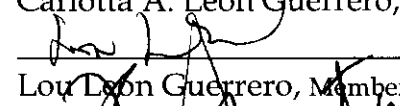
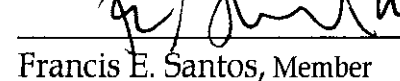


  
**EDUARDO J. CRUZ, MD**  
Chairperson.

Enclosure:



Committee Health and Human Services  
Vote Sheet on  
Bill No. 592 (COR)

AN ACT TO FURTHER AMEND §§18201, 18203(a) AND (g) ALL OF ARTICLE 2, CHAPTER 18 OF TITLE 16 OF THE GUAM CODE ANNOTATED, AS REPEALED AND REENACTED BY P. L. 24-122, RELATIVE TO THE IMPLIED CONSENT LAW AND SURRENDER OF A DRIVER'S LICENSE.

COMMITTEE MEMBER	TO PASS	NOT TO PASS	ABSTAIN	INACTIVE FILE
 Eduardo J. Cruz, MD, Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 John Camacho Salas, Vice Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Antonio R. Unpingco, Speaker & Ex-Officio	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Anthony C. Blaz, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Joanne M.S. Brown, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Felix P. Camacho, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Mark C. Charfauros, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 William BSM Flores, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Mark Forbes, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Lawrence F. Kasperbauer, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Alberto A.C. Lamorena, V, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Carlotta A. Leon Guerrero, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Lou Leon Guerrero, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Francis E. Santos, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## **COMMITTEE ON HEALTH AND HUMAN SERVICES**

### **Report on Bill No. 592**

**AN ACT TO FURTHER AMEND §§18201, 18203(a) AND (g) ALL OF ARTICLE 2, CHAPTER 18 OF TITLE 16 OF THE GUAM CODE ANNOTATED, AS REPEALED AND REENACTED BY P. L. NO. 24-122, RELATIVE TO THE IMPLIED CONSENT LAW AND SURRENDER OF A DRIVER'S LICENSE.**

**Introduced by  
Senators E. J. Cruz, J. C. Salas, and Felix P. Camacho**

#### **PUBLIC HEARING:**

The Committee on Health and Human Services conducted a public hearing of Bill No. 592 (COR) on Monday, April 6, 1998, starting at 8:30 o'clock A. M., at the Legislative Public Hearing Room.

#### **MEMBERS PRESENT:**

Senator Edwardo J. Cruz, M. D., Chairperson of the Committee on Health and Human Services, convened the hearing promptly at 8:30 A. M. Other H&HS Committee members present were: Senators John C. Salas, William B. S. M. Flores, Lou Leon Guerrero and Carlotta A. Leon Guerrero. Other senators present were Senator Frank B. Aguon, Jr. and Senator Francisco P. Camacho.

#### **TESTIMONY:**

There was no written nor oral testimony presented for or against Bill No. 592 during the hearing. The Chairperson announced that any interested party may submit a written testimony, thru fax number 472-3582, within seven days following date of hearing. To this date, 4/21/98, no testimony for or against the bill was ever received.

#### **FINDINGS:**

The intent of Bill No. 592 to correct the requirement from "Blood **and** Urine" to "Blood **or** Urine" to determine alcohol or controlled substance

content in blood and urine, when apprehending a motor operator on Guam highways and roadways; and to authorize the drawing of blood or urine samples to “no person other than the authorized staff of a licensed and certified by Health Care Financing Administration Clinical Laboratory Improvement Act (HCFA-CLIA) clinical laboratory, or by the Joint Commission of Accreditation of Health Organization” for the purpose of determining the alcohol or controlled substance content in such samples, are considered essential improvements in the current practice. This finding justifies the passage of this bill.

**RECOMMENDATION:**

To pass.

## **PROFILE OF BILL NO. 592 (COR)**

<b>Brief Title:</b>	An Act Relative to the Implied Consent Law and Surrender of a Driver's License.
<b>Date Introduced:</b>	Submitted to the Legislature for introduction on Wednesday, April 1, 1998, which will be officially ratified during the Second Regular Session of the 24 <sup>th</sup> Guam Legislature.
<b>Main Sponsors:</b>	Sen. E. J. Cruz, Sen. J. C. Salas, and Sen. Felix P. Camacho
<b>Public Hearing:</b>	The Committee on Health and Human Services conducted a public hearing on Bill No. 592 (COR) at the Legislative Public Hearing Room on Monday, April 6, 1998 starting at 8:30 a. m.
<b>Official Title:</b>	<b>AN ACT TO FURTHER AMEND §§18201, 18203(a) AND (g) ALL OF ARTICLE 2, CHAPTER 18 OF TITLE 16 OF THE GUAM CODE ANNOTATED, AS REPEALED AND REENACTED BY P. L. 24-122, RELATIVE TO THE IMPLIED CONSENT LAW AND SURRENDER OF A DRIVER'S LICENSE.</b>
<b>Co-Sponsors:</b>	Any committee or other members who may so desire.
<b>Recommendation:</b>	<b>To pass.</b>

## **OVERVIEW AND INTENT:**

Section 18201 of Article 2, Chapter 18 of Title 16 GCA presently requires “**blood and urine**, or breath testing to determine alcohol or controlled substance content of the apprehended motorist’s blood and urine. Wherever the underscored phrase appears in this section, same should be changed to “**blood or urine**.” Further, at present, any physician, registered nurse, or any person licensed in a clinical laboratory, may withdraw blood **and** urine sample to test the presence of alcohol or controlled substance in a person’s blood and urine. It is the intent of this bill to change the required sample from “**blood and urine**,” to “**blood or urine**.” Moreover, the persons authorized to withdraw blood or urine samples from any subject are only “the authorized staff of a licensed and certified by the HCFA-CLIA clinical laboratory, or by the Joint Commission of Accreditation of Health Organization.

## **SECTION ANALYSIS:**

**Section 1.** Wherever the term “**blood and urine**” is used in present Section 18201, subsections (a), (b), (c), (d), (e), (f), and (g) of Article 2, Chapter 18, Title 16 GCA, said term should be changed to read “**blood or urine**.” Moreover, under subsection (d) of the same Section 18201, the proposal is to Change the persons authorized to withdraw blood or urine samples from any apprehended individual (motorist) to “no person other than the authorized staff of a licensed and certified by HCFA-CLIA clinical laboratory, or by the Joint Commission of Accreditation of Health Organization.”

**Section 2.** Under present Section 18203, subsection (a), change any referral to the term “**blood and urine**” to read “**blood or urine**.”

**Section 3.** Likewise, under present Section 18203, subsection (g), change Any referral to the term “**blood and urine**” to read “**blood or urine**.”



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

## OFFICE OF THE LEGISLATIVE SECRETARY

## ACKNOWLEDGMENT RECEIPT

Received By Pammy GarciaTime 2:25 p.m.Date 2-17-98

FEB 16 1998

Refer  
Legislative S

Attn: James

The Honorable Antonio R. Unpingco  
Speaker  
Twenty-Fourth Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Agana, Guam 96910

Dear Speaker Unpingco:

Enclosed please find a copy of Substitute Bill No. 369 (COR), "AN ACT TO REPEAL AND REENACT §18201, TO AMEND §§18203(a) AND (g) OF ARTICLE 2, CHAPTER 18 OF TITLE 16 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE IMPLIED CONSENT LAW AND SURRENDER OF A DRIVER'S LICENSE", which I have signed into law today as Public Law No. 24-122.

Thank you to Senator Elizabeth Barrett-Anderson for assisting to make needed changes in Guam's law relative to Driving Under the Influence. This particular legislation brings Guam into conformity with other jurisdictions where a concerted effort is being made to discourage the public from driving after drinking or being under the influence of any substance which impairs the ability to drive safely.

This legislation also broadens the types of tests which can be used to detect various substances which impair driving ability. A correction needs to be made to the legislation, however, by changing the phrase "blood and urine test" to "blood or urine test". This would make it clear that both tests do not have to be done at the same time.

Very truly yours,

  
Carl T. C. Gutierrez

Attachment

00643

cc: The Honorable Joanne M. S. Brown  
Legislative Secretary

Office of the Speaker  
ANTONIO R. UNPINGCO

Date: 2-17-98Time: 10:25Rec'd by: CEPrint Name: CHARLES D. GARCIA