I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

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

This is to certify that **Substitute Bill No. 397-31 (COR), "AN ACT TO *AMEND* §3346, AND TO *ADD* A NEW §3346.1, ALL OF CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO RESTRICTING THE USE OF MOBILE PHONES WHILE DRIVING A VEHICLE, AND PROVIDING FOR PUBLIC EDUCATION REQUIREMENTS REGARDING SUCH RESTRICTIONS",** was on the 17th day of February, 2012, 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'lahen Guåhan* this 17 day of FEB, 2012, at 1:22 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No. 397-31 (COR)
As substituted by the Committee on Public Safety, Law Enforcement and Judiciary; and further substituted and amended on the Floor.

Introduced by: T. C. Ada
Adolpho B. Palacios, Sr.
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Dueñas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
T. R. Muña Barnes
v. c. pangelinan
R. J. Respicio
Dennis G. Rodriguez, Jr.
M. Silva Taijeron
Aline A.Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *AMEND* §3346, AND TO *ADD* A NEW §3346.1, ALL OF CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO RESTRICTING THE USE OF MOBILE PHONES WHILE DRIVING A VEHICLE, AND PROVIDING FOR PUBLIC EDUCATION REQUIREMENTS REGARDING SUCH RESTRICTIONS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings. *I Liheslaturan Guåhan* finds that there are over one hundred ten thousand (110,000) vehicles currently registered on

Guam, of which approximately seventy-five percent (75%) are privately owned, non-commercial vehicles. The remaining twenty-five percent (25%) are primarily comprised of commercial vehicles, such as cargo trucks, buses and taxis.

I Liheslaturan Guåhan further finds that as traffic volumes and congestion increase on Guam's roadways, distracted driving increasingly presents a real and significant danger to the public. As such, reducing driver distraction may be a significant way of mitigating the increasing probabilities of traffic collisions on Guam's congested highways.

I Liheslaturan Guåhan further recognizes that studies have shown that using a mobile phone while driving increases the risk of collision four (4)-fold, and that driver impairment while using a mobile phone is equal to that of driving with a blood alcohol content in *excess* of 0.08 percent. Evidence of such dangers are substantial, and have prompted the National Highway Traffic Safety Administration to state that using a mobile phone while driving can pose a "serious … distraction and degrade driver performance."

I Liheslaturan Guåhan finds that a prohibition on the use of handheld cell phones by commercial motor vehicle operators during interstate movements, as defined by §1102(vv) of Chapter 1 of Title 16, GCA, is currently stipulated in 49 CFR Parts 177, 383-384, and 390-392. This prohibition is further applicable to all transport (both inter- and intrastate) of hazardous materials by commercial vehicles. *I Liheslaturan Guåhan* finds it prudent to adopt the same prohibitions locally.

I Liheslaturan Guåhan further finds that current Guam law *only* prohibits the reading, writing, or sending of text messages, but *does not* prohibit the use of cell phones for voice communications while driving. In order to more completely address the issue of distracted driving, *I Liheslaturan Guåhan* finds it necessary to

further regulate, with certain exemptions, the use of handheld mobile phones while driving a vehicle on Guam's roads.

Section 2. §3346 of Chapter 3, Title 16, Guam Code Annotated, is hereby *amended* to read:

"**§3346. Restrictions on the Use of Mobile Phones While Driving.**

(a) **Restriction.** It is unlawful for a person to read, write, *or* send electronic messages, or use or be holding, a mobile phone or similar electronic communications device while driving a vehicle.

(1) **Definition.** For the purposes of this Section, *driving* means operating a vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Driving *does not* include operating a vehicle with or without the motor running when the driver moved the vehicle to the side of, or off, a highway, and halted in a location where the vehicle can safely remain stationary.

(b) **Exemptions.** The restriction set forth in Subsection (a) *shall not* apply to voice communications being made under the following circumstances:

(1) **Emergency Calls.** The driver is making an emergency call to law enforcement officials or other public emergency response services; or

(2) **Voice Communications Required for the Conduct of Commercial Transportation Operations.** During the course of carrying out commercial transportation operations while in a vehicle bearing the logo of the company of employment. Said

communications *shall* be voice-only and for the *sole* purpose of coordinating movement while on Guam's roadways.

(A) Such exemption, however, *shall not* apply to interstate commercial motor vehicle movements, or during any transportation of hazardous materials, as stipulated in 49 CFR Parts 177, 383, 384, 390, 391, and 392.

(B) §3346(b)(2) *shall* be repealed thirty (30) days after enactment of this Act; or

(3) **Hands-free.** The driver is using a mobile phone that is specifically designed and configured to allow hands-free listening and talking, through the use of Bluetooth, hard-wired, or similar technology, and is used *only* in such hands-free manner while driving. Should an earpiece be utilized as part of the hands-free talking device, *only* one (1) such earpiece may be used by the person. Medically prescribed hearing aids are *not* to be counted against the one (1) earpiece limit; or

(4) **Licensed Amateur Radio (Ham Radio).** The driver is using *only* two (2)-way mobile radio transmitters or receivers and possesses a current and valid license from the Federal Communications Commission in the Amateur Radio Service; or

(5) **CB Radio and Similar.** The driver is using a "half-duplex" only device. Such device *shall not* have the ability to also conduct "full-duplex" communication.

(A) For the purposes of this Subsection, *half-duplex* means the ability for two (2) or more electronic devices to communicate with each other, but in *only* one (1) direction at a

time (*not* simultaneously), and inclusive of simplex technology; provided, that such technology permits for *only* voice communication in one (1) direction at a time.

(c) **Limits of Exemptions.** The exemptions outlined in Subsections (b)(2) through (b)(5) of this Section *shall only* be extended to an individual with a valid Driver's License. For the purposes of this Section, a Class A (Operator) or Class F (Motorcycle) Learner's Permit, *or* a Class A (Operator) or Class F (Motorcycle) Intermediate License *shall not* constitute a Driver's License.

(d) **Penalties.** Any driver who violates the provisions of Subsections (a), (b) or (c) of this Section is guilty of a violation and *shall* be punished by a fine *no less than* One Hundred Dollars ($100.00). Repeat violations of this Section *shall* be punished by a fine *no less than* Five Hundred Dollars ($500.00). However, should a driver be found to have violated the provisions of this Section, and that said violation may have contributed to a traffic collision, then he or she is guilty of a violation punishable by a fine *no less than* One Thousand Dollars ($1,000), and may result in the suspension or revocation of driving privileges on Guam's roadways.

(e) Notwithstanding the provisions of §9502 of Chapter 9.5 of Title 7, Guam Code Annotated, all fines collected under this Section *shall* be deposited into the Police Services Fund, and made available by appropriation by *I Liheslaturan Guåhan*."

Section 3. A new §3346.1 of Chapter 3, Title 16, Guam Code Annotated, is hereby *added* to read:

"**§3346.1. Public Education Regarding Restrictions on the Use of Mobile Phones While Driving.**

(a) Within thirty (30) days following the effective date of this Act, wireless carriers providing mobile phone services or businesses providing vehicle insurance *shall*, respectively, send a one (1)-time mailing or electronic notification to their current Guam-based wireless service subscribers or vehicle insurance policy holders with information summarizing the restrictions on the use of mobile phones while driving, as outlined in §3346 of this Chapter.

(b) Wireless carriers providing mobile phone services or businesses providing vehicle insurance are required to provide information summarizing the restrictions on the use of mobile phones while driving, as outlined in §3346 of this Chapter, to all new Guam-based wireless service subscribers or vehicle insurance policy holders, respectively, and to also include such information continuously on their websites.

(c) Any business entity registered with the Department of Revenue and Taxation who sells or leases vehicles must provide every customer purchasing or leasing a vehicle with information summarizing the restrictions on the use of mobile phones while driving, as outlined in §3346 of this Chapter.

(d) The Department of Revenue and Taxation, Motor Vehicle Division *shall* provide all applicants for a Learner's Permit, Intermediate License, or Drivers License, whether new or renewing, with information summarizing the restrictions on the use of mobile phones while driving, as outlined in §3346 of this Chapter. Drivers

license exams *shall* also test on the subject matter of mobile phone usage while driving.

(e) Any business entity registered with the Department of Revenue and Taxation that rents vehicles must provide every vehicle rental customer with information summarizing the restrictions on the use of mobile phones while driving, as outlined in §3346 of this Chapter."

Section 4. Sunset Provision. §§ 3346.1(b) and 3346.1(c) *shall* be repealed one (1) year after the enactment of this Act.

Section 5. Effective Date. This Act *shall* be effective thirty (30) days from the date of enactment.

Section 6. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable.