**EDDIE BAZA CALVO**
*Governor*

**RAY TENORIO**
*Lieutenant Governor*

*Office of the Governor Of Guam*

JUN 05 2018

GLH 34-18-1961

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

Speaker Benjamin J.F. Cruz

JUN 06 2018

Time: 9:55 [ ] AM [ ] PM File No. _____

Received By: _____

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

10:01 AM 9-JUN 2018

*I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN*
**2018 (SECOND) Regular Session**

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

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 23rd day of May 2018, duly and regularly passed.

**Benjamin J.F. Cruz**
**Speaker**

Attested:

**Régine Biscoe Lee**
**Legislative Secretary**

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

Assistant Staff Officer
*Maga'låhi's* Office

APPROVED:

**RAYMOND S. TENORIO**
**Acting Governor of Guam**

Date: JUN 05 2018

Public Law No. 34-107

*I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN*
**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.**

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

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

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

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

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

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

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

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

**"CHAPTER 92**

# SAFE STREETS ACT OF 2018

Article 1. Offenses Involving Alcohol and Controlled Substances.

## ARTICLE 1

## OFFENSES INVOLVING ALCOHOL AND CONTROLLED SUBSTANCES


§ 92101. Definitions.

§ 92102. Driving While Impaired.

§ 92103. Reckless Driving While Impaired.

§ 92104. First Offender Conviction: Punishment.

§ 92105. Second Offender Conviction: Punishment.

§ 92106. Third Offender Conviction: Felony Punishment.

§ 92107. Fourth Offender Conviction: Felony Punishment.

§ 92108. Vehicular Negligence: Bodily Injuries.

§ 92109. Driving While Impaired with Child On Board: Felony Punishment.

§ 92110. Vehicular Homicide: Felony Punishment.

§ 92111. Vehicular Homicide While Driving Impaired: Felony Punishment.

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

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

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

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

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

§ 92117. Occupational Driving Permit: First Offender Only.

§ 92118. Suspension or Revocation of Driver's License: Process.
§ 92119. Driving While License Suspended or Revoked for Driving While Impaired.
§ 92120. Participation in the Driving While Impaired Treatment Court.
§ 92121. Dismissal for Completion of Driving While Impaired Treatment Court; Permitted.
§ 92122. No Conditional Discharge and Dismissal Permitted for Offenses Involving Serious Injuries.
§ 92123. Probation Allowed.
§ 92124. Safe Streets Fund.
§ 92125. Electronic Alcohol Monitoring Device, Rules and Regulations.
§ 92126. Presumptions Affecting the Burden of Proof: Defenses.

**§ 92101. Definitions.**

As used in this Chapter:

(a) *Alcohol* means a volatile or, flammable liquid synthesized or obtained by fermentation of sugars and starches, and widely used, either pure or denatured, as a solvent and in drugs; an intoxicating beverage with the same characteristics.

(b) *Bodily injury* carries the same meaning for bodily injury as defined in 9 GCA, Chapter 16, § 16.10(b).

(c) *Breath alcohol ignition interlock device* (BAIID) means a device that attaches to a vehicle and prevents its starting unless a breath alcohol test is passed.

(d) *Bus* means a vehicle chartered for transportation of persons for hire. It shall not mean a school bus, open vehicles resembling trolleys, or a vehicle operated pursuant to a public or private franchise operating over a regularly scheduled route.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§ 92102. Driving While Impaired.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§ 92123. Probation Allowed.**

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

**§ 92124. Safe Streets Fund.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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