*I Mina'trentai Sais Na Liheslaturan Guåhan*
**BILL STATUS**

| BILL NO. | SPONSOR | TITLE | DATE INTRODUCED | DATE REFERRED | CMTE REFERRED | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | FISCAL NOTES | NOTES |
|---|---|---|---|---|---|---|---|---|---|
| **83-36 (COR)**<br>As substituted on the Floor; and amended in the Committee of the Whole. | Tina Rose Muña Barnes<br>James C. Moylan | AN ACT TO *AMEND* §5101, §5104, §5107, §5109, §5112, §5114, §5118 AND §5120 TO *REPEAL* §5103 AND §5105, AND TO *ADD* §5119, and ALL TO CHAPTER 5 OF TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO THE SIZE, WEIGHT, AND LOAD LIMITATIONS, AND RESTRICTIONS OF CERTAIN VEHICLES. | 3/15/21<br>1:52 p.m. | 3/19/21 | Committee on Education, Self-Determination and Historic Preservation, Infrastructure, Border Safety, Federal and Foreign Affairs, and Maritime Transportation | 5/18/21<br>11:00 a.m. | 7/8/21<br>10:03 a.m. | Request: 3/22/21<br><br>4/12/21 | |

| SESSION DATE | TITLE | DATE PASSED | TRANSMITTED | DUE DATE | PUBLIC LAW NO. | DATE SIGNED | NOTES |
|---|---|---|---|---|---|---|---|
| 1/21/22 | AN ACT TO *AMEND* §§ 5101, 5104, 5107, 5109(b)(1)(F), 5109(b)(2), 5109(c), 5112, 5114(c), 5114(e), 5114(f), AND 5118; TO *REPEAL* AND *REENACT* § 5114(h); TO *REPEAL* §§ 5103 AND 5105; AND TO *ADD* NEW §§ 5119 AND 5120, ALL OF CHAPTER 5, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO THE SIZE, WEIGHT, AND LOAD LIMITATIONS, AND RESTRICTIONS OF CERTAIN VEHICLES. | 1/28/22 | 1/28/22 | 2/9/22 | 36-74 | 2/3/22 | Received: 2/3/22<br>Mess and Comm. Doc. No.<br>36GL-22-1639 |

Speaker Therese M. Terlaje <speaker@guamlegislature.org>

# Substitute Bill Nos. 230-36 (LS) and 83-36 (COR)

**Brianne LG Dunstan** <brianne.dunstan@guam.gov> Thu, Feb 3, 2022 at 1:55 PM
To: "Speaker Therese M. Terlaje" <speaker@guamlegislature.org>
Cc: "GOVERNOR Lourdes A. Leon Guerrero" <governor@guam.gov>, "LT. GOVERNOR Joshua F. Tenorio" <lt.governor@guam.gov>, gcepeda@guamcourts.gov, Guam Compiler of Laws <guamcompiler@gmail.com>, libanez@guamcourts.gov, CHIEF OF STAFF Jon Junior Calvo <jon.calvo@guam.gov>, DEPUTY COS Alice Taijeron <alice.taijeron@guam.gov>, Legal <legal@guam.gov>, "Stephanie G. Flores" <stephanie.flores@guam.gov>, Krystal Paco-San Agustin <krystal.paco@guam.gov>, lester.carlson@bbmr.guam.gov, BERTHA <bertha.duenas@guam.gov>, "Eliza G. Dames (Chamber)" <eliza.dames@guam.gov>, "Shamra L.A. Chargualaf (Chamber)" <shamra.chargualaf@guam.gov>, "Josephine C. Cepeda (Chamber)" <josephine.cepeda@guam.gov>, "Kathleen C. Cepeda (DCOS)" <kathleen.cepeda@guam.gov>, Rhea Chang <rhea.chang@guam.gov>, "Jessica Cruz (CF)" <jessica.cruz@guam.gov>, BBMR Administrative Staff <admin@bbmr.guam.gov>, Analyn Eustaquio <analyn.eustaquio@bbmr.guam.gov>, "Michael D. Weakley" <michael.weakley@guam.gov>, Rikki Orsini <rikki.orsini@guam.gov>

*Hafa Adai* Madame Speaker,

Please find enclosed copies of statements from the *Honorable*, Joshua F. Tenorio, *Åkto Maga'låhen Guåhan* regarding two bills which were signed into public law on: February 3, 2022:

- **SUBSTITUTE BILL NO. 230-36 (LS) nka P.L. 36-73** – An Act to *Add* a New Article 13.3 to Chapter 1, Title 5, Guam Code Annotated, Relative to Amending the Implementation Plan for Payments for Guam World War II Claims to Claimants Who Failed to Meet the One (1) Year Filing Deadline Under U.S. Public law 114-328.

- **SUBSTITUTE BILL NO. 83-36 (COR) nka P.L. 36-74**– An Act to *Amend* §§ 5101, 5104, 5107, 5109(b)(1)(F), 5109(b)(2), 5109(c), 5112, 5114(c), 5114(e), 5114(f), and 5118; to *Repeal* and *Reenact* §5114(h); to Repeal §§ 5103 and 5105; and to *Add* New §§ 5119 and 5120, All of Chapter 5, Title 16, Guam Code Annotated, Relative to the Size, Weight, and Load Limitations, and Restrictions of Certain Vehicles.

The original documents will be transmitted to your office today.

Thank you.

Respectfully,
--

**Brianne LG Dunstan**
Unisifan I Maga'hågan Guåhan
Office of the Governor of Guam
*Office of Legal Counsel*
513 West Marine Corps Drive
Ricardo J. Bordallo Governor's Complex
Hagåtña, Guam 96910
Office: 671.473.1118
brianne.dunstan@guam.gov

36GL-22-1638
36GL-22-1639

OFFICE OF THE SPEAKER
THERESE M. TERLAJE

02- 03 2022
Time: 1:55 pm
Received:

COMMITTEE ON RULES
RECEIVED:
February 3, 2022
3:02 P.M.

**2 attachments**

**22.0203 Acting Gov to Speaker Re Substitute Bill No. 230-36 (LS) nka P.L. 36-73.pdf**
513K

**22.0203 Acting Gov to Speaker Re Substitute Bill No. 83-36 (COR) nka P.L. 36-74.pdf**
647K

LOURDES A. LEON GUERRERO
GOVERNOR

JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

February 3, 2022

**HONORABLE THERESE M. TERLAJE**
*Speaker*
*I Mina'trentai Sais Na Liheslaturan Guåhan*
36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

**Re: SUBSTITUTE BILL NO. 83-36 (COR) – An Act to *Amend* §§ 5101, 5104, 5107, 5109(b)(1)(F), 5109(b)(2), 5109(c), 5112, 5114(c), 5114(e), 5114(f), and 5118; to *Repeal* and *Reenact* §5114(h); to Repeal §§ 5103 and 5105; and to *Add* New §§ 5119 and 5120, All of Chapter 5, Title 16, Guam Code Annotated, Relative to the Size, Weight, and Load Limitations, and Restrictions of Certain Vehicles**

*Hafa Adai* Madame Speaker,

It is with great pleasure that I sign Bill No. 83-36 into law as ***Public Law No. 36-74***. This measure is the culmination of numerous meetings over a period of years between our administration, the Department of Public Works, private stakeholders, volunteers, legislators, and engineers, and received wide bipartisan support in the Legislature. It accomplishes what administrations before us promised – an update to outdated highways statutes that no longer accounted for the realities of how our roads operate, in particular, the haul roadways between the Port Authority of Guam and storage facilities in Harmon, which serve as the main thoroughfare by which food and supplies are transported upon their arrival in Guam prior to their distribution to retail outlets and ultimately, our homes and businesses. More than ever, the COVID-19 crisis has brought to light just how critical it is that we modernize our practices and policies in a way that balances our priorities of preserving our public resources while maximizing the flexibility to both our agencies and industry, so that the goods and services our island needs to survive and thrive continue to flow, in good times and in bad. This Bill helps bring our island forward. It brings us in line with best practices nationally, and it makes sense for the specific needs of our people now and in the future.

*Sensiremente,*

**JOSHUA F. TENORIO**
*Åkto Maga'låhen Guåhan*
Acting Governor of Guam

Enclosure: Sub. Bill No. 83-36 (COR) *nka P.L. No. 36-74*

cc via email: *Honorable* Lourdes A. Leon Guerrero, *Maga'hågan Guåhan*
Compiler of Laws

*I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN*
**2022 (SECOND) Regular Session**

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

This is to certify that **Substitute Bill No. 83-36 (COR), "AN ACT TO *AMEND* §§ 5101, 5104, 5107, 5109(b)(1)(F), 5109(b)(2), 5109(c), 5112, 5114(c), 5114(e), 5114(f), AND 5118; TO *REPEAL* AND *REENACT* § 5114(h); TO REPEAL §§ 5103 AND 5105; AND TO *ADD* NEW §§ 5119 AND 5120, ALL OF CHAPTER 5, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO THE SIZE, WEIGHT, AND LOAD LIMITATIONS, AND RESTRICTIONS OF CERTAIN VEHICLES,"** was on the 28th day of January 2022, duly and regularly passed.

Therese M. Terlaje

**Therese M. Terlaje**
**Speaker**

Attested:

Amanda L. Shelton

**Amanda L. Shelton**
**Legislative Secretary**

---

This Act was received by *I Maga'hågan Guåhan* this 28th day of January 2022, at 7:38 o'clock P .M.

103 CC Chong

Assistant Staff Officer
*Maga'håga's* Office

APPROVED:

JOSHUA F. TENORIO, ACTING GOVERNOR OF GUAM

for: Lourdes A. Leon Guerrero
*I Maga'hågan Guåhan*

Date: 2-3-2022

Public Law No. PL 36-74

*I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN*
**2021 (FIRST) Regular Session**

**Bill No. 83-36 (COR)**
As substituted on the Floor;
and amended in the Committee of the Whole.

Introduced by: Tina Rose Muña Barnes
James C. Moylan
V. Anthony Ada
Frank Blas Jr.
Joanne Brown
Christopher M. Dueñas
Telena Cruz Nelson
Clynton E. Ridgell
Joe S. San Agustin
Amanda L. Shelton
Telo T. Taitague
Jose "Pedo" Terlaje
Therese M. Terlaje
Mary Camacho Torres

**AN ACT TO *AMEND* §§ 5101, 5104, 5107, 5109(b)(1)(F), 5109(b)(2), 5109(c), 5112, 5114(c), 5114(e), 5114(f), AND 5118; TO *REPEAL* AND *REENACT* § 5114(h); TO *REPEAL* §§ 5103 AND 5105; AND TO *ADD* NEW §§ 5119 AND 5120, ALL OF CHAPTER 5, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO THE SIZE, WEIGHT, AND LOAD LIMITATIONS, AND RESTRICTIONS OF CERTAIN VEHICLES.**

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that the designation of haul roads on Guam is necessary to transport products from the Commercial Port of Guam to warehouses in Harmon and other areas where

products can be unloaded, sorted, stored, and transported on delivery trucks that meet the requirements of the bridge formula and more weight restrictive regulations. This legislation does not eliminate the bridge formula needed to protect island bridges, especially south of the Commercial Port of Guam. It classifies specific haul roads in order to efficiently and affordably assist commerce. This legislation also updates and modernizes specific sections of the law concerning the size of the trucks traveling on Guam's roads.

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

"**§ 5101. Definitions.**

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

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

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

(c) Axle Load: The total weight transmitted to the road by a single axle.

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

(e) Designated Haul Road Highway: Designated haul road highways with a reconstructed lane in each direction and a higher standard design recognized by the U.S. Department of Transportation Federal Highway Administration and approved by the Director allowing for the movement of heavier vehicles shall include the following:

Route 1;

Route 8;

Route 11;

Route 16; and

other highways designated by the Director of Public Works as they are reconstructed for heavier use.

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

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

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

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

(j) Gross Weight: The weight of a vehicle and/or vehicle combination without load, plus the weight of any load thereon.

(k) Height: The total vertical dimension of any vehicle above the ground surface, including any load and load holding device thereon.

(l) Highway: The entire width between the boundary lines of every publicly maintained surface, when any part thereof is open to the use of the public for purposes of vehicular travel; synonymous and interchangeable in usage with "street."

(m) Length: The total longitudinal dimension of any vehicle or combination of vehicles, including any load or load holding devices thereon.

(n) Lift Axle: An axle designed to be raised when not in use and lowered to help reduce the weight imposed on an axle group.

(o) Load: A weight or quantity of anything resting upon a support.

(p) Motor Vehicle: A vehicle which is self-propelled.

(q) Owner: A person, other than a lien holder, having the property in or title to a vehicle, including a person entitled to use and possession of a vehicle subject to a security interest in another person, but excluding a lessee under a lease not intended as security.

(r) Portable Scales: A movable weighing device.

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

(t) Scale Tolerance: An allowable variation in the static weight of an axle load in accordance with, but not exceeding, the precision of the scale involved.

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

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

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

(x) Single Axle Weight: The total weight transmitted to the road by a single axle.

(y) Special Permit: A written authorization to move or operate on a highway, a vehicle or vehicles with indivisible load of a size and/or weight exceeding the limits prescribed for vehicles in regular operation.

(z) Static Scales: An immovable measuring scale, similar to a ruler, that is attached to the edge of an optical comparator screen.

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

(bb) Tandem Axle Weight: The total weight transmitted to the road by a tandem axle.

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

(dd) Tridem Axle: Any three (3) or more consecutive axles whose centers are more than eighty (80) inches but not more than one hundred forty-four (144) inches apart, and are individually attached, or articulated from a common attachment to the vehicle, including a connecting mechanism designed to equalize the load between the axles.

(ee) Tridem Axle Weight: The total weight transmitted to the road by a tridem axle.

(ff) Truck: A motor vehicle designed, used or maintained primarily for the transportation of property.

(gg) Truck-Tractor: A motor vehicle designed for drawing other vehicles, but not for a load other than a part of the weight of the vehicle and load drawn.

(hh) Vehicle: A device in, upon or by which any person or property may be transported or drawn upon a highway.

(ii) Vehicle Combination: A truck-tractor and semi-trailer, either with or without a full trailer, or a truck with one (l) or more full trailers.

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

(kk) Wheel Load: The total load transmitted to the road by a wheel. Dual wheels that share an axle mounting are considered a single wheel for load requirements.

(ll) Width: The total outside transverse dimension of a vehicle, including any load or load holding devices thereon, but excluding approved safety devices and tire bulge due to load."

**Section 3.** § 5103 of Chapter 5, Title 16, Guam Code Annotated, is hereby *repealed.*

**Section 4.** § 5104 of Chapter 5, Title 16, Guam Code Annotated, is hereby *amended* to read as follows:

"**§ 5104. Height, Length, and Width of Vehicles and Loads.**

A vehicle, including any load and load holding devices thereon, shall not exceed a total height of fifteen (15) feet, or a width of eight and a half (8.5) feet, or a length of sixty-five (65) feet, for public roads, streets or highways, and shall not exceed a length of eighty-five (85) feet on designated haul road highways. Any vehicle or loads exceeding the dimensions in height,

length, or width shall obtain a Special Permit from the Director of the Department of Public Works as specified in this Chapter."

**Section 5.** § 5105 of Chapter 5, Title 16, Guam Code Annotated, is hereby *repealed*.

**Section 6.** § 5107 of Chapter 5, Title 16, Guam Code Annotated, is hereby *amended* to read as follows:

"**§ 5107. Gross Weight, Axle, and Wheel Loads.**

No motor vehicle or combination of vehicles equipped wholly with pneumatic tires, which has a gross weight, an axle load, or a wheel load in excess of the limits set forth in this Section shall be operated or moved upon any public road, street, or highway; and no vehicle or combination of vehicles shall be operated on or moved over any bridge or other highway structure if the gross weight, including vehicle and load, exceeds the posted maximum gross weight limitation for the bridge or other highway structure.

(a) Except for designated haul road highways, the total gross weight, in pounds, imposed on any public road, street, or highway, by any axle group on a vehicle or combination of vehicles shall not exceed the following when the distance between the first and last axles of the group under consideration is:

(1) forty (40) inches or less; the axle load shall not exceed twenty thousand (20,000) pounds, or the axle manufacturer's rating, whichever is less;

(2) more than forty (40) inches, but not more than eight (8) feet; the tandem axle weight imposed shall not exceed thirty-six thousand (36,000) pounds;

(3) more than eighty-six (86) inches, but not more than one hundred forty-four (144) inches; the tridem axle weight imposed shall not exceed fifty thousand (50,000) pounds; and

(4) any additional lift axle designed to help distribute weight shall not exceed twenty thousand (20,000) pounds, or the axle manufacturer's rating, whichever is less.

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

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

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

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

N = number of axles in group under consideration; provided that two (2) consecutive sets of tandem axles may carry a gross load of thirty-six thousand (36,000) pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six (36) feet or more; and provided also that the overall gross weight does not exceed eighty thousand (80,000) pounds.

(c) The total gross weight, in pounds, imposed on any designated haul road highway, by any axle group on a vehicle or combination of vehicles shall not exceed the following when the distance between the first and last axles of the group under consideration is:

(1) forty (40) inches or less; the axle load shall not exceed twenty thousand (20,000) pounds, or the axle manufacturer's rating, whichever is less;

(2) more than forty (40) inches, but not more than eight (8) feet; the tandem axle weight imposed shall not exceed:

(A) thirty-six thousand (36,000) pounds upon completion of construction of the haul road highway to a higher design standard;

(B) forty thousand (40,000) pounds upon completion of construction of the haul road highway to a higher design standard; and

(C) forty-eight thousand (48,000) pounds upon completion of construction of the haul road highway to a higher design standard;

(3) more than eighty-six (86) inches, but not more than one hundred forty-four (144) inches; the tridem axle weight imposed shall not exceed:

(A) forty-six thousand (46,000) pounds upon completion of construction of the haul road highway to a higher design standard; and

(B) fifty-two thousand (52,000) pounds upon completion of construction of the haul road highway to a higher design standard;

(4) any additional lift axle designed to help distribute weight shall not exceed twenty thousand (20,000) pounds, or the axle manufacturer's rating, whichever is less.

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

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

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

(e) The single axle weight shall not exceed twenty thousand (20,000) pounds.

(f) Maximum weight shall be eighty thousand (80,000) pounds, gross vehicle weight, for a combination of truck tractor and semi-trailer combinations but not more than ninety-five thousand (95,000) pounds on designated haul roads.

(g) The maximum wheel load imposed upon any public road, street, or highway shall not exceed eight hundred (800) pounds per inch of tire tread width or the tire manufacturer's rating listed on the tire, whichever is less.

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

(i) The DPW Director may issue a special permit for a vehicle that meets the axle group load requirements of the formula in Subsection (a) of this Section, but with a gross vehicle weight in excess of the allowable weight

provided under this Section. Such special permit shall be issued in accordance with § 5114 of this Chapter."

**Section 7.** § 5109(b)(1)(F) of Chapter 5, Title 16, Guam Code Annotated, is hereby *amended* to read as follows:

"(F) every peace officer, or DMV/MCSAP inspector may assist in the enforcement of this Chapter and of all rules adopted pursuant to this Chapter and may issue citations for violations as appropriate; and"

**Section 8.** § 5109(b)(2) of Chapter 5, Title 16, Guam Code Annotated, is hereby *amended* to read as follows:

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

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

(B) every peace officer or DPW inspector having reason to believe that the weight or dimension of a vehicle operating on a public road, street or highway, including designated haul road highways, either with or without load, is in violation of the provisions of this Chapter, shall be authorized to require the driver to stop and submit to an inspection of same by means of portable scales, static scales, or weigh-in-motion scales, or as otherwise appropriate, except that any motor carrier with military cargo shall be permitted to proceed, unless safety to the general public dictates otherwise, to the vehicle's destination for appropriate review therein and such action shall not be a violation of this Chapter. Violations for any dimensions or GVW in excess of permissible limits, as established by the provisions of this Chapter, shall be subject to the penalties provided in the DPW rules and regulations promulgated pursuant to § 5112(a) of this Chapter;

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

(D) any DMV/MCSAP trained and certified peace officer or DPW inspector may assist in the enforcement of this Chapter and of all rules and regulations adopted pursuant to this Chapter and issue citations for violations as appropriate;

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

**Section 9.** § 5109(c) of Chapter 5, Title 16, Guam Code Annotated, is hereby *amended* to read as follows:

"(c) Any driver of a vehicle who fails or refuses to stop and submit the vehicle, either with or without load, to an inspection and/or weighing, or who fails or refuses when directed by a peace officer, DMV inspector, or DPW inspector upon inspection and/or weighing of the vehicle to discontinue the operation of the vehicle and otherwise comply with the provisions of this Section shall be guilty of a civil violation, and subject to fines and penalties as provided in the DPW rules and regulations."

**Section 10.** § 5112 of Chapter 5, Title 16, Guam Code Annotated, is hereby *amended* to read as follows:

"**§ 5112. Penalties.**

(a) Every person, entity or organization convicted of a violation of any of the provisions of this Chapter for which another penalty is not provided shall be guilty of a civil violation and subject to a fine as provided in the DPW rules and regulations.

(b) Should a person, entity or organization be found guilty of a third violation of the weight limitations established by this Chapter within six (6) months after a second violation, such person, entity or organization shall be guilty of a civil violation and subject to a fine as provided in the DPW rules and regulations, and the responsible party, as defined in Subsection (d) of this Section, may have their Guam business license revoked in accordance with the following:

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

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

(3) Notwithstanding § 9220 of Chapter 9, Title 5, Guam Code Annotated, the hearing shall be conducted by the DPW Director who shall be the hearing officer. The Office of the Attorney General or a Special Assistant Attorney General, appointed by the Attorney General, shall assist in providing advice to the DPW Director when matters of law arise. The hearing process shall be subject to the procedures of Chapter 9 of Title 5, Guam Code Annotated, with the exception noted

above, to § 9220 of the same. The findings of the Director, upon the delivery to the respondent, shall fulfill the requirements of § 9201 of Chapter 9, Title 5, Guam Code Annotated.

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

(c) Any person found to be in violation of the dimensional limitations established by this Chapter shall be guilty of a civil violation and subject to fines and penalties as provided in the DPW rules and regulations.

| | |
|---|---|
| Up to 5 feet | $ 50.00 |
| Over 5 feet and up to 10 feet | $100.00 |
| Over 10 feet and up to 15 feet | $150.00 |
| Over 15 feet | $200.00, |

plus $10.00 for each additional foot.

(d) Promulgation of Rules. DPW shall promulgate rules and regulations authorized by this Section, or which it may deem necessary or appropriate to give effect to this Section, pursuant to the Administrative Adjudication Law.

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

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

(g) Responsible Party.

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

(2) Export Shipping Containers Under Seal. Any exporter, whether an individual or an entity, organization, or company, whose shipping container placed under seal has been determined to be in violation of § 5107 of this Chapter shall be responsible for any fine, penalty, handling, additional transportation or other associated cost (including storage).

(3) Local Containers Under Seal. Any individual and any organization, entity, or company loading a shipping container under seal not designated for export that has been determined to be in violation of § 5107 of this Chapter shall be responsible for any fine,

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

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

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

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

(1) the individual or company the cargo is consigned to; or

(2) the individual or company located on Guam shipping the cargo.

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

(j) All permit and administrative fees, fines, and reimbursements generated under this Chapter (applicable to the Department of Public Works) shall be deposited in the TESS Facility Fund, and shall not lapse at the end of the fiscal year, but shall roll over into the next fiscal year or until expended in accordance with § 5118 of this Chapter."

**Section 11.** Subsections (c), (e), and (f) of § 5114, Chapter 5, Title 16, Guam Code Annotated, are hereby *amended* to read as follows:

"(c) The application for any such permit shall specifically describe the vehicle or combination of vehicles and load to be operated or moved, and the particular highways for which the permit to operate is requested."

"(e) At the discretion of the Director of Public Works or his authorized representative, blanket permits may be issued for over-sized vehicles already registered with the Department of Revenue and Taxation, and said over-sized vehicles may be subject to time-of-operations restrictions."

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

**Section 12.** § 5114(h) of Chapter 5, Title 16, Guam Code Annotated, is hereby *repealed* and *reenacted* to read as follows:

"(h) Promulgation of Rules. DPW shall promulgate rules and regulations authorized by this Section, or which it may deem necessary or appropriate to give effect to this Section, pursuant to the Administrative Adjudication Law."

**Section 13.** § 5118 of Chapter 5, Title 16, Guam Code Annotated, is hereby *amended* to read as follows:

"**§ 5118. Truck Enforcement Screening Station (TESS) Facility Fund.**

Notwithstanding any law to the contrary, a revolving fund, designated as the TESS Facility Fund (Fund), shall be established separate and apart from other funds of the government of Guam, and separate records shall be kept therefore. The Director of Public Works shall administer the Fund and shall issue vouchers properly certifying the use of the Fund's monies. The DPW Director is authorized to use revenues in the Fund and any interest derived therefrom for purposes provided under Article 1 of Chapter 54, Title 5, Guam Code Annotated, for the operation and maintenance of the TESS Facility, or to establish, operate and maintain similar compliance facilities or programs. All monies in the Fund are hereby appropriated and are not subject to *I Maga'håga's* transfer authority."

**Section 14.** A new § 5119 is hereby *added* to Chapter 5 of Title 16, Guam Code Annotated, to read as follows:

"**§ 5119. Exemptions.**

(a) Tow trucks shall be exempt from weight limitations under this Chapter. Tow trucks may tow any disabled truck or other motor vehicle or combination of vehicles to a place for repairs, parking, or storage from the point that the vehicle was disabled; provided, that all axles on the tow vehicle shall have an operational braking system.

(b) Non-Commercial Vehicles: Well-drilling rigs, concrete pumps, cranes, boom trucks and bucket trucks, and other heavy equipment that do not carry cargo may be registered and licensed as a Special Equipment (SE plate) vehicle. If such vehicles do not meet the height, width, and weight restrictions, they may travel on the highways subject to a special permit issued under this Chapter.

(c) Fire Trucks, Ambulances and Other Emergency Vehicles: Fire trucks, ambulances, and other emergency vehicles utilized by government of Guam agencies are exempt from Guam laws governing size, weight, and load."

**Section 15.** A new § 5120 is hereby *added* to Chapter 5 of Title 16, Guam Code Annotated, to read as follows:

"**§ 5120. Rules and Regulations.**

The Department of Public Works shall promulgate rules and regulations as may be necessary to carry out the purposes of this Chapter within one hundred eighty (180) days after the enactment of this Act. All current fines and penalties will remain in effect until the rules and regulations promulgated by the Department of Public Works are adopted. Such rules and regulations shall be adopted in conformance with the Administrative Adjudication Law."

**Section 16. 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 that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**Section 17. Effective Date.** Section 15 of this Act shall be effective upon enactment. The remaining provisions of this Act shall be effective upon the promulgation and adoption of the rules and regulations by the Department of Public Works in conformance with the Administrative Adjudication Law, as provided in 16 GCA, Chapter 5, § 5120.