

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

Bill No. 61-31 (COR)

Introduced by:

T. C. Ada
Adolpho Borja Palacios, Sr.



**AN ACT TO ADD §1102(c)(1), §1102(vv), §1102(ww), TO ADD
NEW DEFINITIONS TO §5101, TO AMEND §5109(a), §5109(c),
§5112(b) AND TO ADD §5112(d), §5116(d), §5117 OF TITLE 16,
GUAM CODE ANNOTATED, RELATIVE TO INCREASING
THE SAFETY ON GUAM'S ROADS BY GRANTING
DIVISION OF MOTOR VEHICLES/MOTOR CARRIER
SAFETY ASSISTANCE PROGRAM OFFICIALS WITH
CITATION AUTHORITY.**

2011 JAN 31 PM 3:33

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

2 **Section 1.** Legislative Findings. *I Liheslaturan Guåhan* finds that the
3 standards established by Guam's current Motor Vehicle Code need to be updated
4 to support the continued development of Guam's transportation and other
5 industries, and to enhance the safety of Guam's roads. Such updates include: 1)
6 definition of commercial motor vehicle (CMV); 2) granting the Division of Motor
7 Vehicles/Motor Carrier Safety Assistance Program (MCSAP) officials the
8 authority to: (a) conduct inspections of both interstate and intrastate CMV activity;
9 (b) stop and inspect CMVs traveling on Guam's highways; (c) inspect passenger
10 vans, including mini-buses and limousines, to determine if safety requirements are
11 being met; and (d) require certain reports from all motor carriers and inspect all
12 equipment of motor carriers as well as books and documents related to the safety

1 of motor carrier operations. The new requirements will apply to approximately six
2 thousand (6,000) currently registered civilian CMVs weighing $\geq 10,001$ lbs and
3 eight hundred (800) registered civilian CMV vans, mini-buses, and limousines
4 intended to transport 8-15 passengers.

5 **Section 2.** A new 16 GCA §1102(c)(1) is *added* to read:

6 “§1102(c)(1). A *commercial motor vehicle (CMV)* is a vehicle of a
7 type required to be registered hereunder, used or maintained for the
8 transportation of persons for hire, compensation or profit, or designed,
9 used or maintained primarily for the transportation of property.

10 Additionally, a commercial motor vehicle includes any self-propelled or
11 towed motor vehicle used on a highway in interstate or intrastate
12 commerce to transport passengers or property when the vehicle—

13 (a) Has a gross vehicle weight rating (GVWR; as classified by the
14 vehicle manufacturer) or gross combination weight rating (GCWR), or gross
15 vehicle weight (GVW) or gross combination weight (GCW), of 4,536 kg
16 (10,001 pounds) or more, whichever is greater; or

17 (b) Is designed or used to transport more than 8 passengers (including
18 the driver) for compensation; or

19 (c) Is designed or used to transport more than 15 passengers, including
20 the driver, and is not used to transport passengers for compensation; or

21 (d) Is used in transporting material found by the Secretary of
22 Transportation to be hazardous under 49 U.S.C. 5103 and transported in a
23 quantity requiring placarding under regulations prescribed by the Secretary
24 under 49 CFR, subtitle B, chapter I, subchapter C.

1 (e) For intrastate commerce purposes only, a commercial motor
2 vehicle includes a vehicle of a type required to be registered hereunder, and
3 used or maintained for the transportation of 9 to 15 persons.

4 **Section 3.** New definitions (vv) and (ww) are *added* to 16 GCA §1102 to
5 read:

6 “§1102(vv). *Interstate commerce* means trade, traffic, or transportation in
7 the United States, which includes the 50 states, District of Columbia, territories and
8 Commonwealths of the United States -:

9 (1) Between a Guam port of entry/exit (Jose D. Leon Guerrero Port
10 Authority or the Antonio B. Won Pat Guam International Airport) and a
11 place outside of such entry/exit; or

12 (2) Between two places in Guam as part of trade, traffic, or
13 transportation originating or terminating outside Guam or the United
14 States.

15 §1102(ww). *Intrastate commerce* means any trade, traffic, or
16 transportation within the territory of Guam which is not described in the
17 term ‘interstate commerce’.”

18 **Section 4.** New definitions are *added* to 16 GCA §5101 to read:

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

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

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

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

6 *Portable Scales*: A movable weighing device.

7 *Static Scales*: An immovable measuring scale, similar to a
8 ruler, that is attached to the edge of an optical comparator screen.

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

12 **Section 5.** 16 GCA §5109(a) is *amended* to read:

13 “§5109(a). For purposes of the enforcement of this part, the Director
14 of Revenue and Taxation (“Director”) shall have such powers of
15 enforcement as may be necessary to implement this part. The Director
16 may delegate the enforcement of this part to the Administrator of the
17 Division of Motor Vehicles/Motor Carrier Safety Assistance Program
18 (DMV/MCSAP). For the purpose of the safety, welfare and health of the
19 general public, and the safe transportation of hazardous materials and
20 waste on any public highway, or primary road, and the enforcement of this
21 part and of all rules adopted pursuant to this part, the Director and persons
22 appointed by the Director, may (1) inspect lands, buildings, freight and
23 equipment of motor carriers; (2) stop and inspect freight and equipment of
24 motor carriers on any public highway or primary road; (3) inspect shipping
25 papers and hazardous waste manifests of motor carriers and persons
26 subject to this part; and (4) stop and inspect similar documents and

1 equipment status of military vehicles traveling on a Guam public highway
2 or primary road.

3 ~~Any~~ Every police officer *or* Division of Motor Vehicles/Motor
4 Carrier Safety Assistance Program (DMV/MCSAP) inspector shall assist
5 in the enforcement of this part and of all rules adopted pursuant to this part
6 and issue citations for violations as appropriate. ~~observing conditions of~~
7 ~~vehicle appearance, operation~~ *or* ~~cargo storage which might represent a~~
8 ~~potential~~ *or* ~~actual hazard is authorized to stop the driver and submit the~~
9 ~~vehicle to an immediate inspection.~~

10 **Section 6.** 16 GCA §5109(c) is *amended* to read:

11 “**§5109(c).** ~~Any~~ Every police officer *or* DMV/MCSAP inspector
12 having reason to believe that the weight of a vehicle, either unladen *or* with
13 load, is unlawful, is authorized to require the driver to stop and submit to a
14 weighing of same by means of portable scales, static scales, or weigh-in-
15 motion scales. ~~and should a question of weight arise, the officer~~ *or*
16 ~~DMV/MCSAP inspector will require that such vehicles be driven to the~~
17 ~~nearest official scales.”~~ Violations shall be subject to penalties cited in
18 §5112(a) of this Chapter.”

19 **Section 7.** 16 GCA §5112(b) is *amended* to read:

20 “**§5112(b).** All permit fees and fines *shall* be deposited into the Better
21 Public Service Fund at the Department of Revenue and Taxation, to be
22 used by the Division of Motor Vehicles/~~Motor Carrier Safety Assistance~~
23 ~~Program.”~~

24 **Section 8.** 16 GCA §5112(d) is *added* to read:

1 “§ 5112(d). The fine schedules of the Superior Court of Guam and
2 the Commercial Vehicle Safety Alliance (CVSA) for violations cited
3 during roadside inspections, and the method for penalty assessment
4 outlined in the Federal Uniform Fine Assessment (UFA) Program,
5 specifically for violations identified as a result of a Compliance Review,
6 are hereby adopted pursuant to fines and fees as applicable to Guam.”

7 **Section 9.** 16 GCA §5116(d) is *added* to read:

8 **§5116. Carrier Safety and Hazardous Material Regulations.**

9 “(d) The regulations adopted in this section shall be applicable to both
10 interstate commerce and intrastate commerce. Furthermore, the Department
11 of Revenue and Taxation, Guam Motor Carrier Safety Assistant Program's
12 (MCSAP) personnel shall have authority to enforce the regulations on both
13 intrastate and interstate motor vehicle carriers.”

14 **Section 10.** 16 GCA §5117 is *added* to read:

15 **“§5117. Accounts, records, and reports. Inspection.**

16 (a) The Director of Revenue and Taxation may require annual,
17 periodic, or special reports from all motor carriers, prescribe the manner
18 and form in which the reports shall be made, and require from the carriers
19 specific and full, true, and correct answers to all questions which the
20 Director may deem necessary for the safety regulation of motor carrier
21 vehicles.

22 (b) The Director may prescribe the forms of any and all records and
23 memoranda to be maintained by motor carriers as related to safety of motor
24 carrier operations consistent with the guidelines set forth in Title 30, Guam
25 Administrative Rules and Regulations. The Director or Director’s duly
26 authorized representative shall at all reasonable times and places consistent

1 with §9302, 30 GAR, Division 2, Article 3 have access to and authority,
2 under the Director's or representative's order, to inspect and examine any
3 and all equipment of motor carriers and shall have authority to inspect and
4 copy any and all books, records, memoranda, and other documents as are
5 related to the safety of motor carrier operations.

6 (c) Each motor carrier operating vehicle in Guam shall keep all
7 records and reports required by this section at an office or place of business
8 located within Guam.”

9 **Section 11. Severability.** *If any provision of this law or its application to*
10 *any person or circumstance is found to be invalid or contrary to law, such*
11 *invalidity shall not affect other provisions or applications of this law which can be*
12 *given effect without the invalid provisions or applications, and to this end the*
13 *provisions of this law are severable.*