

16 GCA VEHICLES
CH. 19 MANDATORY INSURANCE

CHAPTER 19
MANDATORY INSURANCE

- § 19101. Purpose.
- § 19102. Insurance Required.
- § 19103. Administration of Requirement.
- § 19104. Contents of Required Automobile Insurance.
- § 19105. Report of Accident Required.
- § 19106. Penalty.
- § 19107. Presentation of Insurance Documents to Establish 'Proof of Insurance.'

NOTE: Chapter 19, Financial Responsibility Law, has been repealed and reenacted by P.L. 20-216:1 to Chapter 19, Mandatory Insurance. All later amendments if any will be indicated below each section.

COURT DECISIONS: D.C.Guam, App.Div., 1967. An injured party may recover from the insurer of the person causing the injury even though the insurer has a defense against the insured for failure to notify, or to assist, or both, where the insurance was issued under [the previous] Financial Responsibility Law. *Sani-Systems, Inc. and Palting v. Capital Insurance & Surety Co., Inc.*, 1 Guam R. 168.

§ 19101. Purpose.

It is the purpose of this legislation to require mandatory automobile liability insurance in order to guarantee adequate protection for victims of car accidents who are injured in Guam or who are injured while riding in motor vehicles which are operated in Guam.

§ 19102. Insurance Required.

Each owner of a motor vehicle which is required to be registered in Guam shall maintain the insurance required by this Chapter. This insurance shall be in effect continuously during the motor vehicle's period of registration.

§ 19103. Administration of Requirement.

(1) (a) every person applying to register a motor vehicle in Guam shall certify at the time of registration of his vehicle to the Director of Revenue and Taxation (the "Director"), on a form supplied by the Director, that the insurance required by this Chapter is in effect with respect to the vehicle which is to be registered.

(b) The Director may request an insurer to verify any information provided pursuant to subparagraph (a) of paragraph (1) of this Section.

16 GCA VEHICLES
CH. 19 MANDATORY INSURANCE

The insurer shall accurately respond to the Director's request within ten (10) business days.

(c) The Director may request that the person who has certified to the Director pursuant to said subparagraph (a), submit proof, within fifteen (15) days, that the required insurance is in effect.

(2) The Director shall refuse to register a motor vehicle if the registrant fails to make appropriate certifications as set forth in paragraph (1)(a) above.

(3) The Director shall suspend or revoke the license or registration certificate issued to the owner or operator of a motor vehicle who has been convicted of a violation of this Chapter, or who knowingly operates or knowingly permits the operation of an uninsured motor vehicle, or who falsely certifies to the Director that a motor vehicle is an insured motor vehicle, or who knowingly provides the Director with false or inaccurate information pursuant to the request by the Director pursuant to this Chapter.

(a) Whenever a license, or registration certificate has been revoked or suspended under the provisions of this Section, the reasons therefor shall be set forth in the order of revocation or suspension. The order shall take effect five (5) days after service of notice on the person whose license or registration certificate is revoked or suspended unless the person shall have filed with the Director, within the five (5) day period, written application for a hearing; provided, that application to the Director for a hearing shall not operate as a stay of the order of the Director when the order has been issued revoking or suspending a registration certificate. The hearing by the Director shall only cover the issues of whether a policy of motor vehicle insurance has been issued to the person and has been in effect on the day the order of revocation or suspension was issued and whether the person provided the Director with false or inaccurate information. A verbatim record of the hearing shall be prepared by the Director.

(b) If, following the hearing provided for in this Section, the Director shall sustain the order of revocation or suspension, the order shall become effectively immediately.

(c) When a registration certificate or license has been revoked, no new registration certificate or license shall be issued to the person for six (6) months after the effective date of the order of revocation;

16 GCA VEHICLES
CH. 19 MANDATORY INSURANCE

provided, that no new registration certificate shall be issued to that person until the motor vehicle is insured as required by this Chapter.

(d) If a person's registration certificate has been suspended or revoked as provided for in this Section, the registration certificate shall not be transferred and the motor vehicle with respect to which the registration certificate was issued shall not be registered in any other name until the Director is satisfied that the transfer of the registration certificate was made in good faith and not for the purpose or with the effect of defeating the purposes of this Chapter.

(e) Nothing in this Section shall affect the rights of any conditional vendor, chattel mortgagee or lessor of the motor vehicle.

(f) The Director shall suspend or revoke the registration certificate of any motor vehicle transferred in violation of the provisions of this Section.

(g) Decisions of the Director shall be subject to review by the Superior Court of Guam. Orders and decisions of the Director shall be appealable pursuant to Code of Civil Procedure, § 1084, et seq., on a petition for writ of mandate to the Superior Court of Guam.

(h) A motor vehicle with respect to which the registration certificate is suspended under this Section may be immobilized by the Guam Police Department until the insurance required by this Section is in effect.

(4)(a) All insurers authorized to sell motor vehicle insurance on Guam *shall* electronically submit to the Department of Revenue and Taxation, using the department's established mechanism for electronic submission over the internet *or* secure network, notice of motor vehicle insurance issuance, cancellations *or* non-renewals within ten (10) working days after the effective date of issuance, cancellation *or* non-renewal. All insurers authorized to sell motor vehicle insurance on Guam *shall* comply with this electronic submission requirement within one hundred eighty (180) days of the enactment of this Act. All insurance companies authorized to sell motor vehicle insurance on Guam *shall* provide notification to the Department of Revenue and Taxation by electronic mail, written form *or* the Department of Revenue and Taxation's mechanism for electronic transmission over the internet *or* secure network prior to the effective date to meet notification requirements of this Section. In the event power *or* system failure does not

16 GCA VEHICLES
CH. 19 MANDATORY INSURANCE

permit electronic notice, insurers *shall* submit written notice to the Department of Revenue and Taxation within ten (10) working days after the effective date of issuance, cancellation *or* non-renewal.

Upon receipt of the notice of cancellation concerning a motor vehicle insurance policy on a vehicle registered in Guam, the Director *shall* notify the person in whose name the vehicle is registered and the lien holder that the Director will revoke *or* cancel registration of the vehicle pursuant to law.

(b) Insurers shall provide information and cooperate with the Director in his efforts to enforce this Chapter.

(5) (a) Failure of the insurer to provide notice of cancellation or non-renewal of a policy to the Director *shall* be punished by a fine in the sum of Five Hundred Dollars (\$500) per policy. The penalty assessed by this Section *shall* be payable to the party found not at fault in an accident where it has been determined that the party at fault was not covered with auto insurance and the insurance company failed to notify the proper authorities pursuant to Title 16 GCA § 19103, paragraph (4), item (a). This provision in no way settles *or* releases the insurance companies *or* responsible parties of claims that may arise from the accident.

(b) The Director shall notify the insured by certified letter or other appropriate means that his insurance has been canceled. The insured will have thirty (30) days to procure a new policy or re-instate his policy. Failure to cure such deficiency in coverage shall be punished by a fine in the sum of Five Hundred Dollars (\$500) and shall subject the vehicle in question to impoundment, which impounded vehicle may only be released on the presentation of proof of insurance.

SOURCE: Subsection 5 added by P.L. 22-102:3. Subsection 5 (a) amended by P.L. 29-045:2 (Jan. 2, 2008). Subsection 4 (a) amended by P.L. 29-059:1 (Apr. 4, 2008).

NOTE: Subsection (4) has been changed to subsection (5). Amended by Compiler in order to reflect the correct citation.

§ 19104. Contents of Required Automobile Insurance.

Any motor vehicle which is operated in Guam must be insured pursuant to the following limits:

(a) Property Damage Liability Insurance - Property Damage Liability Insurance shall provide that any liability to an insured to pay

16 GCA VEHICLES
CH. 19 MANDATORY INSURANCE

for property damage to any vehicle or other property not owned or controlled by the insured, in accordance with applicable law, shall be paid by the applicable insurer within the limits of the policy of insurance issued by the insurer. The minimum amount of property damage liability insurance coverage that a named insured must purchase is \$20,000 for property damage in any one accident.

(b) Third Party Bodily Injury Liability - Third Party Bodily Injury Liability coverage shall provide that any liability of an insured to pay for injury arising from an accident within Guam, in accordance with applicable law, shall be paid by the insurer up to the amount established in the policy. The minimum amount of third party bodily injury liability coverage that an insured must purchase shall be \$25,000 for each person injured in any one accident and \$50,000 in aggregate for all persons injured in any one accident.

(c) The limits of minimum insurance set out in this Section shall be adjusted by the Director biennially, beginning November, 1991, and only after public hearing and taking into account local costs and other conditions, and other relevant factors.

§ 19105. Report of Accident Required.

The driver of every motor vehicle which is in any manner involved in any accident within Guam except on property belonging to such driver, which accident has resulted in damage to the property of another person in excess of \$250 or in bodily injury or the death of any person, shall within ten (10) days of such accident report the accident to the office of the Director on a form approved by the Director or to the Guam Police Department. If such operator be physically incapable of making such report, and is not the owner of the motor vehicle involved in such accident, then the owner shall, as soon as he learns of the accident, report the matter to the Director and/or to the Chief of Police of the Guam Police Department.

§ 19106. Penalty.

(a) Any person who willfully fails, refuses or neglects to report any accident as required by Section 19105 shall be guilty of a petty misdemeanor.

(b) Any person who operates a motor vehicle in Guam and does not possess the insurance mandated by Sections 19102 and 19104, shall be

16 GCA VEHICLES
CH. 19 MANDATORY INSURANCE

subject to a mandatory fine of \$500. Said fine shall be imposed by the Traffic Division of the Superior Court of Guam.

§ 19107. Presentation of Insurance Documents to Establish 'Proof of Insurance.'

All drivers *shall* provide, upon request of a law enforcement officer during a traffic stop, proof of insurance coverage sufficient to comply with the provisions of this Chapter.

The penalties for failure to comply with the provisions of this Section are as follows:

(a) Any driver who does *not* possess 'proof of insurance' for the vehicle in his possession, that is properly insured as required by this Chapter, commits a violation.

(b) Any driver who does *not* possess 'proof of insurance' for the vehicle in his possession, that is *not* properly insured as required by this Chapter, *shall* be punished in accordance with the penalties prescribed by this Chapter.

(c) Any driver that *knowingly* presents any insurance certificate, policy *or* other documentation to establish 'proof of insurance' for the vehicle in his possession, that is *not* properly insured as required by this Chapter, commits a petty misdemeanor.

(d) Any driver that *knowingly* presents any insurance certificate, policy *or* other documentation to establish 'proof of insurance' for the vehicle in his possession, that is *not* properly insured as required by this Chapter, and is at fault in an automobile accident in which the total value of the loss to the innocent party(s) is Five Thousand Dollars (\$5,000) *or less*, commits a misdemeanor.

(e) Any driver that *knowingly* presents any insurance certificate, policy *or* other documentation to establish 'proof of insurance' for the vehicle in his possession, that is *not* properly insured as required by this Chapter, and is at fault in an automobile accident in which the total value of the loss to the innocent party(s) is *more* than Five Thousand Dollars (\$5,000), commits a third degree felony.

(f) For purposes of subsections (c), (d) and (e) of this Section, failure to pay premiums as prescribed by the automobile insurance policy *or* other payment agreement with the insurer *or* the insurer's

16 GCA VEHICLES
CH. 19 MANDATORY INSURANCE

general agent, sub-agent, broker *or* solicitor is *prima facie evidence* that an owner and *or* driver *knowingly* presented an insurance certificate, policy *or* other documentation to establish 'proof of insurance', to comply with the provisions of this Chapter.

SOURCE: Added by P.L. 29-117:1 (Dec. 2, 2008).
