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Scope of this Supplement

In December of 2005, the Guam Code Annotated 2005 Edition was released, which updated the code through parts of Public Law 28-68 then in effect. This supplement updates Volume 3 of the 2005 Edition through Public Law 28-100 which was signed into law on February 7, 2006. Included in this supplement are corrections made to Volume 3. The following table identifies the updated and corrected sections. Corrections are included at the end of this supplement.

Table of Code Sections Updated and Corrected

Title	Section	Action	Public Law
7	9107	Errata	
7	9203	Errata	
7	9204	Errata	
7	9212	Errata	
7	9214	Errata	
7	11303	Errata	
7	11304	Errata	
7	11305	Errata	
7	11306	Errata	
7	11307	Errata	
8	162.40	Errata	
9	7.58	Errata	
9	67.100 (38)	Added	28-88 : 1
9	90.49	Amended	28-68 : IV:108
9	67.401.2 (c)	Added	28-105 : 1
9	67.401.2 (d)	Added	28-105 : 1
9	67.401.2 (e)	Added	28-105 : 1
9	67.401.2.3	Added	28-88 : 2
9	67.401.4 (n)	Added	28-105 : 2
9	89.01-89.11	Added	28-77 : 2
16	3102.1	Added	28-79 : 2
16	11106	Amended	28-68 : IV:50

TITLE 9 CRIMES & CORRECTIONS

9 GCA § 67.100. Definitions.

As used in this Act:

- (1) *Act* means the Uniform Controlled Substances Act of Guam.
- (2) *Administer*, unless the context otherwise requires, means to apply a controlled substance, whether by injection, inhalation, ingestion or any other means, directly to the body of a patient, an animal, or research subject by:
 - (i) a practitioner, or in the practitioner's presence, by the practitioner's authorized agent; or
 - (ii) the patient or research subject at the direction and in the presence of the practitioner.
- (3) *Anabolic Steroid* means any drug or hormonal substance chemically and pharmacologically related to testosterone (other than estrogens, progestin, and corticosteroids) that promotes muscle growth.
- (4) *Attorney General* means the Attorney General of Guam or any individual he designates.
- (5) (i) *Controlled substance analog* means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to Schedule I or II and:
 - (A) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or
 - (B) with respect to a particular individual, which the individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; but
- (ii) the term does not include:
 - (A) a controlled substance;

(B) a substance for which there is an approved new drug application;

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under § 505 of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 355) to the extent conduct with respect to the substance is permitted by the exemption; or

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(6) *Deliver* or *Delivery*, unless the context otherwise requires, means to transfer a substance, actually or constructively, from one person to another, whether or not there is an agency relationship.

(7) *Department of Mental Health and Substance Abuse* ('DMHSA') means the Director of the Department of Mental Health and Substance Abuse of the government of Guam, or its successor, or any individual he designates.

(8) *Department of Public Health and Social Services* ('DPHSS') means the Director of the Department of Public Health and Social Services of the government of Guam, or its successor, or any individual of the department he designates.

(9) *Dispense* means to deliver a controlled substance to the ultimate user, patient or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

(10) *Dispenser* means any person who dispenses.

(11) *Distribute* means to deliver other than by administering or dispensing a controlled substance.

(12) *Distributor* means a person who distributes.

(13) *Drug* means:

(i) a substance recognized as a drug in the official United States Pharmacopoeia, National Formulary, or the official Homeopathic Pharmacopoeia of the United States, or a supplement to any of them;

(ii) a substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;

(iii) a substance, other than food, intended to affect the structure or a function of the body of individuals or animals; and

(iv) a substance intended for use as a component of an article specified in this Paragraph. The term does not include a device or its components, parts or accessories.

(14) *Drug Enforcement Administration* ('DEA') means the Drug Enforcement Administration of the United States Department of Justice, or its successor agency.

(15) *Guam Police Department* ('GPD') means the Chief of Police of the Guam Police Department of Guam, or its successor, or any individual he designates.

(16) *Immediate Precursor* means a substance:

(i) that the Department of Public Health and Social Services has found to be, and by rule has designated to be, the principal compound used, or produced primarily for use, in the manufacture of a controlled substance;

(ii) that is an immediate chemical intermediary used or likely to be used in the manufacture of the controlled substance; and

(iii) the control of which is necessary to prevent, curtail or limit the manufacture of the controlled substance.

(17) *Inventory* means all factory and branch stocks in finished form of a controlled substance manufactured or otherwise acquired by a registrant, whether in bulk, commercial containers or contained in pharmaceutical preparations in the possession of the registrant, including stocks held by the registrant under separate registration as a manufacturer, importer, exporter or distributor, and a list of such.

(18) *Isomer* means an optical isomer, but in § 67.100(21)(v) Appendix A: A.(12) and A.(34), and Appendix B: A.(4) of this Act, the term includes a geometric isomer; in Appendix A: A.(1), A.(8) and A.(42), and Appendix D: C. of this Act the term includes a positional isomer; and in Appendix A: A.(35) and C., and Appendix C: A. of this Act the term includes a positional or geometric isomer.

(19) *Manufacture* means to produce, prepare, propagate, compound, convert or process a controlled substance, directly or indirectly, by extraction from substances of natural origin, chemical synthesis, or a combination of extraction and chemical synthesis, and includes packaging or repackaging of the substance or labeling or relabeling of its container.

The term does not include the preparation, compounding, packaging, repackaging, labeling or relabeling of a controlled substance:

(i) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(ii) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(20) *Marijuana*, means all parts of the plant *Cannabis*, whether growing or not; its seeds; the resin extracted from any part of such plant; and every compound, salt, derivative, mixture or preparation of the plant, or its seeds or resin. The term does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, salt, derivative, mixture or preparation of the mature stalks, except resin extracted therefrom; fiber, oil or cake; or the sterilized seed of the plant which is incapable of germination.

(21) *Narcotic drug* means any of the following, however manufactured:

(i) Opium, opium derivative and any derivative of either, including any salts, isomers and salts of isomers of them that are theoretically possible within the specific chemical designation, but not isoquinoline alkaloids of opium;

(ii) synthetic opiate and any derivative of synthetic opiate, including any isomers, esters, ethers/salts, and salts of isomers, esters, and ethers of them that are theoretically possible within the specific chemical designation;

(iii) poppy straw and concentrate of poppy straw;

(iv) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine and derivatives of ecgonine, or their salts, have been removed;

(v) cocaine, or any salt, isomer or salt of isomer of cocaine;

(vi) cocaine base;

(vii) ecgonine, or any derivative, salt, isomer or salt of isomer of ecgonine; and

(viii) compound, mixture or preparation containing any quantity of a substance listed in this Paragraph.

(22) *Narcotic Treatment Program* ('NTP') means a program engaged in maintenance and/or detoxification treatment with narcotic drugs.

(23) *Opiate* means a substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, opium derivatives and synthetic opiates. The term does not include, unless specifically scheduled as a controlled substance pursuant to § 67.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(24) *Opium poppy* means the plant of the species *Papaver somniferum* L., except its seeds.

(25) *Person* means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government or governmental subdivision or agency, or any other legal or commercial entity.

(26) *Pharmacist* means any pharmacist licensed on Guam to practice his/her profession and any other person (e.g. pharmacist intern) authorized by Guam to practice under the supervision of a pharmacist licensed on Guam.

(27) *Physician, dentist, veterinarian and podiatrist* means any persons who are licensed to practice those respective professions in Guam.

(28) *Poppy straw* means all parts, except the seeds, of the opium poppy, after mowing.

(29) *Practitioner* means a physician, dentist, veterinarian, scientific investigator, pharmacist, pharmacy, hospital, government operated or government contracted animal shelter, or other person licensed, registered, or otherwise permitted, by Guam, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(30) *Prescription* means an order for medication which is dispensed to or for an ultimate user, but does not include an order for medication which is dispensed for immediate administration to the ultimate user (e.g. an order to dispense a drug to a bed patient for immediate administration in a hospital is not a prescription).

(31) *Production*, unless the context otherwise requires, includes the manufacturing of a controlled substance and the planting, cultivating, growing or harvesting of a plant from which a controlled substance is derived.

(32) *Registrant* means any person registered pursuant to this Act.

(33) *State* means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a territory or insular possession subject to the jurisdiction of the United States, including Guam.

(34) *Ultimate user* means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(35) *Drug Free School Zone* means any area within one thousand (1,000) feet of a public or private elementary, secondary or post secondary educational institution or its accompanying grounds; or within the vehicle of any school bus which transports students while in motion; or within two hundred fifty feet (250') of any school bus not in motion or a designated school bus stop or shelter, including any school bus transfer station. Notwithstanding the provisions of this Section, a Drug Free School Zone shall not include private real property which is not a school or the accompanying grounds of a school.

(36) *School* means any establishment, public or private, for the care and education of students from kindergarten through grade twelve (12) and any college or university or educational institution of higher learning.

(37) *Accompanying Grounds* means the respective campuses, recreational areas, athletic fields, student housing, or other property of each school which are owned, used, or operated by their respective governing boards of the schools or chief administrative officers in the case of a private school.

(38) *Retailer* or *Retail Distributor* means a grocery store, general merchandise store, drug store, other merchandise store, or other entity or person whose activities as a distributor relating to pseudoephedrine products are limited exclusively both in number of sales and volume of sales to on site sales.

SOURCE: Repealed and reenacted by P.L. 24-149:2. Subsections (35), (36) and (37) added by P.L. 26-125:3(a). Subsections (2) and (29) amended by P.L. 28-34:2 and 3. Subsection (38) added as subsection (33) by P.L. 28-088:1 (Dec. 12, 2005), renumbered by Compiler since subsections (33) through (37) are currently occupied.

§ 67.401.2. Illegal Possession; Defined and Punishment.

(a) It is unlawful for any person knowingly or intentionally to possess a controlled substance, unless such substance was obtained directly from, or

pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Act.

(b) Any person who violates Subsection (a) with respect to:

(1) any controlled substance except marijuana shall be guilty of a felony of the third degree.

(2) more than one (1) ounce of marijuana shall be guilty of a petty misdemeanor.

(3) one (1) ounce or less of marijuana shall be guilty of a violation and punished by a fine of One Hundred Dollars (\$100.00).

(c) A person who commits a crime under 9 GCA §§ 67.401.2(b)(2) or (3) within the Drug-Free School Zone shall be guilty of a misdemeanor.

(d) A person who commits a crime under §§ 67.401.1 or 67.401.2(b)(1) within the Drug-Free School Zone shall be guilty of the same class of felony had the offense been committed outside the Drug-Free School Zone.

(e) A person who knowingly fails to report any violation of this Chapter within the Drug Free-School Zone is guilty of a misdemeanor.

SOURCE: Subsections (c), (d) and (e) were added by P.L. 26-125:4 (Sept. 4, 2002) with a sunset provision of Sept. 30, 2004. Subsections (c), (d) and (e) permanently added by P.L. 28-105:1 (April 14, 2006).

9 GCA § 67.401.2.3. Pseudoephedrine: Retail Sale.

The dispensing, sale, or distribution at retail of pseudoephedrine, or any derivative of pseudoephedrine, shall be subject to the following requirements:

(a) Any medication containing pseudoephedrine, or any derivative of pseudoephedrine, shall be placed behind the sales counter, stored or displayed in a locked cabinet or locked area in such a manner that the product is accessible to the public only with the assistance of a pharmacist, retailer or employee of the retailer;

(b) The dispensing, sale, or distribution at retail outlets of pseudoephedrine, or any derivative of pseudoephedrine, shall be made only by a practitioner, retailer, or employee of a retailer who shall at all times act to prevent the theft or diversion of the product;

(c) A pharmacy or retail distributor shall provide notification in a clear and conspicuous manner in a location where a pseudoephedrine product is offered for sale stating the following: Guam law prohibits the over-the-counter purchase of more than two (2) packages of a product containing pseudoephedrine in a single transaction;

(d) It is unlawful for a practitioner, retailer, or employee of a retailer to sell in a single transaction medicines containing pseudoephedrine in excess of two packages;

(e) It is unlawful for any person to purchase package(s) containing pseudoephedrine with knowledge, intention, or with reckless disregard of the likely use of such package or packages to manufacture methamphetamine;

(f) Any practitioner, retailer, or employee with knowledge of a purchase or sale of package(s) containing pseudoephedrine in violation of this section shall report said transaction to the Guam Police Department or the Department of Public Health and Social Services.

(g) Any practitioner, retailer, employee of a retailer or purchaser who violates items (a), (b), (c), (d), (e) or (f) of this Section commits a violation; and

(h) This section shall not apply to the following:

1. Any product in liquid, liquid capsule, or dissolvable strip form in which pseudoephedrine, or any derivative of pseudoephedrine, is the active ingredient; or

2. If possession is by a person authorized by law to dispense, prescribe, manufacture, or possess pseudoephedrine.

SOURCE: § 67.401.2.3 added as § 67.401.2.2 by P.L. 28-088:2 (Dec. 12, 2005), renumbered by Compiler since § 67.401.2.2 already exists.

§ 67.401.4. Prison Terms for Drug Offenders.

Any person who is convicted of an offense pursuant to § 67.401.1 of this Act shall be sentenced as follows:

(a) If he is guilty of an offense pursuant § 67.401.1(b)(1) of this Act, he shall be sentenced to imprisonment for not less than ten (10) nor more than twenty (20) years and may, in addition, be fined not more than Fifty Thousand Dollars (\$50,000.00). The sentence shall include a special parole term of not less than three (3) years in addition to such term of imprisonment. Imposition or execution of such sentence shall not be suspended and probation shall not be granted. Parole or work release shall not be granted to the offender until he has served at least ten (10) years of his sentence or imprisonment.

(b) If he is guilty of an offense pursuant to § 67.401.1(b)(1) of this Act and if he has been convicted on one (1) or more felonies under any

provision of this Act, any law of the United States relating to controlled substances or for any offense under state or foreign law relating to narcotic drugs listed in Schedule I as per Appendix A of this Act or Schedule II as per Appendix B of this Act which offense would be a felony under this Act and one (1) or more of the convictions are final, he shall be sentenced to a term of imprisonment which shall not be less than fifteen (15) years and which may be up to life imprisonment, and may, in addition, be fined not more than One Hundred Thousand Dollars (\$100,000.00). The sentence, if for a term of years, shall include a special parole term of not less than six (6) years in addition to such term of imprisonment. Imposition of execution of such sentence shall not be suspended, and probation shall not be granted. Parole or work release shall not be granted to the offender until he has served at least fifteen (15) years of his sentence of imprisonment.

(c) If he is guilty of an offense pursuant to § 67.401.1(a) of this Act committed while he was released on bail pursuant to Chapter 40 of Title 8 of the Guam Code Annotated, *Criminal Procedure*, on a charge of violating § 67.401.1(a), he shall be sentenced to a term of imprisonment which shall not be less than fifteen (15) years and which may be up to life imprisonment and, in addition, may be fined not more than One Hundred Thousand Dollars (\$100,000.00). The sentence, if for a term of years, shall include a special parole term of not less than six (6) years in addition to such term of imprisonment. Imposition or execution of such sentence shall not be suspended and probation shall not be granted. Parole or work release shall not be granted to the offender until he has served at least fifteen (15) years of sentence of imprisonment.

(d) The imposition of a minimum term of imprisonment and the prohibitions against suspension of sentence and granting of probation and requirement for service of a minimum term of imprisonment prior to granting parole as prescribed by Subsections (a), (b) and (c) of this Section shall not apply in the case of a person whom the court determines violated § 67.401.1(a) of this Act for the primary purpose of enabling him to obtain a narcotic drug which he requires for his personal use because of his addiction to such drug.

(e) If he is guilty of an offense involving a controlled substance listed in Schedule I or II of this Act which is not a narcotic drug or a controlled substance listed in Schedule III of this Act he shall be sentenced to a term of imprisonment of not more than five (5) years and may be fined not more than Fifteen Thousand Dollars (\$15,000.00). The sentence shall include a special parole term of not less than two (2) years in addition to such term of

imprisonment. Imposition or execution of such sentence shall not be suspended and probation shall not be granted.

(f) If he is guilty of an offense involving a controlled substance listed in Schedule I or II of this Act which is not a narcotic drug or a controlled substance in Schedule III of this Act and if he has been convicted of one (1) or more prior offenses punishable under the provisions of Subsection (e) of this Section, a felony under any provision of this Act, any law of the United States, a state or foreign jurisdiction relating to narcotic drugs, marijuana, or depressant or stimulant substances and one (1) or more of the convictions are final, he shall be sentenced to a term of imprisonment of not more than ten (10) years and, in addition, may be fined not more than Thirty Thousand Dollars (\$30,000.00). The sentence shall include a special parole term of at least two (2) years in addition to such term of imprisonment. Imposition or execution of such sentence shall not be suspended and probation shall not be granted. Parole or work release shall not be granted to the offender until he has served at least ten (10) years of his sentence of imprisonment.

(g) If he is guilty of an offense involving a controlled substance listed in Schedule IV of this Act he shall be sentenced to a term of imprisonment of not more than three (3) years and may, in addition, be fined not more than Ten Thousand Dollars (\$10,000.00). The sentence shall include a special parole term of not less than one (1) year in addition to such term of imprisonment. Imposition or execution of such sentence shall not be suspended and probation shall not be granted.

(h) If he is guilty of an offense involving a controlled substance listed in Schedule IV of this Act and if he has been convicted of a felony under a provision of this Act; or a law of the United States, a state or foreign jurisdiction relating to narcotic drugs, marijuana, or depressant or stimulant substances, and such convictions are final, then he shall be sentenced to a term of imprisonment of not more than six (6) years and, in addition, may be fined not more than Twenty Thousand Dollars (\$20,000.00). The sentence shall include a special parole term of at least two (2) years in addition to such term of imprisonment. Imposition or execution of such sentence shall not be suspended and probation shall not be granted.

(i) If he is guilty of an offense involving a controlled substance listed in Schedule V of this Act he shall be sentenced to a term of imprisonment of not more than one (1) year or a fine of not more than Five Thousand Dollars (\$5,000.00), or both. Imposition or execution of such sentence shall not be suspended and probation shall not be granted.

(j) If he is guilty of an offense involving a controlled substance listed in Schedule V of this Act and if he has been convicted of a felony under a provision of this Act, or a law of the United States, a state or foreign jurisdiction relating to narcotic drugs, marijuana, or depressant or stimulant substances, and such convictions are final, then he shall be sentenced to a term of imprisonment of not more than two (2) years or a fine of not more than Ten Thousand Dollars (\$10,000.00), or both. Imposition or execution of such sentence shall not be suspended and probation shall not be granted.

(k) Notwithstanding the provisions of this Section, any person who is guilty of an offense pursuant to § 67.401.1(a) of this Act by distributing less than one (1) pound of marijuana for no remuneration shall be sentenced as provided in § 67.412 of this Act.

(l) A special parole term imposed under the provisions of § 67.407 of this Act may be revoked if its terms and conditions are violated. In such circumstances the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the time which was spent on special parole. A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. A special parole term provided for in § 67.407 of this Act shall be, in addition to, and not in lieu of, any other parole provided for by law.

(m) The Court may, in its sole discretion and after consultation with the Attorney General, reduce the minimum sentence of imprisonment by not more than twenty percent (20%) of the minimum term established by law of a person sentenced pursuant to Subsections (a), (b) or (c) of this Section if it finds such person was a pusher and if such person offers credible and necessary evidence as to the identity of his supplier, supervisor or as to the source of his supply of drugs. As used in this Subsection, "pusher" means a person not engaged in a continuing criminal enterprise as defined in § 67.409 of this Act and who sells controlled substances in such a manner that the majority of the sales are to ultimate users of said controlled substances.

(n) If the person is guilty of possession under § 67.401.2(b)(1) within the Drug-Free School Zone, the person may be sentenced to a maximum of three (3) years of imprisonment, which sentence shall not be suspended nor shall the person be placed on probation, nor shall the person be eligible for parole until completion of the mandatory term of incarceration.

SOURCE: Subsection (n) added by P.L. 26-125:5 (Sept. 4, 2002) with a sunset provision of Sept. 30, 2004. Subsection (n) permanently added by P.L. 28-105: 2 (April 14, 2006).

9 GCA § 89.01. Definitions.

As used in this Chapter:

(a) ‘*Minor*’ means a person below the age of eighteen (18) years.

(b) ‘*Criminal offense against a victim who is a minor*’ means any criminal offense that consists of any of the following:

(1) felony kidnapping, felonious restraint, felony child stealing and custodial interference, as defined and punished in Chapter 22 of Title 9 of the Guam Code Annotated, *Kidnapping, and Related Offenses*, when the victim is a minor;

(2) promoting prostitution, abetting prostitution, compelling prostitution, as defined and punished in Article 1 of Chapter 28 of Title 9 of the Guam Code Annotated, *Prostitution*, when the individual committing or engaging in prostitution is a minor;

(3) participation in obscenity, use of one's own child in obscene acts, indecent exposure, photography of minors' sexual acts, as defined and punished in Article 2 of Chapter 28 of Title 9 of the Guam Code Annotated, *Obscenity and Related Offenses*, when a minor is employed or used;

(4) criminal sexual conduct, as defined and punished in Chapter 25 of Title 9 of the Guam Code Annotated, *Sexual Offenses*, when the victim of the crime is a minor; *or*

(5) attempt to commit, solicitation to commit, or conspiracy to commit the crimes stated in Paragraphs (1) to (4) of this Subsection (b), in violation of Chapter 13 of Title 9 of the Guam Code Annotated.

(c) ‘*Criminal sexual conduct*’ refers to violations defined and punished under Chapter 25 of Title 9 of the Guam Code Annotated, *Sexual Offenses*, and any violations of similar federal laws or laws of other states, territories or tribes.

(d) ‘*Sexually violent offense*’ refers to any of the following:

(1) criminal sexual conduct involving sexual penetration or sexual contact when the actor causes personal injury to the victim and either of the following circumstances exists: (A) force or coercion is used to accomplish the sexual penetration or contact; *or* (B) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless;

(2) criminal sexual conduct involving sexual penetration or sexual

contact where the actor is aided or abetted by one (1) or more other persons and either of the following circumstances exists: (A) force or coercion is used to accomplish the sexual penetration or contact, *or* (B) the actor knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless;

(3) criminal sexual conduct involving sexual penetration or sexual contact where the actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon;

(4) criminal sexual conduct involving sexual penetration or sexual contact which occurs under circumstances involving the commission of another felony;

(5) criminal sexual conduct involving a victim under fourteen (14) years of age; *or*

(6) violation of 18 USC §§2241 *or* 2242, or any other similar laws of other states, territories or tribes.

(e) The terms ‘*sexual penetration*’ and ‘*sexual contact*’ have the same meaning as ‘*sexual penetration*’ and ‘*sexual contact*’ in Chapter 25 of Title 9 of the Guam Code Annotated.

(f) The term ‘*sex offender*’ refers to persons convicted of a criminal sexual conduct offense.

(g) The term ‘*conviction*’ refers to each separate charge to which the offender either voluntarily pleads guilty, whether in a single hearing or in separate hearings, or is found guilty by a trier of fact, whether the charges are contained in one (1) indictment, or separate indictments. This term includes convictions based on pleas of *nolo contendere* and guilty pleas entered pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970).

(h) The terms ‘*employed*’ and ‘*carries on a vocation*’ include employment that is full-time or part-time for a period of time exceeding fourteen (14) days, or an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, on a volunteer bases or for the purpose of government or educational benefit.

(i) ‘*Student*’ means any person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade, or professional institutions, or institution of higher learning.

(j) “Institution of higher education” means post secondary school.

(k) The term ‘*law enforcement agency*’ means any so designated agency on Guam, including, but not limited to, the Guam Police Department, the Jose D. Leon Guerrero Commercial Port Authority of Guam Police, the Parole Services Division of the Department of Corrections, the Superior Court of Guam Probation Services Division, the U.S. Probation Office, the U.S. Marshal’s Service, the Conservation Office of the Department of Agriculture, the A. B. Won Pat International Airport Guam Police, the Attorney Generals Office’s Family and Prosecution Divisions, the Superior Court of Guam and its Marshals Division, the Air Force Office of Special Investigations, the Naval Criminal Investigation Section, the Coast Guard Criminal Investigation Section, the United States Army Criminal Investigation Division, and other criminal investigators of the United States Government.

As Guam does not have a recognized law enforcement Campus Police in Guam’s Institution of Higher Education, the Guam Police Department is the recognized law enforcement agency with jurisdiction over Guam’s Institution of Higher Education.

(l) ‘*Court*’ means the Superior Court of Guam.

(m) The term ‘*community*’ refers to the entire territorial boundaries of Guam.

(n) The term ‘*registrant*’ refers to persons required to register under this Chapter.

(o) ‘Change in enrollment or employment status’ means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

9 GCA § 89.02. Classification of Offenders.

(a) Level One Offender. A person convicted of a sexually violent offense.

(b) Level Two Offender. A person *not* otherwise classified as a Level One Offender and is convicted of:

- (1) criminal sexual conduct involving two (2) or more victims;
- (2) two (2) or more separate criminal sexual conduct offenses;
- (3) a criminal offense against a victim who is a minor, involving two (2) or more minors;
- (4) two (2) or more separate criminal offenses against a victim who is a minor; *or*
- (5) one (1) or more separate criminal sexual conduct offense and one

(1) or more separate criminal offense against a victim who is a minor.

(c) Level Three Offender. A person *not* otherwise classified as either a Level One or a Level Two Offender and is convicted of:

(1) criminal sexual conduct; *or*

(2) a criminal offense against a victim who is a minor.

9 GCA § 89.03. Registration; Duty to Register.

(a) Persons Required to Register. The following persons shall register pursuant to this Chapter:

(1) any person who, since January 1, 1993, has been or is hereafter convicted in any court of Guam of a violation of any of the following offenses:

(A) a sexually violent offense;

(B) a criminal sexual conduct offense; *or*

(C) a criminal offense against a victim who is a minor.

(2) any person who, since January 1, 1993, has been or is hereafter convicted in any Federal or military court for a violation of any of the following offenses:

(A) an offense under Title 18 USC §§2241 or 2242; *or*

(B) a criminal offense against a victim who is a minor.

(3) any person convicted in another state, territory or tribe of any of the following offenses if that person is required to register in the state, territory or tribe wherein that person was convicted of any of the following:

(A) a criminal sexual conduct offense; *or*

(B) a criminal offense against a victim who is a minor.

(4) any person who is a non-resident who is on Guam for the purpose of work or education and:

(A) who is or has been convicted in another state, territory or tribal jurisdiction of a criminal sexual conduct offense, or a criminal offense against a victim who is a minor and is required to register in the state, territory or tribal jurisdiction wherein that person was convicted; *or*

(B) who, since January 1, 1993, has been or is hereafter convicted in a military court or a court in another state, territory or

tribal jurisdiction, of a criminal sexual conduct offense or a criminal offense against a victim who is a minor.

(b) Registration Requirements; Information to be Registered.

(1) Form A Registration: Level One and Level Two Offenders:

(A) name, aliases, date of birth, social security number, *if any*, and any other identifying factors;

(B) current physical address and mailing address, or, if the person is incarcerated, the address of the residence where the person will be residing immediately upon release and the mailing address the person plans to use immediately upon release;

(C) anticipated future residence;

(D) current and anticipated employment;

(E) offense history, including the underlying crime which triggered the registration requirements of this Chapter;

(F) documentation of treatment;

(G) fingerprints;

(H) current photograph; and

(I) name and address of the institution of higher education, enrollment or employment status, and any changes of enrollment or employment status if the person is enrolled, employed or carrying on a vocation.

(2) Form B Registration: Level Three offenders shall provide the following:

(A) name, aliases, date of birth, social security number, *if any*, and any other identifying factors;

(B) current physical address and mailing address, or, if the person is incarcerated, the address of the residence where the person will be residing immediately upon release and the mailing address the person plans to use immediately upon release;

(C) fingerprints;

(D) current photograph; *and*

(E) name and address of the institution of higher education, enrollment or employment status, and any changes of enrollment or

employment status if the person is enrolled, employed or carrying on a vocation.

(3) Federally Protected Witnesses. Where the person required to register is a Federally protected witness, the person shall *not* be required to provide a photograph, alias(es), original name, place of offense, date of birth, social security number or prior residence.

(4) Pardoned Convict or Conviction Reversed Upon Appeal. The duty to register under this Chapter shall *not* be applicable to any sex offender whose conviction was reversed upon appeal, or who was pardoned by *I Maga'lahaen Guahan*.

(c) Biological Samples.

(1) Every person convicted in the Superior Court of Guam of a criminal sexual conduct offense, or of a criminal offense against a victim who is a minor, shall provide a biological sample to the Guam Police Department for DNA typing *no later than* thirty (30) calendar days after the person's sentencing.

(2) Every person who was convicted in the Superior Court of Guam *prior to* the effective date of this law of a criminal sexual conduct offense or of a criminal offense against a victim who is a minor and is incarcerated on the effective date of this law shall provide a biological sample for DNA typing *no later than* six (6) months after the effective date of this law.

(3) Every person who was convicted in the Superior Court of Guam *prior to* the effective date of this law of a criminal sexual conduct offense, or of a criminal offense against a victim who is a minor and was released on parole or probation after January 1, 1993, shall provide a biological sample for DNA typing to the Guam Police Department at the time of that person's initial registration.

(4) Every person required to register pursuant to Paragraphs (2), (3) or (4) of §89.03(a) shall provide a biological sample to the Guam Police Department for DNA typing at the time of that person's initial registration on Guam.

(5) Intentional or knowing failure to provide a biological sample shall have the same penalty as a failure to provide initial registration information.

(d) Registration Requirements for Persons Required to Register Pursuant to §89.03(a)(1); Initial Registration; Penalty.

(1) Where a Person Required to Register is Sentenced to

Incarceration. Initial registration information must be provided to the Parole Services Division of the Department of Corrections *no later than* two (2) weeks before the person's anticipated release. Intentional or knowing failure to provide this information shall result in the delay of that person's release.

(2) Where a Person Required to Register is Sentenced to Probation. Initial registration information must be provided to the Probation Services Division of the Superior Court of Guam *no later than* the date the person is scheduled to be placed on probation. Intentional or knowing failure to provide this information by that date shall result in the revocation of the person's probation and shall make that person *ineligible* for probation.

(3) Where a Person Identified as a Person Required to Register is on Supervised Parole or Probation at the Time of the Passage of This Law. Initial registration information must be provided to the registrant's parole or probation officer *no later than* six (6) months after the effective date of this law. Intentional or knowing failure to register pursuant to this Subsection is a felony of the third degree.

(4) Where a Person Required to Register is No Longer Under the Supervision of Either Probation or Parole at the Time of the Passage of This Law. Subject to written notice by certified or registered mail provided by the Superior Court of Guam to a person as described in this Section, initial registration information must be provided to the Guam Police Department *no later than* one (1) year after receipt of written notice by the person. The Guam Police Department shall transmit the information to the Court *no later than* three (3) business days thereafter for inclusion into the Sex Offender Registry database. Intentional or knowing failure to register pursuant to this Subsection is a felony of the third degree.

(e) Registration Requirements for Persons Required to Register Pursuant to § 89.03(a), Paragraphs (2), (3) or (4); Initial Registration.

(1) Persons required to register pursuant to §89.03(a)(2) shall provide *all* the information that must be registered pursuant to §89.03(b) to the Guam Police Department *no later than* seven (7) calendar days after release from incarceration, release on probation or arrival on Guam. *If* the registrant is on probation in another jurisdiction and that registrant's probation is to be transferred to Guam, then the Guam Police Department may obtain the necessary information from the office of probation of the jurisdiction from where registrant came; said registrant is required to verify the registered information as required by this Chapter *no later than* seven (7) calendar days after the person's arrival on Guam.

(2) Persons required to register pursuant to Paragraphs (3) or (4) of §89.03(a) shall provide all the information that must be registered pursuant to §89.03(b) to the Guam Police Department *no later than* seven (7) calendar days after their arrival on Guam. *If* the registrant is on probation in another jurisdiction, and that registrant's probation is to be transferred to Guam, then the Guam Police Department may obtain the necessary information from the office of probation of the jurisdiction from where the registrant came; said registrant is required to verify the registered information as required by this Chapter *no later than* seven (7) calendar days after the registrant's arrival on Guam.

(f) Registration Requirements; Verification. A registrant must verify the following information:

(1) Level One Offender. The registrant shall verify the following registered information ninety (90) calendar days from the date the registrant's release from incarceration, or ninety (90) calendar days from the date of the registrant's release on probation *if* the registrant is placed on probation, and every ninety (90) calendar days thereafter. *If* the ninetieth (90th) day falls on a weekend or holiday, the registrant shall verify the following information on the following business day:

- (A) current physical and mailing address(es);
- (B) recent criminal offenses, *if any*;
- (C) documentation of treatment;
- (D) a current photograph; *and*

(E) name and address of the institution of higher education, enrollment or employment status, and any changes of enrollment or employment status if the person is enrolled, employed or carrying on a vocation.

(2) Level Two Offender. The registrant shall verify the following registered information exactly one (1) year from the date of the registrant's release from incarceration or the date of the registrant's release on probation *if* the registrant is placed on probation, and exactly every year thereafter. *If* the date the registrant is to verify falls on a weekend or holiday, the registrant shall verify the following information on the following business day:

- (A) current physical and mailing addresses;
- (B) recent criminal offenses, *if any*;

(C) documentation of treatment, *if any*;

(D) a current photograph; *and*

(E) name and address of the institution of higher education, enrollment or employment status, and any changes of enrollment or employment status if the person is enrolled, employed or carrying on a vocation.

(3) Level Three Offender. The registrant shall verify registered information in the same manner as a Level Two Offender.

(4) Notwithstanding Subsections (a), (b) *and* (c) of this Section, a registrant shall register the registrant's new physical address with the Court within seven (7) calendar days of any change in physical residence. If a registrant anticipates moving from Guam, that registrant shall register his intended place of residence with the Court *no later than* three (3) calendar days before his departure from Guam.

(g) Registration Requirements for Offenders Enrollment and Employment in an Institution of Higher Education. The registrant must update the name and address of the institution of higher education, enrollment or employment status, and any changes of enrollment or employment status if the registrant is enrolled, employed or carrying on a vocation in an institution of higher education within seven (7) days of any changes in employment or enrollment in an institution of higher education with the Guam Police Department.

(h) Registration Requirements; Verification, Method of Verification. A registrant shall verify the registrant's registered information as required by §89.03(e) in the following manner:

(1) Parolee. A parolee shall personally present oneself to the parolee's parole officer and verify the registered information with the parole officer;

(2) *Probationer.* A probationer shall personally present oneself to the person's probation officer and verify the registered information with the probation officer;

(3) Dual Supervision. A person under dual supervision, that is, the person is supervised by both parole and probation, shall personally present oneself to that person's probation officer; *and*

(4) Others. All registrants, including persons who are no longer under supervised parole or probation, shall personally appear at the Guam Police

Department, Records Section, and register with the Guam Police Department.

(i) Registration Requirement; Guam Residents Who are Employed, Carry on a Vocation, or are Students in Another State or Territory. A person who is required to register on Guam and who is employed, carries on a vocation, or is a student of another state or territory, shall also register in that other state or territory pursuant to the registration requirements of that state or territory.

(j) Registration Requirement; Persons Who Move to Another State or Territory. When a person who is required to register on Guam anticipates moving to another state or territory, that registrant shall report the change of address to the Guam Police Department pursuant to the requirements of this Chapter, *and* comply with any registration requirement of the new state or territory of residence.

9 GCA § 89.04. Registration.

A registrant shall continue to comply with this Chapter, *except* during ensuing periods of incarceration, for the following period of time:

(a) Lifetime; Level One and Level Two Offenders. A Level One and Two Offender must comply with this Chapter for the length of that person's life.

(b) Ten (10) Years. A person deemed a Level Three Offender shall register pursuant to §89.03(b)(2), and Subsections (2) and (3) of §89.03(f), for a period of ten (10) years from the date of that person's release on probation or release on parole.

(c) Where Conviction Reversed, Vacated or Set Aside or Where Registrant Pardoned. Notwithstanding Subsections (a) and (b) of this Section, where the underlying conviction is reversed, vacated or set aside, or *if* the person is pardoned of the crime which triggered the registration requirement of this Chapter, registration is no longer required.

(d) Tolling of Registration Requirement. *If* a registrant is re-incarcerated for violations of release conditions imposed in the same crime, or for the commission of another crime, or the registrant is civilly committed, then the period of registration is tolled and remains tolled until the registrant's subsequent release. Thereafter, the registrant shall recommence and continue registering for the remaining period of time the registrant is required to register.

9 GCA § 89.05. Penalties.

(a) Initial Registration. Intentional or knowing failure to provide initial registration information shall delay the registrant's release *if* the registrant is to be released, or make the registrant ineligible for probation *if* the registrant is to be placed on probation. Intentional or knowing failure to provide initial registration information is a felony of the third degree.

(b) Verification. The failure to verify registered information is a misdemeanor. A second or subsequent failure to so register is a felony of the third degree. Failure of a probationer or parolee to so register may result in sanctions pursuant to 8 GCA §80.66 *and* 9 GCA §80.82, *respectively*.

(c) Address Changes. A registrant's failure to register the registrant's new physical address within seven (7) calendar days of any change of physical address is a misdemeanor. A second or subsequent failure to so register is a felony of the third degree. Failure of a registrant who is a probationer or parolee to so register may result in sanctions pursuant to 9 GCA §80.66 *and* 9 GCA §80.82, *respectively*.

(d) False Information. Intentionally and knowingly providing false information during initial registration or subsequent verification is a felony of the second degree.

(e) Enrollment or Employment at an Institution of Higher Education. A registrant's failure to update enrollment or employment at an institution of higher education or termination of such enrollment or employment at an institution of higher education with the Guam Police Department within seven (7) calendar days of any change would constitute a failure to register or keep such registration current is a felony of the third degree.

9 GCA § 89.06. Duties of the Department of Corrections and the Court; Initial Registration.

If a registrant is released from incarceration, placed on parole or placed on probation, the Department of Corrections, the Parole Services Division, the Court or the Probation Services Division shall:

(a) inform the registrant of the duty to register and obtain the information required for such registration;

(b) inform the registrant that *if* the registrant changes residence on Guam, the registrant shall provide the new residential address to the Court;

(c) inform the registrant that *if* the registrant moves to another state or territory, the registrant shall report the change of address to the Court *no later than* three (3) calendar days of the registrant's leaving Guam, and shall comply with any registration requirement of the new state or territory;

(d) inform the registrant that *if* the registrant is, or becomes, employed, carries on a vocation, or becomes a student in another state or territory, then the registrant must comply with the registration requirement of that new state or territory;

(e) obtain all information that must necessarily be gathered for the registrant's initial registration, and inform the registrant that the registrant must provide the registrant's fingerprints, a photograph and a biological sample to the Guam Police Department. The Department of Corrections or the Office of Probation shall facilitate the obtaining of fingerprints, photograph and biological sample. After this information is gathered, the Guam Police Department shall retain the biological sample and transmit the fingerprints and photograph to the Court within three (3) calendar days;

(f) require the registrant to read and sign a form stating that the registrant's duty to register under this Chapter has been explained; *and*

(g) forward information described in (f) above to the Court within three (3) calendar days after receipt thereof.

(h) inform the registrant that if the registrant enrolls at, is employed at, or carries on a vocation at an institution of higher education in Guam the registrant must inform the Guam Police Department, and to notify the Guam Police Department of any change in such enrollment or employment status at the institution of higher education within seven (7) calendar days of any changes.

(i) ensure the registration information collected on the registrant's enrollment or employment status at the institution of higher education, and any change of enrollment or employment status of the registrants at the institution of higher education is promptly made available to the Guam Police Department.

(j) ensure the registration information collected on the registrant's enrollment or employment status at the institution of higher education, and any change of enrollment or employment status of the registrants at the institution of higher education is provided to the Superior Court of Guam to be entered into Guam's Sex Offender Registry.

9 GCA § 89.07. Duties of the Department of Corrections and the Court, Verification of Registered Information.

(a) The Department of Corrections, Parole Services Division, shall receive and obtain initial registration and registration verification information from registrants who are parolees, and shall transmit such information to the Court *no*

later than three (3) business days of receipt of such information.

(b) The Court, Probation Services Division, shall receive and obtain initial registration and registration verification information from registrants who are probationers and shall enter such information into the Court's Sex Offender Registry database.

9 GCA § 89.08. Duties of the Guam Police Department.

(a) Upon receipt of the information that is required to be registered or verified pursuant to this Chapter, the Guam Police Department shall *immediately*, and *no later than* three (3) business days of receipt of this information, transmit the information to the Court which shall record this information in the Sex Offender Registry database. The Guam Police Department shall also immediately transmit the registrant's photograph, fingerprints, conviction data and current residence to the Court. In addition to sex offender data, the Guam Police Department shall also immediately transmit all felony fingerprints to the Court. The Court shall forward these fingerprints to the Federal Bureau of Investigation's Automated Fingerprint Identification System ('AFIS') for assignment of a fingerprint identification number.

(b) inform the registrant that if the registrant enrolls at, is employed at, or carries on a vocation at an institution of higher education in Guam the registrant must inform Guam Police Department, and to notify the Guam Police Department of any change in such enrollment or employment status at the institution of higher education within seven (7) calendar days.

(c) ensure the registration information collected on the registrant's enrollment or employment status at the institution of higher education, and any change of enrollment or employment status of the registrant at the institution of higher education is promptly made available to the Guam Police Department.

(d) ensure the registration information collected on the registrant's enrollment or employment status at the institution of higher education, and any change of enrollment or employment status of the registrant at the institution of higher education is provided to the Superior Court of Guam *no later than* three (3) business days of receipt of the information to be entered into Guam's Sex Offender Registry.

(e) **The Superior Court of Guam is the state sole source for submission of information and fingerprints to the Federal Bureau of Investigation and the National Crime Information Center ('NCIC').** The Court shall enter all registered information into the NCIC system *no later than* three (3) business days after receipt of such information.

(f) **Notification of Local Law Enforcement Agencies Regarding Changes of Address; Moving From Guam.** Upon receipt of information that the registrant is anticipated to move from Guam to another state, territory or tribe, the Court shall *immediately* notify that state or territory to which the registrant is moving, and shall transmit the address of the registrant's anticipated residence to the Federal Bureau of Investigation *no later than* three (3) business days of receipt of this information.

(g) **Notification of FBI Regarding Changes of Address.**

Upon receipt of information that registrant is or has changed residence within Guam, or is anticipated to move from Guam to another state, territory or tribe, the Guam Police Department shall transmit the new address to the Federal Bureau of Investigation *no later than* three (3) business days after receipt of this information.

9 GCA § 89.09. Duties of the Court.

(a) **Repository.** The Court shall be the central repository for the registered information, in addition to all criminal history records information.

(b) **Fees.** The Court is authorized to collect reasonable registration fees from registrants. Such fees shall be used for the maintenance and support of the sex offender registration and notification program. Fifty percent (50%) of the fee paid by the registrant shall be given to the Court and the remaining fifty percent (50%) shall go to the Guam Police Department.

9 GCA § 89.10. Notification.

(a) **Release of Information.** The Court shall release the following information to the community:

(1) Level One Offender: all registered information *except* the Social Security number, the age of the victim(s) in the underlying case, and the state or territory in which the crime occurred;

(2) Level Two Offender: name, physical address, photograph, criminal history, the age of the victim in the underlying case, and the state or territory in which the crime occurred;

(3) Level Three Offender, Felony Conviction: name, photograph, criminal sexual conduct offense or 'the criminal offense against a victim who is a minor' of which the person was convicted; *and*

(4) Level Three Offender, Misdemeanor Conviction: no notification.

(b) **Victims.** The identity of the victim or any information that may

identify the victim shall *not* be released, *subject* to Subsection (a).

(c) Method of Release of Information. The Court shall maintain an Internet web-page dedicated to persons required to register, which shall contain the information that is required to be released. The released information shall be updated during the first week of every month. The community shall have access to the Sex Offender Registry Web Page. The Court shall transmit released information concerning Level One and Level Two Offenders to the Guam Public School System, the Guam Community College, the University of Guam, all public and private schools, day care centers, victim shelters and victim advocates on the first week of every month. The Court may transmit information concerning Level One and Level Two Offenders directly to the media for dissemination.

COMMENT: Reference to Department of Education changed to Guam Public School System pursuant to P.L. 28-045:10 (June 6, 2005).

9 GCA § 89.11. Immunity for Good Faith Conduct.

Law enforcement agencies, their employees and government of Guam officials shall be immune from any civil or criminal liability for good faith conduct under this Act, *unless* it is shown that the agency, employee, government official or board member acted with gross negligence or in bad faith.

9 GCA § 90.49. Corrections Revolving Fund.

There is hereby created, within the Department of Corrections, a revolving fund called the 'Corrections Revolving Fund', which shall be established by the Department of Administration in accordance with the following provisions:

(a) All funds collected from the U.S. Marshall Service, the U.S. Immigration Service and the U.S. Bureau of Prisons for housing U.S. prisoners and detainees, confinement of military personnel as agreed to in a Memorandum of Agreement between the United States Air Force and the Department of Corrections dated March 5, 2003, employees of the Department of Corrections for meals they purchase at the Department's dining facility, and the sale of hot garbage (pig slop) to private persons, shall be deposited into said Fund.

(1) Funds in the Corrections Revolving Fund may be used to purchase clothing for prisoners and detainees, foodstuffs for the dining facility, galley catering services and, equipment, medical/dental supplies, prescription and over-the-counter medicines, sanitary/hygiene supplies, and other pharmaceutical supplies for prisoners and detainees, including payment for prisoner-detainee maintenance costs in any off-island prison or medical institutions, payment for overtime

and related personnel costs and for DepCor Department of Correction Reservists.

(2) Expenditures from the Fund shall be approved by the Director of Corrections and posted on the Department's website.

(3) A complete and accurate accounting of all money deposited into and withdrawn from such Fund shall be maintained by the Director of Administration.

(4) Such accounting shall include and clearly identify the sources and amounts of all funds paid into or withdrawn from said Fund.

(b) The Corrections Revolving Fund shall be maintained separate and apart from all other funds of the government of Guam.

(c) *No* expenditures and encumbrances from the Corrections Revolving Fund shall be made without legislative approval through appropriation.

SOURCE: Added by P.L. 27-106:VI:17. Amended by P.L. 28-068:IV:108 (Sept. 30, 2005).

TITLE 16 VEHICLES

16 GCA § 3102.1. Waiver of Fees for Veterans.

The fee for an operator's or chauffeur's license is waived for veterans of the United States Armed Forces. Veterans include persons who served in the Guam Combat Patrol, the United States Navy Insular Forces, Guam Militia or Civilian Scouts, Philippines Scouts and the United States Armed Service.

Any person listed above and whose honorable status can be verified by the Department of Defense 214 Form (DD214) or other forms used to verify membership in the organization listed and certified by the Government of Guam Veterans Affairs Office may apply to the License Division of the Department of Revenue and Taxation for a Driver's License.

SOURCE: Enacted by P.L. 28-079:2 (Dec. 5, 2005).

16 GCA § 11106. Same: Rates and Charges.

Every person who owns or has control over any taxicab shall assess passengers for hire the following rates, fares or charges for services rendered by means of such taxicab:

Description	New Rate
FLAG DOWN RATE (good for first 1/2 mile)	\$2.40

EVERY ADDITIONAL 1/4 MILE	\$0.80
FIRST MILE	\$4.00
WAITING TIME, EVERY 2 MINUTES	\$0.80

The foregoing schedule of fares and charges shall be posted pursuant to the provisions of § 11102 of this Chapter; provided, however, that the Director of Revenue and Taxation shall retain authority to adopt a schedule of taxicab fares pursuant to § 11105 of this Chapter if such fares are not less than those established in this Section.

SOURCE: Added by P.L. 20-220:34. Amended by P.L. 28-068:IV:50 (Sept. 30, 2005).

CORRECTIONS

7 GCA § 9203. Membership of Board: Number of Members; Manner of Appointment.

The Board of Law Library established in §9202 of this Chapter shall consist of nine (9) members and shall be constituted as follows:

(1) the Chief Justice of the Supreme Court of Guam may appoint himself or herself, or one (1) Associate Justice of the Supreme Court to serve *ex officio* as a trustee or, in the event a Justice chooses not to so serve, he shall appoint a Law Clerk in the employ of the Court or a member of the Guam Bar to serve as trustee for a term of three (3) years;

(2) the Judge of the District Court may appoint himself or herself to serve *ex officio* as a trustee or, in the event he chooses not to serve, he may appoint a Law Clerk in the employ of the District Court or a member of the Guam Bar to serve as trustee; provided, that if there be more than one (1) Judge of the District Court, such Judges may appoint one (1) of their number to so serve, they may appoint a Law Clerk in the employ of the District Court or a member of the Guam Bar to serve as trustee to a term of four (4) years;

(3) the Presiding Judge of the Superior Court may appoint himself or herself, or one (1) Judge of the Superior Court to serve *ex officio* as a trustee or, in the event a Judge chooses not to serve, the Presiding Judge shall appoint a Law Clerk in the employ of the Superior Court or a member of the Guam Bar to serve as trustee for a term of three (3) years;

(4) the Judicial Council shall appoint one (1) trustee who is a member of the Guam Bar for a term of four (4) years;

(5) the Chairman of the committee that has oversight of the judiciary of *I Liheslaturan Guåhan* shall appoint one (1) trustee who is a member of the Guam Bar for a term of two (2) years expiring no later than the last day of the legislative term in which the appointment occurred;

(6) the Territorial Librarian shall be a trustee *ex officio*;

(7) *I Maga'lahi*, the Governor, shall appoint one (1) trustee who is a member of the Guam Bar for a term of four (4) years expiring no later than the last day of *I Maga'lahi*, the Governor's term in which the appointment occurred; and

(8) the President of the Guam Bar Association shall appoint two (2) trustees who are members of the Guam Bar for a term of two (2) years.

SOURCE: GC §28502. Subsection (e) amended by P.L. 24-135:3 (Feb. 20, 1998); 24-139:24 (Feb. 28, 1998). Repealed and reenacted by P.L. 27-31:36 (Oct. 31, 2003).

7 GCA § 11303. Within Four Years --.

(1) An action upon any contract, obligation or liability founded upon an instrument in writing.

(2) An action to recover (1) upon a book account whether consisting of one (1) or more entries; (2) upon an account stated based upon an account in writing, but the acknowledgment of the account stated need not be in writing; (3) a balance due upon a mutual, open and current account; provided, however, that where an account stated is based upon an account of one (1) item, and where an account stated is based upon an account of more than one (1) item, the time shall begin to run from the date of the last item.

(3) An action based upon the written rescission of a contract. The time begins to run from the date upon which occurred the facts that the aggrieved party claims permits him to rescind the contract. Where the ground for rescission is fraud or mistake, the time does not begin to run until the aggrieved party discovers the facts constituting the fraud or mistake. Where the ground for rescission is misrepresentation relating to an offer to insure or an application to obtain insurance, the time does not begin to run until the representation becomes false.

SOURCE: Guam CCP § 337, subparts (2) and (3) amended by P.L. 15-106:1.

7 GCA § 11304. Book Account Defined.

The term book account means a statement which constitutes the principal record of one (1) or more transactions between a debtor and a creditor arising out of a contract of some fiduciary relation, and which shows the debits and credits in connection therewith, and against whom and in favor of whom the entries are made, is entered in the regular course of business as conducted by the creditor or fiduciary, and is kept in a reasonably permanent form and manner and is (1) in a bound book, or (2) on a sheet or sheets fastened in a book or to a backing but detachable therefrom, or (3) on a card or cards of a permanent character or is kept in any reasonably permanent form and manner.

SOURCE: CCP § 337a added by P.L. 15-106:3.

7 GCA § 11305. Within Three Years --.

(1) An action upon a liability created by law, other than a penalty or forfeiture.

(2) An action for trespass upon or injury to real property.

(3) An action for taking, detaining or injuring any goods, or chattels, including actions for the specific recovery of personal property.

(4) An action for relief on the ground of fraud or mistake. The cause of action in such case not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(5) An action upon a bond of a public official except any cause of action based on fraud or embezzlement is not to be deemed to have accrued until the aggrieved party or his agent shall have discovered the facts constituting the cause of action upon the bond.

(6) An action against a notary public on his bond on malfeasance or misfeasance is not deemed to have accrued until the aggrieved party shall have discovered the facts constituting the cause of action; provided, that any action based on malfeasance or misfeasance shall be commenced within one (1) year from discovery by the aggrieved party or his agent of the facts constituting the cause or action or within three (3) years from the performance of the notarial act giving rise to the action, whichever is later; and provided further, that any action against a notary public on his bond or in his official capacity must be commenced within six (6) years.

(7) An action for slander of title to real property.

(8) An action upon a contract, obligation or liability not founded upon an instrument of writing other than that mentioned in Subsection 2 of § 11303 of this Title; or an action founded upon a contract, obligation or liability, evidenced by a certificate or abstract or guaranty of title of real property, or by a policy of title insurance; provided, that the cause of action upon a contract, obligation or liability evidenced by a certificate, or abstract or guaranty of title of real property or policy of title insurance, shall not be deemed to have accrued until the aggrieved party has discovered the loss or damage.

SOURCE: CCP § 338. Subsections 5,6,7 & 8 added by P.L. 15-106:4.

7 GCA § 11306. Within Two Years --.

(1) An action for assault, battery, false imprisonment, seduction of a person below the age of legal consent, or for injury to, or for the death of, a person caused by the wrongful act or neglect of another except as provided for in § 11308.

SOURCE: CCP § 339; repealed/reenacted by P.L. 15-106:5.

7 GCA § 11307. Within One Year --.

(1) An action upon a law for a penalty or forfeiture, when the action is given to an individual, or to an individual and the government, except when the law imposing it prescribes a different limitation;

(2) An action upon a law, or upon an undertaking in a criminal action, for a forfeiture or penalty to the government of Guam.

(3) An action for libel or slander, or by a depositor against a bank for the payment of a forged or raised check, or a check that bears a forged or unauthorized endorsement.

SOURCE: CCP § 340; subsection (3) amended by P.L. 13-116:3, P.L. 15-106:6.

COMMENT: See *Pederson v. U.S.*, (1961) 191 F.Supp. 95.

9 GCA § 7.58. Intoxication.

(a) As used in this Section:

(1) *intoxication* means an impairment of mental or physical capacities resulting from the introduction of alcohol, drugs or other substances into the body.

(2) *self-induced intoxication* means intoxication caused by substances which the person knowingly introduces into his body, the tendency of which to cause intoxication he knows or ought to know, unless he introduces them pursuant to medical advice or under such circumstances as would otherwise afford a defense to a charge of crime.

(b) Except as provided in Subsection (d), intoxication is not a defense to a criminal charge. Evidence of intoxication is admissible whenever it is relevant to negate or to establish an element of the offense charged.

(c) A person is reckless with respect to an element of the offense, even though his disregard thereof is not conscious, if his not being conscious thereof is due to self-induced intoxication.

(d) Intoxication which is not self-induced is an affirmative defense if, by reason of such intoxication, the person at the time of his conduct lacks substantial capacity either to appreciate its wrongfulness or to conform his conduct to the requirements of the law.

SOURCE: Guam PC §22; M.P.C. §2.08; Cal. §510 (T.D. 1, 1967); Cal §545 (1971); *Mass. ch. 263, §25 N.J. §2C:2-8.

CROSS-REFERENCES: §4.30, this Code.

COMMENT: The Commission believes that § 7.58 retains the substance of existing law, restating it in a form based on the Model Penal Code and New Jersey and Massachusetts proposals. We note, however, that this approach was criticized in California and a proposal was made there to follow New York and treat intoxication as indistinguishable from any

other condition of mind relevant to the existence of Mens Rea. No doubt the latter is the logical approach. It was rejected by the draftsmen of the Model Penal Code "because of the weight of the prevailing law and because they concluded that one that becomes so drunk as to destroy his powers of perception and judgment, engages in conduct without any social value when compared with the resulting risk of danger." They also felt that departure from the existing law would create serious problems of proof.

What this Section does is state that intoxication is not a defense but the fact, and degree of, intoxication is relevant to the issue of mental capacity when purpose, motive or intent is a necessary element of the crime.

It should be noted that an "unconscious" act due to intoxication is treated as an exception to the voluntary act requirement of §4.15 of this Code.
