

**9 GCA CRIMES AND CORRECTIONS
CH. 92 SAFE STREETS ACT OF 2018**

**CHAPTER 92
SAFE STREETS ACT OF 2018**

SOURCE: Entire chapter added by P.L. 34-107:5 (June 5, 2018).

- Article 1. Offenses Involving Alcohol and Controlled Substances.
- Article 2. Implied Consent and Suspension or Revocation of Driving Privileges and License.
- Article 3. Ignition Interlock Devices.

**ARTICLE 1
OFFENSES INVOLVING ALCOHOL
AND CONTROLLED SUBSTANCES**

SOURCE: Entire Article originally enacted as Article 1 of Chapter 18, Title 16 GCA by P.L. 22-020:2 (June 22, 1993). Transferred to Chapter 92, Title 9 GCA by P.L. 34-107:6 (June 5, 2018), codified as Article 2 and renumbered pursuant to P.L. 34-107:6.

- § 92101. Definitions.
- § 92102. Driving While Impaired.
- § 92103. Reckless Driving While Impaired.
- § 92104. First Offender Conviction: Punishment.
- § 92105. Second Offender Conviction: Punishment.
- § 92106. Third Offender Conviction: Felony Punishment.
- § 92107. Fourth Offender Conviction: Felony Punishment.
- § 92108. Vehicular Negligence: Bodily Injuries.
- § 92109. Driving While Impaired with Child On Board: Felony Punishment.
- § 92110. Vehicular Homicide: Felony Punishment.
- § 92111. Vehicular Homicide While Driving Impaired: Felony Punishment.
- § 92112. Drinking While Driving a Motor Vehicle: Misdemeanor: Punishment.
- § 92113. Drinking While Riding in a Motor Vehicle: Misdemeanor: Punishment.
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- § 92115. Marijuana Use While Driving a Motor Vehicle: Petty Misdemeanor: Punishment.
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- § 92121. Dismissal for Completion of Driving While Impaired Treatment Court; Permitted.
- § 92122. No Conditional Discharge and Dismissal Permitted for Offenses Involving Serious Injuries.
- § 92123. Probation Allowed.
- § 92124. Safe Streets Fund.
- § 92125. Electronic Alcohol Monitoring Device, Rules and Regulations.
- § 92126. Presumptions Affecting the Burden of Proof: Defenses.

§ 92101. Definitions.

As used in this Chapter:

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

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

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

(d) *Bus* means a vehicle chartered for transportation of persons for hire. It shall not mean a school bus, open vehicles resembling trolleys, or a vehicle operated pursuant

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to a public or private franchise operating over a regularly scheduled route.

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

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

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

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

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

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

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

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of the Authority by which the law enforcement officer is employed.

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

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

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

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

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

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

2018 NOTE: The reference in subsection (n) is to prior convictions pursuant to the original enactment of the Safe Streets Act by P.L. 22-020 (June 22, 1993), which was codified as Chapter 18 of Title 16 GCA.

§ 92102. Driving While Impaired.

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

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

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

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

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

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

§ 92103. Reckless Driving While Impaired.

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

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

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

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

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§ 92104. First Offender Conviction: Punishment.

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

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

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

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

(d) (1) Suspension of a person's driving privilege for six (6) months, which may include an occupational driving permit.

(2) The court may modify this suspension prior to the end of the six (6) months' suspension; provided, that the person can show proof that he or she has successfully completed a drug or alcohol treatment program acceptable to the court.

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

2018 NOTE: Subitem designations added in subsection (d) pursuant to the authority of 1 GCA § 1606.

§ 92105. Second Offender Conviction: Punishment.

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

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

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

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

(d) Suspension of a person's driving permit for one (1) year, with no occupational driving privileges, which time period may be reduced at the discretion of the Court, provided on motion by the defendant that he has:

(1) completed court-approved treatment;

(2) paid all fines and fees;

(3) has not been charged with a subsequent criminal offense; and

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

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

§ 92106. Third Offender Conviction: Felony Punishment.

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

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

(b) A mandatory fine of not less than Four Thousand

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Dollars (\$4,000), and not more than Seven Thousand Dollars (\$7,000).

(c)(1) Revocation of a person's driving privilege for not less than two (2) years, which time period may be reduced at the discretion of the court provided on motion by the defendant that he has

(A) completed court-approved treatment;

(B) paid all fines and fees;

(C) has not been charged with a subsequent criminal offense; and

(D) the probation officer recommends reduction based on satisfactory performance.

(2) The court may further reduce the period of suspension by no more than fifty percent (50%), provided the defendant agrees to have installed either a breath alcohol ignition interlock device (BAIID) as ordered by the court, or an electronic alcohol monitoring device approved by the court.

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

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

2018 NOTE: Subsection/subitem designations altered/added in subsection (c) pursuant to the authority of 1 GCA § 1606.

§ 92107. Fourth Offender Conviction: Felony Punishment.

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

(a)(1) A term of incarceration of not less than a minimum mandatory one (1) year, nor more than six

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(6) years.

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

(b)(1) Revocation of a person's driving privilege for not less than three (3) years, which time period may be reduced at the discretion of the court, provided on motion by the defendant that he has

(A) completed court-approved treatment;

(B) paid all fines and fees;

(C) has not been charged with a subsequent criminal offense; and

(D) the probation officer recommends reduction based on satisfactory performance.

(2) The court may further reduce the period of suspension by no more than fifty percent (50%), provided the defendant agrees to have installed either a breath alcohol ignition interlock device (BAIID) as ordered by the court, or an electronic alcohol monitoring device approved by the court.

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

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

2018 NOTE: Subsection/subitem designations altered/added pursuant to the authority of 1 GCA § 1606.

§ 92108. Vehicular Negligence: Bodily Injuries.

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

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

(c) It is unlawful for any person under the age of twenty-one (21) to operate or be in physical control of a motor vehicle if such person is found to have 0.04 percent or more, by weight, of alcohol in his or her breath or blood, and, when doing so, do any act forbidden by law or neglect any duty imposed by law in the driving of the vehicle, or who negligently drives a vehicle, which act or neglect or negligence proximately causes bodily injury to any person other than the driver.

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

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

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

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

(4) Suspension of a person's driving privilege for not more than five (5) years, which time period may be reduced in the discretion of the Court, provided on motion by the defendant that he has

(A) completed court-approved treatment;

(B) paid all fines and fees;

(C) has not been charged with a subsequent criminal offense; and

(D) the probation officer recommends reduction

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

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

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

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

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

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

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

(c)(1) Suspension of a person's driving privilege for not less than one (1) year without occupational driving privileges, which time period may be reduced at the discretion of the court, provided on motion by the defendant that he has:

(A) completed court-approved treatment;

(B) paid all fines and fees;

(C) has not been charged with a subsequent

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criminal offense; and

(D) the probation officer recommends reduction based on satisfactory performance.

(2) The court may further reduce the period of suspension by no more than fifty percent (50%), provided the defendant agrees to have installed either a breath alcohol ignition interlock device (BAIID) as ordered by the court, or an electronic alcohol monitoring device approved by the court.

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

2018 NOTE: Subsection/subitem designations added/altered pursuant to the authority of 1 GCA § 1606.

§ 92110. Vehicular Homicide: Felony Punishment.

(a) A person is guilty of vehicular homicide if he or she does any act forbidden by law in operating or driving a vehicle, or if he or she negligently operates or drives a vehicle, which act or negligence proximately causes death to any person other than himself or herself.

(b) Vehicular homicide while driving a vehicle is a felony of the second degree, and notwithstanding any other provision of law, shall be sentenced as follows:

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

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

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

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

2018 NOTE: Subsection/subitem designations added/altered pursuant to the authority of 1 GCA § 1606.

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

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(a) A person is guilty of vehicular homicide while driving impaired

(1) if he or she does any act forbidden by law in driving while impaired, or

(2) if he or she negligently operates or drives a vehicle while impaired,

which act or negligence proximately causes death to any person other than himself or herself.

(b) Vehicular homicide while driving impaired is a felony of the second degree, and notwithstanding any other provision of law, shall be sentenced as follows:

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

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

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

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

2018 NOTE: Subsection/subitem designations added pursuant to the authority of 1 GCA § 1606.

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

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

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

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

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

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

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

(c) Subsection (a) does not prohibit the transport, possession or storage of alcoholic in which the original cap or seal of the container has been opened, broken, or the contents of which have been partially removed if the container is secured in a rear compartment or trunk of the vehicle not normally occupied by the driver or a passenger, or a rear compartment which is not immediately accessible to the driver or any other passenger, while the vehicle is upon a public highway. A front passenger glove or utility compartment is not acceptable for purposes of this exemption.

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

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

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

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Section shall be guilty of a petty misdemeanor.

2019 NOTE: Notwithstanding the declassification of marijuana as a Schedule I controlled substance, P.L. 35-005:2 (Apr. 4, 2019) enacted 11 GCA § 8112(d), which expressly provides: “Nothing in this Chapter is intended to allow driving under the influence of cannabis or to supersede laws related to driving under the influence of cannabis.”

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

(a) Alcoholic beverages may be sold, offered for sale, and consumed only by passengers, not to include the driver, within the premises of a tour bus or limousine only by a business authorized and issued a license, as prescribed by the Alcoholic Beverage Control Board permitting the sale of alcoholic beverages within the premises of a tour bus or limousine, and only during authorized hours as permitted by the license, and which license is prominently display within the tour bus or limousine.

(b) This exemption does not apply in the event any passenger is under the age of twenty-one (21), unless accompanied by a parent or legal guardian.

(c) It is the duty of the operator of the tour bus or limousine to verify the ages of every passenger whom alcoholic beverages are intended to be sold or consumed.

(d) Any person or company found in violation this Subsection shall be guilty of a misdemeanor.

§ 92117. Occupational Driving Permit: First Offender Only.

An Occupational Driving Permit may be issued to a person convicted of a first offender violation under § 92104 by the court authorizing the person to drive for employment purposes, and as permitted by the court for therapeutic rehabilitation.

(a) The person whose privilege to drive is suspended shall immediately surrender to the court his or her driver’s license, and if valid, may be granted an Occupational Driving Permit for six (6) months.

(b) The court may establish by rule and procedure the manner of issuance of an Occupational Driving Permit, and

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must notify the Department of Revenue and Taxation promptly regarding the person's restriction on his or her driving privileges.

(c) The court is authorized to charge a reasonable fee for issuance of the Occupational Driving Permit which must be fully paid before the permit can be issued.

(d) The cost of the permit shall be borne by the person whose privilege to operate a motor vehicle has been restricted by the court.

(e) In the event a person does not possess a valid driver's license at the time of conviction, the person's privilege to apply for a driver's license shall be prohibited for the full period of the suspension.

2018 NOTE: Subsection/subitem designations added pursuant to the authority of 1 GCA § 1606.

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

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

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

(c) The Department of Revenue and Taxation shall immediately suspend or revoke the privilege of any person to operate a motor vehicle for the time period required by the judgment, and in accordance with this Chapter, upon receipt of an abstract of judgment from the Clerk of Court showing that the person has been convicted of a violation of this Chapter. The Department shall reinstate a person's driving privileges upon receipt of an order of the court granting such reinstatement in

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accordance with this Chapter, or upon expiration of the time restriction.

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

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

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

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

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

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

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

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

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

The provisions of §§ 92120 and 92121 shall not apply in the case of a violation defined as a third degree felony in this

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Chapter, and that involves bodily injury to any person other than the driver.

§ 92123. Probation Allowed.

Any person convicted under this Chapter may be granted probation at the discretion of the court, which may include, but is not limited to,

- (a) prohibition from consuming alcohol or controlled substance(s),
- (b) payment of restitution,
- (c) mandatory alcohol and drug testing,
- (d) obey all laws,
- (e) perform community service,
- (f) agree to use an alcohol electronic device or BAIID,
- (g) random searches of home, vehicle and person,
- (h) regularly reporting to the probation office, and
- (i) any other condition the court deems reasonable.

2018 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 92124. Safe Streets Fund.

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

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

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

(d) The Director of Corrections may expend no more than

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Eight Thousand Dollars (\$8,000) per month from the Fund for the purpose outlined in Subsection (c) of this Section, which the Administrative Director of the Courts shall pay over to the Director of Corrections on a regular basis. Any funds in excess of the monthly payment to the Director of Corrections and all funds accumulated shall be disbursed in accordance with § 9211(c) of Article 2, Chapter 9, Title 7, Guam Code Annotated.

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

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

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

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

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

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

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

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the time of the alleged offense.

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

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

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

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

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

(c) It is a rebuttable presumption that a person was under the influence of alcohol if the person had 0.08 percent or more, by weight, of alcohol in his or her blood at the time of the performance of a blood or breath test within three (3) hours after driving.

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

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

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

ARTICLE 2
IMPLIED CONSENT AND SUSPENSION OR
REVOCAION OF DRIVING PRIVILEGES AND LICENSE

SOURCE: Entire Article originally enacted as Article 2 of Chapter 18, Title 16 GCA by P.L. 22-020:2 (June 22, 1993). Transferred to Chapter 92, Title 9 GCA by P.L. 34-107:6 (June 5, 2018), codified as Article 2 and renumbered pursuant to P.L. 34-107:6.

- § 92201. Implied Consent of Driver of Motor Vehicle to Submit to Blood, or Breath Testing to Determine Alcohol or Controlled Substances Content of Blood.
- § 92202. Sanctions for Refusal to Submit to or Failure to Complete a Blood, or Breath Test.
- § 92203. Administrative Revocation or Suspension of Driving Privilege and License Procedures.
- § 92204. Suspension; Refusal Under Implied Consent Law; Time to Run Consecutively With Other Restrictions, Suspensions or Revocations.
- § 92205. Filing of Rules.
- § 92206. Effective date of implementation.

§ 92201. Implied Consent of Driver of Motor Vehicle to Submit to Blood or Urine, or Breath Testing to Determine Alcohol or Controlled Substances Content of Blood and Urine.

(a) Any person who operates a motor vehicle on the public highways or roadways of Guam shall be deemed to have given consent to a blood or urine, or breath test for the purpose of determining the alcohol or controlled substance content of the person's blood or urine.

(b) The blood or urine, or breath tests shall be administered at the request of the peace officer having reasonable cause to believe the person driving or in actual physical control of a motor vehicle upon the public highways or roadways is under the influence of alcohol or controlled substances only after:

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(1) a lawful arrest, and

(2) the person has been informed by a peace officer of the sanctions that may result from his or her refusal to be tested.

(c) If there is probable cause to believe that a person is in violation of § 92102 of this Chapter, then the person shall have the option of using a blood or urine, or breath test for the purpose of determining the alcohol or controlled substance content of that person's blood or urine.

(d) No person other than the authorized staff of a licensed clinical laboratory certified by Health Care Financing Administration Clinical Laboratory Improvement Act ('HCFA-CLIA'), or by the Joint Commission of Accreditation of Health Organization may withdraw blood or urine for the purpose of determining the alcohol or controlled substance content thereof.

(1) This limitation shall not apply to the taking of a breath specimen.

(2) As soon as the results of a blood or urine test performed pursuant to this Section are available, the custodian of the record of the test shall provide, without subpoena, a true copy of the results of the tests to the Guam Police Department or criminal prosecutors.

(3) No physician, nurse, hospital, clinical laboratory or any employee thereof, shall be subject to civil liability or suit for providing blood or urine test results as required by the Subsection.

(e) The implied consent of a person to be tested shall not be withdrawn by reason of the person's being dead, unconscious or in any state which renders the person incapable of consenting or refusing to be tested. In such event, a test of the person's blood or urine shall be administered.

(f) If a person under arrest refuses to submit to a breath or blood or urine test, none shall be given. The person shall be warned, however, that his or her failure to be tested may be used in evidence against him or her in any charge arising from the arrest.

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(g) In addition to the warnings provided in Subsection (f) of this Section, the arresting officer shall warn the person that refusal to submit to a blood or urine, or breath test will result also in the following:

(1) the person must immediately surrender his or her driver's license to the officer;

(2) the officer will take custody of the license and will forward it to the Department of Revenue and Taxation, Motor Vehicle Division, along with the officer's sworn statement, affidavit or written declaration as required by § 92202 of Title 9 of the Guam Code Annotated; and

(3) the driver's license will not be returned and the person's driving privileges restored until completion of all administrative and court proceedings against the person, and it is so ordered by the Director of Revenue and Taxation or the courts.

SOURCE: Enacted as 16 GCA § 18201 by P.L. 22-020:2 (June 22, 1993). Repealed and reenacted by P.L. 24-122:1 (Feb. 16, 1998). Subsection (d) amended by P.L. 24-125:1 (Feb. 16, 1998). Amended by P.L. 24-197:1 (May 6, 1998). Transferred to Chapter 92, Title 9 GCA by P.L. 34-107:6 (June 5, 2018), and renumbered pursuant to P.L. 34-107:6.

2018 NOTE: Subsection/subitem designations altered/added pursuant to authority granted by 1 GCA § 1606.

References to Chapter 18 of Title 16 GCA have been altered to the current codification in Chapter 92 of Title 9, pursuant to P.L. 34-107:5 (June 5, 2018).

§ 92202. Sanctions for Refusal to Submit to or Failure to Complete a Blood, or Breath Test.

(a) If any person refuses a police officer's request to submit to, or fails to complete a blood or breath test or tests, upon receipt of a police officer's sworn statement, affidavit or written declaration under penalty of perjury that the police officer had reasonable cause to believe the person had been operating and in physical control of a motor vehicle in violation of § 92102 of this Chapter and that the person refused to submit to, or failed to complete, the blood or breath tests after having been informed by the police officer of the consequences under subsection (f) of § 92201 and this § 92202 for refusing to submit to or failing to

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complete the blood or breath test or tests, then the Department of Revenue and Taxation (the Department) shall administratively

(1) suspend the person's privilege and license or permit to operate a motor vehicle for a period of six (6) months, or

(2) revoke the person's privilege and license or permit to operate a motor vehicle for a period of two (2) years if

(A) the person has been convicted of a separate prior violation of § 92102 or

(B) has been administratively determined to have committed a prior violation of § 92102 of this Chapter or

(C) convicted of any prior offense of driving under the influence violation, or

(D) any combination thereof, within five (5) years of the date of the refusal, or

(E) failure to complete the blood or breath test, or

(3) revoke the person's privilege and license or permit to operate a motor vehicle for a period of three (3) years if

(A) the person has been convicted of two (2) or more prior violations of § 92102 or

(B) has been administratively determined to have committed two (2) or more prior violations of § 92202 of this Chapter or

(C) convicted of any two (2) or more offenses of driving under the influence, or

(D) any combination thereof, within five (5) years of the date of the refusal or

(E) failure to complete the blood or breath test.

(b) For the purposes of this Chapter, police officer means an officer of the Guam Police Department, or a security officer of either the Guam Airport Authority or the Guam Port Authority but only while such security officer is carrying on his or her duties within the confines of the

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property under the control and jurisdiction of the Authority by which he or she is employed.

SOURCE: Enacted as 16 GCA § 18202 by P.L. 22-020:2 (June 22, 1993). Repealed/reenacted by P.L. 22-146:5 (Dec. 29, 1994). Transferred to Chapter 92, Title 9 GCA by P.L. 34-107:6 (June 5, 2018), and renumbered pursuant to P.L. 34-107:6.

2018 NOTE: Subsection/subitem designations altered/added pursuant to authority granted by 1 GCA § 1606.

References to Chapter 18 of Title 16 GCA have been altered to the current codification in Chapter 92 of Title 9, pursuant to P.L. 34-107:5 (June 5, 2018).

§ 92203. Administrative Revocation or Suspension of Driving Privilege and License Procedures.

(a) If a person is arrested for a violation of § 92102 of this Chapter, on a determination by the police officer that there was reasonable cause for the arrest then:

(1) the police officer shall inform the person that he or she has the option of taking blood or urine, or breath test,

(2) the police officer shall also inform the person that a refusal to submit to or a failure to complete the blood or urine, or breath tests may be used in evidence against him or her in criminal proceedings, and that he or she may be subject to administrative suspension or revocation by the Department of his or her privileges and license or permit to operate a motor vehicle, and

(3) the officer also shall inform the person that a refusal to take the test or a failure to complete the test requires the officer to immediately take custody of the person's driver's license for forwarding to the Department.

(b) The police officer complies with the requirements of § 92203(a) of this Chapter and the person refuses to submit to or fails to complete the blood or breath test, then the police officer shall within three (3) working days of the arrest sign and submit to the Department an affidavit or declaration under penalty of perjury setting forth such facts.

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(c)(1) Upon receipt by the Department of the police officer's affidavit or declaration, an administrative action shall commence and the Department shall within ten (10) working days notify the person in writing of the commencement thereof.

(2) Notice of the administrative action shall be provided to the person as follows:

(A) By delivering a copy thereof to the person; or

(B) By leaving a copy thereof at the person's dwelling house or usual place of abode with some person of suitable age and discretion residing therein; or

(C) By mailing a copy thereof to the person at his or her last known address through certified or registered mail.

(3) The notice of the administrative action shall inform the person of the matters set forth in §§ 92202 and 92203 of this Chapter.

(d) Within fifteen (15) working days from the date of receipt of the notice from the Department, the person may request in writing a hearing on a form provided by the Department in its notice of the action taken.

(e) Upon receipt by the Department of the person's written request for a hearing, the Department shall within five (5) working days notify the person of a hearing date in the same manner as set forth in subsection (c), (1), (2), and (3), of this § 92203.

(1) The Department shall schedule the hearing to commence within fifteen (15) working days of the person's written request for the hearing.

(2) The Director or his designee shall preside at and conduct the hearing.

(f) The scope of the hearing shall be limited to whether the requirements of this § 92203 were met.

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(g) At the commencement of the initial or continued hearing, if for any reason the person who is alleged to have refused to submit to or failed to complete blood or urine, or breath testing did not surrender his or her driver's license to the arresting officer, the person shall surrender to the Department any license or permit issued in the name of the person which authorizes the person to drive and be in physical control of a vehicle, and which license or permit was not previously suspended or revoked.

(h)(1) At the hearing the driver has the burden of proof to show by the preponderance of the evidence that the requirements of this § 92203 were not met.

(2) If the hearing is continued to another date and time by the Director, or the Director's designee, or if at the conclusion of the initial or continued hearing, the Director, or the Director's designee, dismisses the administrative action, then the Department shall return the person's driver's license or permit to him or her.

(i) (1) At the conclusion of the initial or continued hearing, the Director or his designee shall render a decision

(A) to suspend or revoke the person's driving privilege and license or permit, as authorized under § 92202 of this Act, or

(B) to dismiss the administrative action.

(2) The decision and order of the Director or his designee shall be final but subject to judicial review.

(j) If the Director or his designee determines, upon a hearing of the matter, to suspend or revoke the person's privilege and license or permit to operate a motor vehicle, the suspension or revocation decision shall thereupon become effective.

(1) If the person does not appear at that hearing, the Director or his designee shall, in writing, determine, based upon a preponderance of the evidence, that the person whose license or permit is to be suspended or revoked is the person so charged and shall declare that by default the license or permit is revoked or suspended.

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(2) If the person does appear at the hearing, the Director or his designee shall, in writing, based upon the preponderance of the evidence, show that the person was

(A) either driving and in physical control of the motor vehicle or not,

(B) either refused to take a breathalyzer or blood test or did not, and

(C) either was given adequate warning of the alternatives before so suspending or revoking the person's license or permit or was not.

(k) If the Director's or his designee's decision is to revoke or suspend the person's privilege and license or permit to drive, the person may file a petition for judicial review in the Superior Court of Guam within ten (10) working days of such decision and order.

(1) The filing of the petition shall not operate as a stay of the administrative revocation or suspension nor shall the court stay the administrative revocation or suspension pending the outcome of the judicial review.

(2) The petition shall state with specificity the grounds upon which the petitioner seeks reversal of the administration revocation.

(3) The court shall schedule the judicial review as soon as practicable, and the review shall be on the record of the administrative hearing without taking additional testimony or evidence.

(4) If the petitioner fails to appear without just cause, the court shall affirm the administrative revocation or suspension.

(5) The sole issues before the court shall be whether the Department exceeded constitutional or statutory authority, erroneously interpreted the law, acted in an arbitrary or capricious manner, committed an abuse of discretion, or made a determination that is unsupported by the evidence in the record.

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(6) Unless the administrative revocation or suspension is reversed, the revocation or suspension shall become effective as set out in subsection (j) of this § 92203.

(l) Failure of the peace officer or the Department to comply with the requirements in subsections (a), (b), (c), (e) or (i) of this § 92203 shall result in a dismissal of the action in favor of the person.

(m) Failure of the person to comply with subsections (d), (h) and (k) of this § 92203 shall be deemed a waiver of the rights therein, and the revocation or suspension if supported by the affidavit shall become effective pursuant to §§ 92202 and 92203 of this Chapter.

(n) The Department may issue a written subpoena directing any person to attend a hearing before the Director or his designee and in a proper case to bring with him or her any book, record or paper which may be deemed material as evidence in the case.

(1) The fee for such attendance shall be the same as the fees of witnesses before the Superior Court, except that if the witness is a government employee, no witness fee shall be given.

(2) The subpoena

(A) shall be issued in the name of the Department,

(B) shall be directed to the witness, and

(C) shall be served in the same manner as subpoenas to appear and testify before the court.

(3) If any person or persons summoned to testify shall refuse or neglect to obey said subpoena, upon petition,

(A) the court may compel the attendance of such person or persons before the Department, or

(B) punish said person or persons for contempt in the same manner provided by law for securing the attendance of witnesses and their punishment for neglect or refusal to attend the Superior Court.

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(o) Article 2 of the Administrative Adjudication Law [5 GCA Chapter 9, Article 2 - Hearing Procedures] shall not apply to administrative actions and hearings under this § 92203.

SOURCE: Enacted as 16 GCA § 18203 by P.L. 22-020:2 (June 22, 1993). Subsections (a), (b), (c), (g), (j) and (k) amended by P.L. 22-146:6, 7, 8, 11, 14 and 15, respectively. Subsections (e), (f), (h) and (i) repealed/reenacted by P.L. 22-146:9, 10, 12 and 13, respectively. Subsections (n) and (o) added by P.L. 22-146:16 and 17, respectively (Dec. 29, 1994). Subsections (a), (g) and (h) amended by P.L. 24-122:2, 3, and 4, respectively. Subsections (a) and (g) amended by P.L. 24-197:2 and 3, respectively (May 6, 1998). Transferred to Chapter 92, Title 9 GCA by P.L. 34-107:6 (June 5, 2018), and renumbered pursuant to P.L. 34-107:6.

2018 NOTE: Subsection/subitem designations altered/added pursuant to authority granted by 1 GCA § 1606.

References to Chapter 18 of Title 16 GCA have been altered to the current codification in Chapter 92 of Title 9, pursuant to P.L. 34-107:5 (June 5, 2018).

§ 92204. Suspension; Refusal Under Implied Consent Law; Time to Run Consecutively With Other Restrictions, Suspensions or Revocations.

(a) The purpose of this § 92204 is to require that any suspension or revocation under § 92123 of this Chapter and any restriction, suspension or revocation under §§ 92201 or 92124 of this Chapter resulting from the same arrest are cumulative and shall be imposed consecutively, if so ordered by the court.

(b) If

(1) an abstract of conviction is received by the Department for an offense which requires the Department to restrict, suspend, or revoke the driving privilege of a person after conviction or finding of a violation pursuant to §§ 92201 or 92202 of this Chapter, and

(2) there is a suspension of that person's driving privilege already in effect for refusal to consent to, or for failure to complete, a blood or breath test pursuant to said § 92201, and

(3) that suspension is administratively final and resulted from the same arrest, and

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(4) the sentencing court orders these restrictions, suspensions, revocations, or combination thereof to run consecutively, then the restriction, suspension, or revocation resulting from the conviction or finding pursuant to § 92123 or § 92124 of this Chapter shall commence after the suspension already in effect pursuant to said § 92201 has terminated.

SOURCE: Enacted as 16 GCA § 18204 by P.L. 22-020:2 (June 22, 1993). Transferred to Chapter 92, Title 9 GCA by P.L. 34-107:6 (June 5, 2018), and renumbered pursuant to P.L. 34-107:6.

2018 NOTE: Subsection/subitem designations altered/added pursuant to authority granted by 1 GCA § 1606.

References to Chapter 18 of Title 16 GCA have been altered to the current codification in Chapter 92 of Title 9, pursuant to P.L. 34-107:5 (June 5, 2018).

§ 92205. Filing of Rules.

The Department may adopt rules to govern its procedures under this Chapter. Article 3 of the Administrative Adjudication Law [5 GCA Chapter 9 - *Rule-Making Procedure*] is not applicable to such rules so adopted by the Department nor to any procedures prescribed therein.

SOURCE: Enacted as 16 GCA § 18205 by P.L. 22-020:2 (June 22, 1993). Repealed/reenacted by P.L. 22-146:18 (Dec. 29, 1994). Transferred to Chapter 92, Title 9 GCA by P.L. 34-107:6 (June 5, 2018), and renumbered pursuant to P.L. 34-107:6.

§ 92206. Effective Date of Implementation.

The effective date to implementing the provisions of § 92203 of this Chapter on the Department's administrative revocation or suspension of driving privileges and licenses or permits of persons who refuse to submit to or fail to complete a blood or breath test shall be April 1, 1995.

SOURCE: Added as 16 GCA § 18206 by P.L. 22-146:19 (Dec. 29, 1994). Transferred to Chapter 92, Title 9 GCA by P.L. 34-107:6 (June 5, 2018), and renumbered pursuant to P.L. 34-107:6.

2018 NOTE: References to Chapter 18 of Title 16 GCA have been altered to the current codification in Chapter 92 of Title 9, pursuant to P.L. 34-107:5 (June 5, 2018).

ARTICLE 3
IGNITION INTERLOCK DEVICES

SOURCE: Entire Article originally enacted as Article 4 of Chapter 18, Title 16 GCA by P.L. 29-050:1 (Jan. 2, 2008). Transferred to Chapter 92, Title 9 GCA by P.L. 34-107:8 (June 5, 2018), codified as Article 3 and renumbered pursuant to P.L. 34-107:6.

- § 92301. Ignition Interlock Devices, Requiring; Unlawful Acts.
§ 92302. Ignition Interlock Devices, Certification; Warning Label.

§ 92301. Ignition Interlock Devices, Requiring; Unlawful Acts.

(a)(1) In addition to any other authorized penalties, the Court may require that any person who is convicted of driving under the influence in violation of this Chapter shall not operate a motor vehicle unless that vehicle is equipped with a functioning ignition interlock device certified by the Department as provided in § 92302 of this Article, and installed in such a manner that the vehicle will *not* start if the operator's blood alcohol level is in excess of five one-hundredths of one percent (0.05%) *or* as otherwise specified by the court.

(2) The court may require the use of an approved ignition interlock device for a period of *not less than* six (6) months, *if* the person is permitted to operate a motor vehicle, whether *or* not the privilege to operate a motor vehicle is restricted, as determined by the court.

(3) The court, however, *shall* order placement of an ignition interlock device in those circumstances required by this Chapter.

(b) *If* the court imposes the use of an ignition interlock device, the court *shall*:

(1) stipulate on the record the requirement for, and the period of, the use of a certified ignition interlock device;

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(2) order that the records of the Department reflect such requirement;

(3) order that an ignition interlock device be installed, as the court may determine necessary, on any vehicle owned *or* operated by the person;

(4) determine the person's ability to pay for installation of the device if the person claims inability to pay. If the court determines that the person is unable to pay for installation of the device, the court may order that any portion of a fine paid by the person for a violation of this Chapter shall be allocated to defray the costs of installing the device; and

(5) require proof of installation of the device and periodic reporting to the Department for verification of the operation of the device in the person's vehicle.

(c) (1) If the court imposes the use of an ignition interlock device on a person whose driving privilege is not suspended or revoked, the court shall require the person to provide proof of compliance to the Department within thirty (30) days.

(2) If the person fails to provide proof of installation within that period, absent a finding by the court of good cause for that failure which is entered in the court record, the court shall notify the Department of Revenue and Taxation.

(d) If the court imposes the use of an ignition interlock device on a person whose driving privilege is suspended or revoked for a period of less than three (3) years, the department shall require proof of compliance before reinstatement of the person's driving privilege.

(e) (1) In addition to any other provision of law upon conviction of a violation of this Section, the Department shall revoke the person's driving privilege for one (1) year from the date of conviction. Upon conviction of a separate violation of this Section during the same period of required use of an ignition interlock device, the Department shall

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revoke the person's driving privilege for five (5) years from the date of conviction.

(2) Any person convicted of a violation of Subsection (f) hereof who does not have a driver's license shall, in addition to any other penalty provided by law, pay a fine of not less than Two Hundred Fifty Dollars (\$250) or more than Five Hundred Dollars (\$500) per each such violation. In the event that the person is unable to pay any such fine, the fine shall become a lien against the motor vehicle used in violation of Subsection (f) hereof and payment shall be made pursuant to Title 16 GCA § 7172.

(f) (1) It is unlawful to tamper with or to circumvent the operation of a court-ordered ignition interlock device.

(2) It is unlawful for any person whose driving privilege is restricted pursuant to this Section to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

(3) It is unlawful to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to this Section.

(4) It is unlawful to knowingly lease or lend a motor vehicle to a person who has had his or her driving privilege restricted as provided in this Section, unless the vehicle is equipped with a functioning, certified ignition interlock device.

(5) Any person whose driving privilege is restricted under a condition of probation requiring an ignition interlock device shall notify any other person who leases or loans a motor vehicle to him or her of such driving restriction.

(g) (1) Notwithstanding the provisions of this Section, if a person is required to operate a motor vehicle in the course

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and scope of his or her employment and if the vehicle is owned by the employer, the person may operate that vehicle without installation of an approved ignition interlock device if the employer has been notified of such driving privilege restriction and if proof of that notification is with the vehicle.

(2) This employment exemption does not apply, however, if the business entity which owns the vehicle is owned or controlled by the person whose driving privilege has been restricted.

(h) In addition to the penalties provided in this Section, a violation of this Section is a traffic violation, punishable as a nonmoving violation as provided in Title 16 GCA, Chapter 9.

SOURCE: Added as 16 GCA § 18401 by P.L. 29-050:1 (Jan. 2, 2008). Transferred to Chapter 92, Title 9 GCA by P.L. 34-107:6 (June 5, 2018), and renumbered pursuant to P.L. 34-107:6.

2018 NOTE: Subsection/subitem designations altered/added pursuant to authority granted by 1 GCA § 1606.

References to Chapter 18 of Title 16 GCA have been altered to the current codification in Chapter 92 of Title 9, pursuant to P.L. 34-107:5 (June 5, 2018).

§ 92302. Ignition Interlock Devices, Certification; Warning Label.

(a) The Department of Revenue and Taxation shall certify or cause to be certified the accuracy and precision of the breath-testing component of the ignition interlock devices as required by § 92301 of this Article, and shall publish a list of approved devices, together with rules governing the accuracy and precision of the breath-testing component of such devices as adopted by rule in compliance with § 92301 of this Article. The cost of certification shall be borne by the manufacturers of ignition interlock devices.

(b) No model of ignition interlock device shall be certified unless it meets the accuracy requirements specified by rule of the Department.

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(c) (1) The Department of Revenue and Taxation shall design and adopt by rule, a warning label which shall be affixed to each ignition interlock device upon installation.

(2) The label shall contain a warning that any person tampering, circumventing or otherwise misusing the device is guilty of a violation of law and may be subject to civil liability.

SOURCE: Added as 16 GCA § 18402 by P.L. 29-050:1 (Jan. 2, 2008). Transferred to Chapter 92, Title 9 GCA by P.L. 34-107:6 (June 5, 2018), and renumbered pursuant to P.L. 34-107:6.

2018 NOTE: Subsection/subitem designations altered/added pursuant to authority granted by 1 GCA § 1606.

References to Chapter 18 of Title 16 GCA have been altered to the current codification in Chapter 92 of Title 9, pursuant to P.L. 34-107:5 (June 5, 2018).
