



# JUDICIARY OF GUAM

Administrative Office of the Courts  
120 West O'Brien Drive • Hagåtña, Guam 96910-5174  
Telephone: (671)475-3544 • Facsimile: (671)477-3184



F. PHILIP CARBULLIDO  
Chief Justice

ALBERTO C. LAMORENA III  
Presiding Judge

PERRY C. TAITANO  
Administrator of the Courts

March 28, 2012

## MEMORANDUM

TO: All Judiciary Employees

FROM: Administrator of the Courts

SUBJECT: Advisory on Statutory Compliance

RE: 1) P.L. 31-194 serves to amend JOG Administrative Policy #UJ105-01 Official Vehicles Policy  
2) P.L. 31-185, Disaster Service Volunteer Leave Act serves to amend Rule 8.30 JOG PR&R under authorized Administrative Leave

This memorandum serves as an advisory on **Public Law 31-194**, relative to restricting the use of mobile phones while driving a vehicle which was signed into law on February 28, 2012. The enactment of this statute now impacts on the Judiciary's administrative policy #UJ105-01 and all employees are required to comply with its requirements. It is clear that the intention of this law was to mitigate increasing probabilities of traffic collisions and lessen driver distraction while operating any moving vehicle. The only exemptions indicated in the public law are:

1. Emergency Calls (The driver is making an emergency call to law enforcement officials).
2. Voice Communications Required for the Conduct of Commercial Transportation
3. Hands-Free (The driver is using a mobile phone that is specifically designed and configured to allow hand-free listening and talking, through the use of Bluetooth, hard-wired, or similar technology, and is used only in such hands-free manner while driving. Only one earpiece may be used.
4. Licenses Amateur Radio (Ham Radio)
5. CB Radio and Similar

The Judiciary's fleet of official vehicles is currently at 40, therefore, the conduct of any and all employees who are tasked to drive our official vehicles must be compliant to this new public law. Any citation of violations will result in administrative sanctions which would be separate and apart from the legal consequences of statutory fines of up to no less than \$1,000 and revocation of driving privileges. The staff attorney has concluded that law enforcement personnel (Deputy Marshals and Probation Officers) are not exempted from the statute so it is imperative that non-emergency mobile communications be done only by pulling over to the road's shoulder.

This statute goes into effect on **March 29, 2012.** In line with this advisory, this memorandum shall serve as an addendum to the Administrative Policy #UJ105-01.

Furthermore, **Public Law 31-185** was also enacted into law on February 27, 2012 and any employee who is a **Certified Disaster Service Volunteer** may be granted leave (administrative) from work with pay, for up to an aggregate of fifteen (15) days, consecutively or non-consecutively, in any twelve (12) month period to participate in specialized disaster relief services for the American Red Cross, or an NGO or faith-based member organization registered with the Guam Office of Homeland Security or Office of Civil Defense upon the request of the particular organization. Further provisions in the statute are:

- Leave and compensation shall be made at the employee's regular rate of pay for those regular work hours during which the employee is absent from work
- No loss of seniority or any already accumulated vacation time or sick time.
- No overtime pay, shift differential pay, hazardous duty pay or any other form of pay or compensation will be required of the Judiciary.
- Employee who is on the Disaster Volunteer leave shall not be deemed to be an employee of the Government of Guam for purposes of the Government Claims Act; and
- Employee must utilize their own annual leave or personal leave time for any training towards certification as a disaster service volunteer.

For more information on this advisory, you may contact the Human Resources Office at extensions 329, 422, 583 or you may view the public laws in its entirety on the Judiciary's intra-net.



PERRY C. TAITANO

cc: All Justices and Judges  
All Management Team

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN  
2012 (SECOND) Regular Session

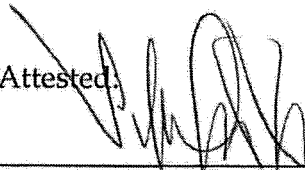
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 397-31 (COR), "AN ACT TO AMEND §3346, AND TO ADD A NEW §3346.1, ALL OF CHAPTER 3, TITLE 16, GUAM CODE ANNOTATED, RELATIVE TO RESTRICTING THE USE OF MOBILE PHONES WHILE DRIVING A VEHICLE, AND PROVIDING FOR PUBLIC EDUCATION REQUIREMENTS REGARDING SUCH RESTRICTIONS", was on the 17<sup>th</sup> day of February, 2012, duly and regularly passed.



Judith T. Won Pat, Ed.D.  
Speaker

Attested:



Tina Rose Muña Barnes  
Legislative Secretary

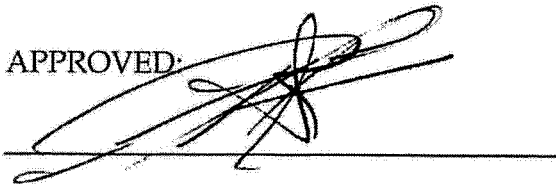
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This Act was received by I Maga'lahaen Guåhan this 17 day of FEB, 2012, at  
1:22 o'clock P.M.



Assistant Staff Officer  
Maga'lahaen's Office

APPROVED:



RAYMOND S. TENORIO  
Acting Governor of Guam

Date: Febr 28, 2012

Public Law No. 31-194

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

**Bill No. 397-31 (COR)**

As substituted by the Committee on Public Safety,  
Law Enforcement and Judiciary; and further substituted  
and amended on the Floor.

Introduced by:

T. C. Ada  
Adolpho B. Palacios, Sr.  
V. Anthony Ada  
F. F. Blas, Jr.  
B. J.F. Cruz  
Chris M. Dueñas  
Judith P. Guthertz, DPA  
Sam Mabini, Ph.D.  
T. R. Muña Barnes  
v. c. pangelinan  
R. J. Respicio  
Dennis G. Rodriguez, Jr.  
M. Silva Taijeron  
Aline A. Yamashita, Ph.D.  
Judith T. Won Pat, Ed.D.

**AN ACT TO AMEND §3346, AND TO ADD A NEW  
§3346.1, ALL OF CHAPTER 3, TITLE 16, GUAM CODE  
ANNOTATED, RELATIVE TO RESTRICTING THE USE  
OF MOBILE PHONES WHILE DRIVING A VEHICLE,  
AND PROVIDING FOR PUBLIC EDUCATION  
REQUIREMENTS REGARDING SUCH  
RESTRICTIONS.**

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

2 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that there  
3 are over one hundred ten thousand (110,000) vehicles currently registered on

1 Guam, of which approximately seventy-five percent (75%) are privately owned,  
2 non-commercial vehicles. The remaining twenty-five percent (25%) are primarily  
3 comprised of commercial vehicles, such as cargo trucks, buses and taxis.

4 *I Liheslaturan Guåhan* further finds that as traffic volumes and congestion  
5 increase on Guam’s roadways, distracted driving increasingly presents a real and  
6 significant danger to the public. As such, reducing driver distraction may be a  
7 significant way of mitigating the increasing probabilities of traffic collisions on  
8 Guam’s congested highways.

9 *I Liheslaturan Guåhan* further recognizes that studies have shown that  
10 using a mobile phone while driving increases the risk of collision four (4)-fold,  
11 and that driver impairment while using a mobile phone is equal to that of driving  
12 with a blood alcohol content in *excess* of 0.08 percent. Evidence of such dangers  
13 are substantial, and have prompted the National Highway Traffic Safety  
14 Administration to state that using a mobile phone while driving can pose a  
15 “serious ... distraction and degrade driver performance.”

16 *I Liheslaturan Guåhan* finds that a prohibition on the use of handheld cell  
17 phones by commercial motor vehicle operators during interstate movements, as  
18 defined by §1102(vv) of Chapter 1 of Title 16, GCA, is currently stipulated in 49  
19 CFR Parts 177, 383-384, and 390-392. This prohibition is further applicable to all  
20 transport (both inter- and intrastate) of hazardous materials by commercial  
21 vehicles. *I Liheslaturan Guåhan* finds it prudent to adopt the same prohibitions  
22 locally.

23 *I Liheslaturan Guåhan* further finds that current Guam law *only* prohibits  
24 the reading, writing, or sending of text messages, but *does not* prohibit the use of  
25 cell phones for voice communications while driving. In order to more completely  
26 address the issue of distracted driving, *I Liheslaturan Guåhan* finds it necessary to

1 further regulate, with certain exemptions, the use of handheld mobile phones while  
2 driving a vehicle on Guam's roads.

3 **Section 2.** §3346 of Chapter 3, Title 16, Guam Code Annotated, is hereby  
4 *amended* to read:

5 **“§3346. Restrictions on the Use of Mobile Phones While**  
6 **Driving.**

7 (a) **Restriction.** It is unlawful for a person to read, write, *or* send  
8 electronic messages, or use or be holding, a mobile phone or similar  
9 electronic communications device while driving a vehicle.

10 (1) **Definition.** For the purposes of this Section, *driving*  
11 means operating a vehicle, with the motor running, including while  
12 temporarily stationary because of traffic, a traffic control device, or  
13 other momentary delays. Driving *does not* include operating a vehicle  
14 with or without the motor running when the driver moved the vehicle  
15 to the side of, or off, a highway, and halted in a location where the  
16 vehicle can safely remain stationary.

17 (b) **Exemptions.** The restriction set forth in Subsection (a) *shall*  
18 *not* apply to voice communications being made under the following  
19 circumstances:

20 (1) **Emergency Calls.** The driver is making an emergency  
21 call to law enforcement officials or other public emergency response  
22 services; or

23 (2) **Voice Communications Required for the Conduct of**  
24 **Commercial Transportation Operations.** During the course of  
25 carrying out commercial transportation operations while in a vehicle  
26 bearing the logo of the company of employment. Said

1 communications *shall* be voice-only and for the *sole* purpose of  
2 coordinating movement while on Guam's roadways.

3 (A) Such exemption, however, *shall not* apply to  
4 interstate commercial motor vehicle movements, or during any  
5 transportation of hazardous materials, as stipulated in 49 CFR  
6 Parts 177, 383, 384, 390, 391, and 392.

7 (B) §3346(b)(2) *shall* be repealed thirty (30) days after  
8 enactment of this Act; or

9 (3) **Hands-free.** The driver is using a mobile phone that is  
10 specifically designed and configured to allow hands-free listening and  
11 talking, through the use of Bluetooth, hard-wired, or similar  
12 technology, and is used *only* in such hands-free manner while driving.  
13 Should an earpiece be utilized as part of the hands-free talking  
14 device, *only* one (1) such earpiece may be used by the person.  
15 Medically prescribed hearing aids are *not* to be counted against the  
16 one (1) earpiece limit; or

17 (4) **Licensed Amateur Radio (Ham Radio).** The driver is  
18 using *only* two (2)-way mobile radio transmitters or receivers and  
19 possesses a current and valid license from the Federal  
20 Communications Commission in the Amateur Radio Service; or

21 (5) **CB Radio and Similar.** The driver is using a "half-  
22 duplex" only device. Such device *shall not* have the ability to also  
23 conduct "full-duplex" communication.

24 (A) For the purposes of this Subsection, *half-duplex*  
25 means the ability for two (2) or more electronic devices to  
26 communicate with each other, but in *only* one (1) direction at a

1 time (*not* simultaneously), and inclusive of simplex technology;  
2 provided, that such technology permits for *only* voice  
3 communication in one (1) direction at a time.

4 (c) **Limits of Exemptions.** The exemptions outlined in  
5 Subsections (b)(2) through (b)(5) of this Section *shall only* be  
6 extended to an individual with a valid Driver's License. For the  
7 purposes of this Section, a Class A (Operator) or Class F  
8 (Motorcycle) Learner's Permit, *or* a Class A (Operator) or Class F  
9 (Motorcycle) Intermediate License *shall not* constitute a Driver's  
10 License.

11 (d) **Penalties.** Any driver who violates the provisions of  
12 Subsections (a), (b) or (c) of this Section is guilty of a violation and  
13 *shall* be punished by a fine *no less than* One Hundred Dollars  
14 (\$100.00). Repeat violations of this Section *shall* be punished by a  
15 fine *no less than* Five Hundred Dollars (\$500.00). However, should a  
16 driver be found to have violated the provisions of this Section, and  
17 that said violation may have contributed to a traffic collision, then he  
18 or she is guilty of a violation punishable by a fine *no less than* One  
19 Thousand Dollars (\$1,000), and may result in the suspension or  
20 revocation of driving privileges on Guam's roadways.

21 (e) Notwithstanding the provisions of §9502 of Chapter 9.5  
22 of Title 7, Guam Code Annotated, all fines collected under this  
23 Section *shall* be deposited into the Police Services Fund, and made  
24 available by appropriation by *I Liheslaturan Guåhan.*"

25 **Section 3.** A new §3346.1 of Chapter 3, Title 16, Guam Code Annotated,  
26 is hereby *added* to read:



1           **“§3346.1. Public Education Regarding Restrictions on the Use of**  
2 **Mobile Phones While Driving.**

3           (a) Within thirty (30) days following the effective date of  
4 this Act, wireless carriers providing mobile phone services or  
5 businesses providing vehicle insurance *shall*, respectively, send a one  
6 (1)-time mailing or electronic notification to their current Guam-  
7 based wireless service subscribers or vehicle insurance policy holders  
8 with information summarizing the restrictions on the use of mobile  
9 phones while driving, as outlined in §3346 of this Chapter.

10          (b) Wireless carriers providing mobile phone services or  
11 businesses providing vehicle insurance are required to provide  
12 information summarizing the restrictions on the use of mobile phones  
13 while driving, as outlined in §3346 of this Chapter, to all new Guam-  
14 based wireless service subscribers or vehicle insurance policy  
15 holders, respectively, and to also include such information  
16 continuously on their websites.

17          (c) Any business entity registered with the Department of  
18 Revenue and Taxation who sells or leases vehicles must provide  
19 every customer purchasing or leasing a vehicle with information  
20 summarizing the restrictions on the use of mobile phones while  
21 driving, as outlined in §3346 of this Chapter.

22          (d) The Department of Revenue and Taxation, Motor  
23 Vehicle Division *shall* provide all applicants for a Learner’s Permit,  
24 Intermediate License, or Drivers License, whether new or renewing,  
25 with information summarizing the restrictions on the use of mobile  
26 phones while driving, as outlined in §3346 of this Chapter. Drivers

1 license exams *shall* also test on the subject matter of mobile phone  
2 usage while driving.

3 (e) Any business entity registered with the Department of  
4 Revenue and Taxation that rents vehicles must provide every vehicle  
5 rental customer with information summarizing the restrictions on the  
6 use of mobile phones while driving, as outlined in §3346 of this  
7 Chapter.”

8 **Section 4. Sunset Provision.** §§ 3346.1(b) and 3346.1(c) *shall* be  
9 repealed one (1) year after the enactment of this Act.

10 **Section 5. Effective Date.** This Act *shall* be effective thirty (30) days  
11 from the date of enactment.

12 **Section 6. Severability.** If any provision of this Act or its application to  
13 any person or circumstance is found to be invalid or contrary to law, such  
14 invalidity shall not affect other provisions or applications of this Act which can be  
15 given effect without the invalid provisions or applications, and to this end the  
16 provisions of this Act are severable.