

**9 GCA CRIMES AND CORRECTIONS  
CH. 70 MISCELLANEOUS CRIMES**

**CHAPTER 70  
MISCELLANEOUS CRIMES**

**2014 NOTE:** Unless otherwise indicated, the Comments are the original annotations from the Criminal and Correctional Code (1977), enacted by P.L. 32-185 (Sept. 2, 1976). These annotations were included when the Criminal and Correctional Code (1977) was “recodified” as Title 9 of the Guam Code Annotated pursuant to P.L. 15-104:8 (Mar. 5, 1980). These original annotations were retained in past print publications of the GCA, and are included herein for historical purposes. The Source notes, however, have been updated to reflect subsequent changes to each provision.

Article 1. General.

Article 2. Discrimination in Housing Accommodations.

Article 3. The Guam Social Host Act.

**COMMENT:** Most, if not all, of the offenses set forth in this Chapter could be dealt with in one of the previous Chapters, but not without greater distortion of those Chapters than is thought desirable.

All of the crimes covered by this Chapter are found in the Penal Code. However, these Sections have been modernized in line with the intent of this Code.

**ARTICLE 1  
GENERAL**

- § 70.01. Cruelty to Animals; Definitions.
- § 70.10. Cruelty to Animals: Defined; Exceptions; Penalty.
- § 70.10.1. Animal Abuse in the First Degree.
- § 70.10.2. Animal Abandonment.
- § 70.10.3. Authority to Enter Premises and Court Proceedings.
- § 70.11. Dogfighting: Defined: Penalty.
- § 70.15. Endangering Health & Safety: Defined; Penalty.
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- § 70.42. Discharge of Firearms.
- § 70.43. Same.
- § 70.44. Revealing Expunged Record Prohibited.
- § 70.44.1. Selling Tobacco to Minors. [Repealed]
- § 70.44.2. Leaving Children Unattended or Unsupervised in Motor Vehicles; Penalty; Authority of Law Enforcement Officer.
- § 70.44.3. Blacklisting Employees.
- § 70.44.4. Possession of Cannabis by Persons Under Twenty-one (21) Years of Age.

**§ 70.01. Cruelty to Animals; Definitions.**

For purposes of this Chapter:

(a) Animal means a domestic animal, a household pet or a wild animal in captivity.

(b) Domestic animal means any animal, other than livestock, that is owned or possessed by a person.

(c) Good animal husbandry includes, but is not limited to, the dehorning of cattle, the docking of horses, sheep or swine, and the castration or neutering of livestock, according to accepted practices of veterinary medicine or animal husbandry.

(d) Minimum care means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the owner, includes, but is not limited to, the following requirements:

- (1) food of sufficient quantity and quality to allow for normal growth or maintenance of body weight;

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(2) open or adequate access to potable water in sufficient quantity to satisfy the animal's needs;

(3) access to a structure sufficient to protect the animal from wind, rain, or sun;

(4) veterinary care deemed necessary by a reasonably prudent person to relieve injury, neglect or disease;

(5) for a domestic animal, continuous access to an area:

(A) with adequate space and room for exercise necessary for the health of the animal, and

(B) kept reasonably clean and free from excess waste or other contaminants that could affect the health of the animal(s).

(e) Officer means a member of the Guam Police Department, a Mayor of Guam, an Animal Control Officer, or any other person authorized by law by the Chief of the Guam Police Department or by the Director of the Department of Agriculture.

(f) Physical injury means physical trauma, impairment of physical condition or substantial pain.

(g) Physical trauma means fractures, cuts, punctures, bruises, burns or other wounds.

(h) Serious physical injury means physical injury that creates a substantial risk of death or that causes protracted disfigurement, impairment of health or impairment to the function of a limb or bodily organ.

(i) Torture means an action taken for the primary purpose of inflicting pain.

**SOURCE:** Added by P.L. 31-005:3 (Mar. 9, 2011).

**§ 70.10. Cruelty to Animals: Defined; Exceptions; Penalty.**

(a) A person commits the crime of animal abuse in the second degree if the person intentionally, knowingly or

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recklessly, except as otherwise authorized by law:

(1) causes physical injury to an animal;

(2) fails to provide minimum care for the animal(s) in such person's custody and control, and the failure to provide such minimum care causes physical injury to the animal(s);  
or

(3) kills, impounds or injures any animal belonging to another without legal authority or consent of the owner.

(b) Animal abuse in the second degree is a misdemeanor.

(c) Subsection (a) shall not be applicable to:

(1) accepted veterinary practices and activities carried on for scientific research by public or private schools or universities or medical institutions;

(2) the shooting or taking of game in such manner and at such times as is allowed or provided by the laws of Guam;

(3) cockfighting in a manner and at such times and places as are authorized by law;

(4) measures necessary to avert harm by an animal that poses a present and immediate danger to the safety of people or other animals;

(5) the killing of animals for food; or

(6) the proper disinfection of rodents, insects and arachnids.

**SOURCE:** G.P.C. §§ 384a, 596-596b, 599a, 599b; M.P.C. § 250.11; Cal. §§ 1440-1442 (1971); Mass. ch. 269, § 11; \*N.J. § 2C:33-11. Amended by P.L. 31-005:4 (Mar. 9, 2011).

**COMMENT:** This Section is not intended to cover any sporting activity not now prohibited by Guam law.

**§ 70.10.1. Animal Abuse in the First Degree.**

(a) A person commits the crime of animal abuse in the first degree if the person intentionally, knowingly or recklessly, except as otherwise authorized by law:

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(1) causes serious physical injury to the animal(s), cruelty causes the death of the animal(s) or tortures the animal(s); or

(2) fails to provide minimum care for the animal(s) in the person's custody or control, and the failure to provide care results in serious physical injury or death to the animal(s).

(b) Animal abuse in the first degree is a third-degree felony.

(c) Subsection (a) of this Section shall not be applicable to:

(1) accepted veterinary practices and activities carried on for scientific research by public or private schools or universities or medical institutions;

(2) the shooting or taking of game in such manner and at such times as is allowed or provided by the laws of Guam;

(3) cockfighting in a manner and at such times and places as are authorized by law;

(4) measures necessary to avert harm by an animal that poses a present and immediate danger to the safety of people or other animals;

(5) the killing of animals for food; or

(6) the proper disinfection of rodents, insects and arachnids.

**SOURCE:** Added by P.L. 31-005:5 (Mar. 9, 2011).

**§ 70.10.2. Animal Abandonment.**

(a) A person commits the crime of animal abandonment if the person intentionally, knowingly, recklessly or with criminal negligence leaves a domestic animal at a location without providing "minimum care" as defined in this Chapter.

(b) Animal abandonment is a petty misdemeanor.

**SOURCE:** Added by P.L. 31-005:6 (Mar. 9, 2011).

**§ 70.10.3. Authority to Enter Premises and Court Proceedings.**

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(a) If there is probable cause to believe that any animal is being subjected to treatment in violation of § 70.10, § 70.10.1 or § 70.10.2 of this Chapter, any officer under exigent circumstances may enter the premises to impound the animal(s). Notice of said impoundment shall be conspicuously posted on the premises.

(1) An officer is not liable for any damages for an entry under Subsection (a) of this Section unless the damages were caused by reckless behavior.

(2) Any animal(s) so impounded shall be held at the animal care facility designated pursuant to § 34118 of Chapter 34, Title 10 GCA.

**SOURCE:** Added by P.L. 31-005:7 (Mar. 9, 2011).

**§70.11. Dogfighting: Defined: Penalty.**

(a) (1) Dogfight means a fight, arranged by any person, between two (2) or more dogs the purpose or probable result of which fight is the infliction of injury by one (1) dog upon another.

(2) Baiting means to provoke or to harass an animal with one (1) or more animals and/or with drugs or other substances for the purpose of training an animal to engage in a dogfight.

(b) A person commits a third degree felony if he knowingly:

(1) owns, possesses, keeps, trains, promotes, purchases, or sells any dog(s) with the intent that the dog(s) shall be engaged in a dogfight;

(2) gambles or bets on the outcome of a dogfight and/or\_baiting;

(3) for amusement or gain, causes, allows, or permits any dog(s) to fight with another dog or other animal or causes any dog(s) to injure each other or other animal; or

(4) is a spectator at an event involving the fighting of a dog(s).

Notwithstanding any other provision of law, the penalty for

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violations of Items (1), (2), (3) and (4) of this paragraph shall be confinement in a correctional facility in accordance with Article 2 of 9GCA Chapter 80 and a fine of not less than Five Thousand Dollars (\$5,000) and no more than Ten Thousand Dollars (\$10,000) or both per violation.

(c) A person commits a third degree felony if he:

(1) keeps, uses, be connected with or interested in the management of, or receives money or other consideration for the admission of a person to, a place kept or used for the purpose of fighting and/or baiting a dog(s);

(2) permits or suffers a place owned or controlled by him to be used as provided in Item (1) of this paragraph;

(3) permits or suffers a place leased by him to be used as provided in Item (1) of this paragraph;

(4) be present and witness, pay admission to, encourage, aid or assist in an activity enumerated in Item (1) of this paragraph; or

(5) promotes, hosts or sponsors an activity enumerated in Item (1) of this paragraph.

Notwithstanding any other provision of law, the penalty for violations of Items (1), (2), (3), (4) and (5) of this paragraph shall be confinement in a correctional facility in accordance with Article 2 of 9GCA Chapter 80 and a fine of not less than Ten Thousand Dollars (\$10,000) and no more than Fifteen Thousand Dollars (\$15,000) or both per violation. Additionally, any person convicted of any violation of this paragraph may be subject to seizure of any personal property, including vehicles, and real property at which the dogfight was staged.

(d) Seizure of Dogs.

(1) A judge may order the seizure of alleged fighting dogs owned, possessed or kept by any person.

(2) The judge issuing an order for the seizure of a dog(s) as provided in Item (1) of this paragraph may require the dog(s) to be impounded at an animal shelter or veterinary clinic or hospital. The government unit which

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executes the seizure shall be responsible for the cost of impoundment at the animal shelter, but the governmental unit is entitled to receive reimbursement of those costs from the owner, possessor or keeper of the impounded dog(s). If the owner, possessor or keeper of the dog(s) is subsequently convicted of dogfighting under this Section, the Court may order the defendant to pay the costs as restitution in the case.

(e) Nothing in this Section shall constitute a prohibition or ban on the possession, lawful importation/exportation, breeding or selling of any breed of dog.

(f) Veterinarians and/or physicians and/or health professionals are required to report suspected dogfighting incidents that come to their attention through the provision of medical services to dogs to the Guam Police Department within five (5) days of learning of dogfighting incidents. Failure to do so shall result in potential loss of licensure if deemed appropriate by the appropriate licensure agencies.

**SOURCE:** Added by P.L. 29-096:1 (July 22, 2008).

**§ 70.15. Endangering Health & Safety: Defined; Penalty.**

(a) A person commits a petty misdemeanor when he:

(1) permits any condition which is injurious to health or any offensive or noxious substance to be maintained upon or within property in his possession or under his control after receiving reasonable notice in writing from the proper authority to terminate that condition; or

(2) unlawfully obstructs the free passage or use of a navigable body of water or a public highway, street, sidewalk or park by placing any substance therein or thereon.

(b) Permitting the existence of a condition after the receipt of the notice required by Paragraph (1) of Subsection (a) shall constitute a separate and distinct offense for each and every day after such receipt that the condition exists.

**SOURCE:** Guam §§ 370-371; \*Cal. §§ 1414(a)(1) (6) (1971).



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**§ 70.16. Tattoos, Brands, Scarifications and Piercings; Minors; Violation; Classification; Anesthesia; Defense; Definition.**

(a) It is unlawful to tattoo a person who is under eighteen (18) years of age without the physical presence of that person's parent or legal guardian.

(b) It is unlawful for a person who tattoos or pierces the body of another person to use a needle or ink more than once, or to use a needle that is not pre-sterilized or autoclaved.

(c) A person must be a licensed healthcare professional to administer any form of subcutaneous local anesthesia during the course of any procedure involving the branding, scarifying, tattooing or piercing of the body of another person.

(d) It is a defense to a prosecution for a violation of Subsection (a) that the person requested age identification, and relied in good faith on the accuracy of the information contained in the identification.

(e) A person who violates this Section is guilty of a misdemeanor.

(f) For the purposes of this Section, tattoo means any indelible design, letter, scroll, figure, symbol or other mark that is placed on or under the skin with ink or colors by the aid of needles or other instruments, and that cannot be removed without a surgical procedure or any design, letter, scroll, figure or symbol or other mark done by scarring on or under the skin.

**SOURCE:** Added by P.L. 25-053:1 (June 30, 1999).

**§ 70.20. Creation of Hazards on Land: Penalty.**

A person is guilty of a petty misdemeanor when he:

(a) abandons, keeps or knowingly permits to remain on premises under his control an unused refrigerator, icebox, deep freeze locker or similar container having a capacity of one and one-half (1/2) cubic feet or more from which the door or the hinges and latch mechanism has not been removed. This Subsection shall not apply to a person engaged in the business of selling refrigerators, iceboxes or

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deep freeze lockers who keeps them for sale, if he takes reasonable precautions to secure the door of any such refrigerator, icebox or deep freeze locker so as to prevent entrance by children small enough to fit therein.

(b) being the owner or otherwise having possession of property upon which an abandoned well or cesspool is located, fails to cover the same with suitable protective construction.

**SOURCE:** G.P.C. § 402; \*Cal. § 1416 (1971); Mass. ch. 270, § 18; \*N.J. § 2C:40-1.

**CROSS-REFERENCES:** New York Penal Law § 270.10, § 1940 of this Title - Reckless Conduct.

**§ 70.25. Jet Ski Operation, Tumon Bay and Pago Bay.**

No person shall operate a jet ski or water ski within the reef along Tumon Bay and Pago Bay except that a jet ski may be operated in the channel to enter or exit Tumon Bay and Pago Bay. This prohibition shall not apply to the use of jet ski for emergency rescue or for law enforcement purposes. Any person who violates this Section is guilty of a misdemeanor.

**SOURCE:** Added as uncodified law by P.L. 17-086:5. Codified by the Compiler. Amended by P.L. 23-078:1 (Mar. 12, 1996).

**§ 70.30. Creation of Certain Hazards; Oil Pollution by Vessels: Definitions: Penalty.**

(a) Except in case of unavoidable accident, collision or stranding, and except as otherwise permitted by law, a person commits a misdemeanor if he discharges or permits the discharge of oil by any methods, means or manner, into or upon the navigable waters of the territory of Guam from any vessel using oil for the generation of propulsion power, or any vessel carrying or having oil thereon in excess of that necessary for its lubricating requirements, and such as may be required under the laws of the United States and the government of the territory of Guam, and the rules and regulations prescribed thereunder.

(b) As used in this Section, “private place” means a place where one may reasonably expect to be safe from casual or

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hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access:

(1) Oil means oil of any kind or in any form, including fuel oil, oil sludge and oil refuse;

(2) Navigable Waters of the Territory of Guam means all portions of the sea within the territorial jurisdiction of the government of the territory of Guam.

**SOURCE:** G.P.C. § 374(b).

**CROSS-REFERENCES:** § 7.80 *necessity* defense.

**§ 70.35. Invasion of Privacy or Criminal Voyeurism and Video Voyeurism; Penalty; Definitions.**

(a) A person commits a misdemeanor if, except in the execution of a public duty or as authorized by law, the person intentionally or knowingly:

(1) trespasses on property for the purpose of subjecting anyone to eavesdropping or other surveillance in a private place or in a place where an individual has a reasonable expectation of privacy;

(2) peers or peeps into a window or other opening of a dwelling or other structure adapted for sojourn or overnight accommodations for the purpose of spying on the occupant thereof or invading the privacy of another person with a lewd or unlawful purpose, under circumstances in which a reasonable person in the dwelling or other structure would not expect to be observed;

(3) trespasses on property for the sexual gratification of the actor;

(4) installs or uses outside a private place any device for hearing, recording, amplifying, or broadcasting sounds originating in that place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy therein;

(5) intercepts, without the consent of the sender or receiver, a message or photographic image by telephone, telegraph, letter, electronic transmission, or other means of

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communicating privately; but this Subsection (5) does not apply to:

(A) overhearing of messages through a regularly installed instrument on a telephone party line or an extension; or

(B) interception by the telephone company, electronic mail account provider, or telephone or electronic mail subscriber incident to enforcement of regulations limiting use of the facilities or incident to other operation and use;

(6) installs or uses, or both, in any private place or in a place where an individual has a reasonable expectation of privacy, without consent of the person or persons entitled to privacy therein, any means or device for observing, recording, amplifying, or broadcasting sounds or events in that place, including another person in a stage of undress or sexual activity;

(7) covertly records or broadcasts an image of another person's intimate area underneath clothing, by use of any device, and that image is taken while that person is in a public place and without that person's consent;

(8) divulges, without the consent of the sender or the receiver, the existence or contents of any messages or photographic image by telephone, telegraph, letter, electronic transmission, or other means of communicating privately, if the accused knows that the message or photographic image was unlawfully intercepted or if the accused learned of the message or photographic image in the course of employment with an agency engaged in transmitting it; or

(9) knowingly possesses materials created under circumstances prohibited in Subsection (b) below.

(10) This Subsection (a) shall not apply to any dissemination, distribution, or transfer of images subject to this Subsection by an electronic communication service

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provider or remote storage service in the ordinary course of its business.

(11) In addition to any penalties the court may impose, the court may order the destruction of any recording made in violation of this Subsection (a).

(b) A person commits a felony in the third degree, if, except in the execution of a public duty or as authorized by law, when, with the intent of arousing, appealing to or gratifying the lust or passions or sexual desires of such person or another person, or for his own or another person's lascivious entertainment or satisfaction of prurient interest, or for the purpose of sexually degrading or abusing any other person, or for the purpose of annoying, harassing or intimidating any other person, the person intentionally or knowingly installs or uses, or both, in any private place or in a place where an individual has a reasonable expectation of privacy, without consent of the person or persons entitled to privacy therein, any device for observing, recording, amplifying, or broadcasting another person in a stage of undress or sexual activity. The court may order the destruction of any recording made in violation of this Subsection (b).

(c) A person commits the crime of video voyeurism, which is a felony in the second degree, if, except in the execution of a public duty or as authorized by law, when, with the intent of arousing, appealing to or gratifying the lust or passions or sexual desires of such person or another person, or for his own or another person's lascivious entertainment or satisfaction of prurient interest, or for the purpose of sexually degrading or abusing any other persons, or for the purpose of annoying, harassing or intimidating any other person, the person intentionally or knowingly disseminates, publishes or sells any image or images of the intimate areas of another person or persons without the consent of such other person or persons and with knowledge that such image or images were obtained. The court may order the destruction of any recording made in violation of this Subsection (c).

(d) Definitions for the purpose of this Section:

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(1) broadcast means the electronic transmittal of a visual image with the intent that it be viewed by a person or persons;

(2) disseminate means to make available by any means to any person;

(3) electronic communication means any transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photoelectronic, or photo optical system;

(4) electronic communication service provider means any person engaged in the offering or sale of electronic communication services to the public;

(5) electronic communication system means any wire, radio, electromagnetic, photo-optical, or photo-electronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications, including e-mail, web hosting, multimedia messaging services, and remote storage services offered by an electronic communication service provider;

(6) imaging device means any instrument capable of recording, storing, viewing or transmitting visual images;

(7) intimate areas means any portion of a person's underwear, pubic area, anus, buttocks, vulva, genitals, or female breast;

(8) intimate areas underneath clothing does not include intimate areas visible through a person's clothing or intimate areas exposed in public;

(9) person means any natural person, corporation, partnership, firm, association, joint venture or any other recognized legal entity or any agent or servant thereof;

(10) place where a person has a reasonable expectation of privacy means:

(A) a place where a reasonable person would believe that he could undress, be undressed or engage

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in sexual activity in privacy, without concern that he or she is being viewed, photographed, filmed or otherwise recorded by an imaging device; or

(B) a place where a person might reasonably expect to be safe from casual or hostile surveillance by an imaging device; or

(C) any public place where a person, by taking reasonable steps to conceal intimate areas, should be free from the viewing, recording, storing or transmitting of images obtained by imaging devices designed to overcome the barriers created by a person's covering of intimate areas;

(11) public place means an area generally open to the public, regardless of whether it is privately owned, and includes, but is not limited to, streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, buses, tunnels, buildings, stores, and restaurants;

(12) publish means to:

(A) disseminate with the intent that such image or images be made available by any means to any person; or

(B) disseminate with the intent that such images be sold by another person; or

(C) post, present, display, exhibit, circulate, advertise or allow access by any means so as to make an image or images available to the public; or

(D) disseminate with the intent that an image or images be posted, presented, displayed, exhibited, circulated, advertised or made accessible by any means and to make such image or images available to the public;

(13) remote storage service means the provision to the public of computer storage or processing services by means of an electronic communication system;

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(14) sell means to disseminate to another person, or to publish, in exchange for something of value.

(e) Notwithstanding any law to the contrary, any individual convicted of a criminal offense under this § 70.35 shall be registered on the Crimes Against Minors and Sex Offender Registry in Chapter 89 of Title 9, GCA, as follows: a level three offender for a misdemeanor conviction under this § 70.35; a level two offender for a felony in the third degree conviction under this § 70.35; and a level one offender for a second degree felony under this § 70.35.

**SOURCE:** G.P.C. §§ 618, 619, 621, 640, 641, See also § 639; \*M.P.C. § 250.12; Cal. §§ 1450-1464 (1971); Mass. ch. 272, §§ 13 and 14; N.J. § 2C:33-12. Repealed and reenacted by P.L. 32-144:2 (Apr. 28, 2014).

**§ 70.40. Unlawful Use of Telephone; Defined & Punished.**

(a) A person is guilty of unlawfully using a telephone when he:

(1) refuses to relinquish immediately a party line or public telephone when informed that the party line or public telephone is needed for an emergency call to the Department of Public Safety, Armed Services Police, Air Sea Rescue or for medical aid or ambulance service; or

(2) secures the use of a party line or public telephone by falsely stating that such line or telephone is needed for an emergency.

(b) As used in this Section, party line means a subscriber's telephone circuit consisting of two (2) or more named telephone stations connected therewith, each station having a distinctive ring or telephone number.

(c) As used in this Section, public telephone means a telephone available for public use.

(d) As used in this Section, emergency means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential.



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(e) Unlawfully using a telephone, as defined in Paragraph (1) of Subsection (a) of this Section, is a misdemeanor. Otherwise, it is a violation.

**SOURCE:** G.P.C. §§ 640b, 643; \*Cal. § 1412 (1971); N.J. § 2C:40-2.

**COMMENT:** Section 70.40 replaces former Sections 640b and 643 of the Penal Code. Substantively, the only changes are to extend coverage to public telephone and to reduce the offense of securing a telephone unlawfully to a violation.

**§ 70.40.1. Obscene Telephone Service Prohibited; Penalty.**

(a) It is unlawful for any telephone subscriber to sell, offer for sale, or transmit over telephone lines any obscene material or message.

(b) Any person in violation of this section is guilty of a misdemeanor.

**SOURCE:** Added by P.L. 20-167:1 (May 11, 1990).

**§ 70.40.2. Certain Obscene Telephone Communications Prohibited; Penalty.**

(a) For purposes of this section and of § 70.40.1 of this Title 9, the term “obscene” shall mean that:

(1) The average person, applying contemporary community standards would find that the communication, taken as a whole, appeals to the prurient interest; and

(2) The communication depicts or describes, in a patently offensive way, any act or conduct which constitutes sexual conduct as defined by Chapter 25 of this Title 9; and

(3) The communication, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(b)(1) A subscriber of telephone service who makes any obscene communication by means of a telephone, in person, or through an electronic recording device, in exchange for remuneration is guilty of a misdemeanor, regardless of whether such subscriber placed, initiated or received the telephone call.

(2) A subscriber of telephone service who knowingly permits the use of a telephone or a telephone facility under

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such subscriber's control to make or to receive, at the request of the subscriber, any obscene communication prohibited under subsection (b)(1) of this section, is guilty of a misdemeanor if the telephone or telephone facility is connected to a local exchange telephone.

(c) For purposes of this subsection, each day of a violation shall constitute a separate offense.

**SOURCE:** P.L. 20-167:1 (May 11, 1990).

**§ 70.41. Destruction of Property: Penalty.**

A person commits a misdemeanor if, he without the written permission of the owner or of the owner's agent or of the person in lawful possession:

(a) Maliciously tears down, damages, mutilates or destroys any sign, signboard or notice placed upon, or affixed to any property that belongs to the government of the Territory, which sign, signboard or notice is intended to indicate or designate a road or highway or is intended to designate speed limits or a traffic hazard or is intended to direct travelers from one point to another or is intended to advise of prohibited entry or relates to fires, fire control, trespassing or other matters involving the protection of the property;

(b) Wilfully opens, tears down or otherwise destroys any fence on the land of another or wilfully removes, injures, cuts or tampers with any lock or any locked gate or any locked chain or any other locked barrier on any road, track or trail leading into lands of another or maliciously tears down, mutilates or destroys any sign, signboard or other notice forbidding shooting on public or private property; or

(c) Enters any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing or injuring any lawful business or occupation carried on by the owner of such land, his agent or by the person in lawful possession; or

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(d) Enters any lands under cultivation or enclosed by fence, belonging to, or occupied by, any other or enters upon uncultivated and unenclosed lands belonging to, or occupied by, any other where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries on all roads and trails entering such lands:

(1) For the purpose of hunting, shooting, killing or destroying any animal or bird upon such lands; or

(2) Discharges any firearms upon such land or lands; or

(3) Refuses or fails to leave such lands immediately upon being requested to leave by the owner of such land, his agent or by the person in lawful possession; or

(4) Tears down, mutilates or destroys any sign, signboard or notice forbidding entry on such lands.

(e) Enters upon any lands declared closed to public entry by the Government where such closed lands are posted with notices declaring such closure at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through such lands declaring the lands closed to public entry or stating "no trespassing." The Director of the Department of Land Management, in compliance with the Administrative Adjudication Act, is authorized to designate as closed to public entry and post "no trespassing" signs on any portion or portions of property belonging to the Government upon his determination that such designation is reasonably necessary for the purpose of public safety, preservation of government property, conservation of resources, fire prevention, safety of adjoining property owners or prevention of nuisances.

**SOURCE:** Added by P.L. 16-079:1 (May 4, 1980).

**§ 70.42. Discharge of Firearms.**

A person commits a misdemeanor who willfully discharges a firearm:

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(a) At any occupied dwelling, building or other structure;

(b) At any utility pole or light fixture, or line or device for transmittal of power or communications of any kind;

(c) At any sign, signboard or notice placed upon or affixed to any property belonging to the government of the territory;

(d) Into the air.

(e) Any individual found to commit a misdemeanor within the provisions of this section shall be assessed a fine of no less than \$500 and no more than \$1,000 per offense, the firearm used shall be confiscated and its registration certificate, and all rights thereunder, shall be suspended for one (1) year. Any individual so convicted who has legal possession of more than one firearm shall have only the firearm used in the commission of the crime confiscated and its registration suspended.

(f) Any firearm so confiscated shall not be sold or transferred to another prior to completion of the sentence imposed.

(g) No individual found guilty under the provisions of this section shall purchase any other firearm during the duration of the suspension of his or her firearm's registration card.

**SOURCE:** Added by P.L. 16-079:2 (May 4, 1980). Amended by P.L. 21-131:2 (July 28, 1992).

**§ 70.43. Same.**

A person commits a misdemeanor who willfully discharges a firearm within fifty (50) yards of any occupied dwelling, building or other structure without the prior consent of the owner thereof or his agent or of the person in lawful possession thereof, with the exception of the discharge of firearms at a properly constructed shooting range approved by the Director of the Department of Public Safety or by a peace officer in pursuit of his duty as a peace officer.

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**SOURCE:** Added by P.L. 16-079:3 (May 4, 1980).

**§ 70.44. Revealing Expunged Record Prohibited.**

A person is guilty of a misdemeanor if he permits to be made public or reveals to any person not entitled to review it any official record of the court, Attorney General or any other entity of the government of Guam which has been expunged in accordance with § 271 of the Code of Civil Procedure or Chapter 11 of Title 8 GCA.

**SOURCE:** Added by P.L. 16-068, as 70.45, renumbered as § 70.44 by Editor.

**§ 70.44.1. Selling Tobacco to Minors.**

**[Repealed.]**

**SOURCE:** Added by P.L. 21-025:2 (May 17, 1991) as § 44.1, renumbered as § 70.44.1 by Compiler of Laws. Repealed by P.L. 24-278:4 (Oct. 16, 1998).

**§ 70.44.2. Leaving Children Unattended or Unsupervised in Motor Vehicles; Penalty; Authority of Law Enforcement Officer.**

(a) A parent, legal guardian, or other person, at least twelve (12) years of age, responsible for a child five (5) years of age or younger, may not leave such child unattended or unsupervised in a motor vehicle:

(1) For a period in excess of fifteen (15) minutes; or

(2) For any period of time if the motor of the vehicle is running or the health of the child is in danger.

(b) Any person who violates the provisions of Subsection (a)(1) commits a petty misdemeanor.

(c) Any person who violates the provisions of Subsection (a)(2) is guilty of a violation, punishable by a fine not less than Fifty Dollars (\$50) and not more than Five Hundred Dollars (\$500).

(d) Any person who violates Subsection (a) and in so doing causes serious bodily injury, permanent disability, or permanent disfigurement to a child commits a felony of the third degree.

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(e) Any law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle in violation of Subsection (a) may use whatever means are reasonably necessary to protect the minor child and to remove the child from the vehicle.

(1) If the child is removed from the immediate area, notification should be placed on the vehicle.

(2) The child shall be remanded to the custody of the Child Protective Services Division pursuant to Title 19 GCA, Chapter 13, unless the law enforcement officer is able to locate the parents or legal guardian or other person responsible for the child.

**SOURCE:** Added as § 70.45 by P.L. 29-044:1 (Jan. 2, 2008), which was already occupied. Renumbered by Compiler.

**§ 70.44.3. Blacklisting Employees.**

(a) If any person, agent, company, corporation, public official, or governmental agency, after having discharged any employee from his or its service, shall prevent or attempt to prevent by word or writing of any kind of untrue statement, or, in any manner, conspires or contrives, by correspondence or otherwise by means of an untrue statement, to prevent, such discharged employee from obtaining employment with any other person, company, corporation or governmental agency, such person, agent, corporation or public official is guilty of a petty misdemeanor and shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) for each violation; and such person, agent, company, corporation, elected or appointed public official, or governmental agency shall be liable in civil/penal damages to such discharged person, to be recovered by civil action. This Section shall not be construed as prohibiting any person or agent of any company or corporation from furnishing in writing, upon request, to any other person, company or corporation to whom such discharged person or employee has applied for employment, a truthful statement of the reason for such discharge.

(b) An employer, employee or other person, by threats of injury, intimidation or force, alone or in combination with others,

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may not prevent a person from entering into, continuing in or leaving the employment of any person, firm, governmental office/agency or corporation. Any person who violates this paragraph is guilty of a misdemeanor and shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00) for each violation; and such person, agent, company, corporation, elected or appointed public official, governmental agency shall be liable in civil/penal damages to such discharged person, to be recovered by civil action.

(c) An employer who in good faith provides information requested by a prospective employer about the reason for termination of a former employee or about the job performance, professional conduct or evaluation of a current or former employee is immune from civil liability for the disclosure or the consequences of providing the information. There is a presumption of good faith if either:

(1) The employer employs less than one hundred (100) employees and provides only the information authorized by this Subsection.

(2) The employer employs at least one hundred (100) employees and has a regular practice in Guam of providing information requested by a prospective employer about the reason for termination of a former employee or about the job performance, professional conduct or evaluation of a current or former employee.

(d) The presumption of good faith under Subsection (c) of this Section is rebuttable by showing that the employer disclosed the information with actual malice or with intent to mislead. This Subsection and Subsection (c) of this Section do not alter any privileges that exist under common law. For the purposes of this Subsection, "actual malice" means knowledge that the information was false or was provided with reckless disregard of its truth or falsity.

(e) Communications concerning employees or prospective employees that are made by an employer or prospective employer, or by a labor organization, to a government body or agency and that are required by law or that are furnished

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pursuant to written rules or policies of the government body or agency are privileged.

(f) An employer, including the government of Guam and its agencies, a labor organization or an individual is not civilly liable for privileged communications made pursuant to Subsection (e) of this Section.

(g) In response to a request by another bank, savings and loan association, credit union, escrow agent, commercial mortgage banker, mortgage banker or mortgage broker it is not unlawful for a bank, a savings and loan association, a credit union, an escrow agent, a commercial mortgage banker, a mortgage banker or a mortgage broker to provide a written employment reference that advises of the applicant's involvement in any theft, embezzlement, misappropriation or other defalcation that has been reported to federal authorities pursuant to federal banking guidelines or reported to the department of financial institutions. In order for the immunity provided in Subsection (h) of this Section to apply, a copy of the written employment reference must be sent by the institution providing the reference to the last known address of the applicant in question.

(h) No bank, savings and loan association, credit union, escrow agent, commercial mortgage banker, mortgage banker or mortgage broker shall be civilly liable for providing an employment reference unless the information provided is false and the bank, savings and loan association, credit union, escrow agent, commercial mortgage banker, mortgage banker or mortgage broker providing the false information does so with knowledge and malice.

(i) A court shall award court costs, attorney fees and other related expenses to any party that prevails in any civil proceeding in which a violation of this Section is alleged.

**SOURCE:** Added by P.L. 31-257:1 (Dec. 26, 2012).

**§ 70.44.4. Possession of Cannabis by Persons Under Twenty-one (21) Years of Age.**



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Any person under twenty-one (21) years of age possessing cannabis *shall* be guilty of a petty misdemeanor and subject to a One Hundred Dollar (\$100.00) fine and suspension of their driver's license for twelve (12) months for the first offense and a Two Hundred-Fifty Dollar (\$250.00) fine and suspension of their driver's license for an additional twelve (12) months for each subsequent possession. Suspension of one's driver's license *may* be waived by the court and replaced with one hundred (100) hours of community service for each possession if the guilty individual can demonstrate financial or personal hardship resulting from the loss of his or her driving privileges. The violation of this Section and the resulting penalties prescribed herein are in addition to other violations of public law related to cannabis possession.

**SOURCE:** Added by P.L. 35-005:14 (April 4, 2019).

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**ARTICLE 2**  
**DISCRIMINATION IN HOUSING ACCOMMODATIONS**

**SOURCE:** This entire Article was added by P.L. 16-054 (Dec. 31, 1981).

- § 70.45. Declaration of Policy.
- § 70.46. Definitions.
- § 70.47. Unlawful Practices.
- § 70.48. Exemptions.
- § 70.49. Procedure.
- § 70.50. Other Remedies.
- § 70.51. Penalties.

**§ 70.45. Declaration of Policy.**

It is hereby declared to be the policy of the territory of Guam in the exercise of its police power for the public safety, public health and general welfare to assure equal opportunity to all persons to live in decent housing facilities regardless of race, color, religion, sex or national origin and, to that end, to prohibit discrimination in housing by any person.

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**§ 70.46. Definitions.**

When used in this Article:

(a) Discrimination or discriminatory housing practice means any difference in treatment based upon race, color, religion, sex or national origin, or any act that is unlawful under this Article;

(b) Financial institution includes any person, as defined herein, engaged in the business of lending money or guaranteeing losses;

(c) Housing accommodation or dwelling means any building, mobile home or trailer, structure or portion thereof which is occupied as or designed, or intended for occupancy as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, mobile home or trailer, structure or portion thereof, or any real property, as defined herein, used or intended to be used for any of the purposes set forth in this Subsection;

(d) Mortgage broker means an individual who is engaged in or who performs the business or services of a mortgage broker as the same are defined in the Government Code;

(e) Open market means the market which is informed of the availability for sale, purchase, rental or lease of any housing accommodation, whether informed through a real estate broker or by advertising by publication, signs or by any other advertising methods directed to the public or any portion thereof, indicating that the property is available for sale, purchase, rental or lease;

(f) Owner includes a lessee, sub-lessee, cotenant, assignee, managing agent or other person having the right of ownership or possession, or the right to sell, rent or lease any housing accommodation;

(g) Person includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts,

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business trusts, syndicates, fiduciaries, corporations and all other groups or combinations;

(h) Real property includes buildings, structures, lands, tenements, leaseholds, cooperatives and condominiums; and

(i) Real estate broker or real estate salesman includes any individual, qualified by law, who, for a fee, commission, salary or for other valuable consideration, or who with the intention or expectation of receiving or collecting same, lists, sells, purchases, rents or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate such activities; or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance, upon transfer of any housing accommodation; or who is engaged in the business of charging an advance fee or contracting for collecting of a fee in connection with a contract whereby he undertakes or promote the sale, purchase, rental or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

**NOTE:** Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters were altered to adhere to the Compiler's alpha-numeric scheme.

**§ 70.47. Unlawful Practices.**

In connection with any of the transactions set forth in this Section, which affect any housing accommodation on the open market or in connection with any public sale, purchase, rental or lease of any housing accommodation, it shall be unlawful within the Territory for a person, owner, financial institution, real estate broker or real estate salesman, or any representative of the above, to:

(a) refuse to sell, purchase, rent or lease, or deny to or withhold any housing accommodation from a person because of his race, color, religion, ancestry, national origin, sex or place of birth;

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(b) to discriminate against a person in the terms, conditions or privileges of the sale, purchase, rental or lease of any housing accommodation, or in the furnishing of facilities or services in connection therewith;

(c) to refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any housing accommodation from or to a person because of his race, color, religion, ancestry, national origin, sex or place of birth;

(d) to refuse to negotiate for the sale, purchase, rental or lease of any housing accommodation to a person because of his race, color, religion, ancestry, national origin, sex or place of birth;

(e) to represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation, because of his race, color, religion or national origin, sex or place of birth;

(f) to make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted or mailed, any notice, statement or advertisement, or to announce a policy, or to sign or to use a form or application for the sale, purchase, rental, lease or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation, which indicates any discrimination or any intent to make a discrimination;

(g) to offer, solicit, accept or use a listing of any housing accommodation for sale, purchase, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, rental or lease, or in the furnishing of facilities or services in connection therewith;

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(h) to induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation by representing that the presence or anticipated presence of persons of any particular race, color, religion, sex or national origin or place of birth in the area to be affected by such sale, purchase, rental or lease will or may result in either:

(1) the lowering of property values in the area;

(2) an increase in criminal or antisocial behavior in the area; or

(3) a decline in the quality of schools serving the area;

(i) to make any misrepresentations concerning the listing for sale, purchase, rental or lease, or the anticipated listing for any of the above, or the sale, purchase, rental or lease of any housing accommodation in any area in the Territory for the purpose of including or attempting to induce any such listing or any of the above transactions;

(j) to engage in, or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation;

(k) to retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this Article, or because he has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this Article;

(l) to aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this Article, or to obstruct or prevent any person from complying with the provisions of this Article, or any order issued thereunder;

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(m) by canvassing, to commit any unlawful practices prohibited by this Article;

(n) otherwise to deny to, or withhold any housing accommodation from a person because of his race, color, religion, ancestry, national origin, sex or place of birth;

(o) for any bank, savings and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part, in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration or other terms or conditions of such loans or other financial assistance, because of the race, color, religion, sex or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance or of the present or prospective owners, lessees, tenants or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; or

(p) to deny any qualified person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership or participation on account of race, color, religion, sex or national origin.

**NOTE:** Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters were altered to adhere to the Compiler's alpha-numeric scheme.

**§ 70.48. Exemptions.**

This Article shall not apply to:

(a) a religious organization, association or society or any nonprofit institution or organization operating,

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supervised or controlled by or in conjunction with a religious organization, association or society, which limits the sale, rental or occupancy of dwellings which it owns or operates for other than commercial purposes to persons of the same religion, or which gives preference to such persons, unless membership in such a religion is restricted on account of race, color, sex or national origin;

(b) a private club not in fact open to the public, which, as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members;

(c) any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three (3) such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this Subsection shall apply only with respect to one such sale within any twenty-four month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or served on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one time; provided further, that the sale or rental of any such single-family house shall be excepted from the application of this Article only if such house is sold or rented:

(1) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent or any such broker, agent, salesman or person; and

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(2) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of the provisions of § 70.47 of this Code; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title; or

(d) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently or each other, if the owner actually maintains and occupies one of such living quarters as his residence.

**NOTE:** Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters were altered to adhere to the Compiler's alpha-numeric scheme.

**§ 70.49. Procedure.**

Any person aggrieved by an unlawful practice prohibited by this Article may file a complaint with the Attorney General within thirty (30) days after the aggrieved person becomes aware of the alleged unlawful practice, and in no event shall exceed more than sixty (60) days after the alleged unlawful practice occurred. The Attorney General or his duly authorized representative shall investigate each complaint and attempt to resolve such complaint. Failure to achieve a resolution acceptable to both parties and in compliance with this Article shall cause the Attorney General to commence prosecution.

**§ 70.50. Other Remedies.**

Nothing herein contained shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled.

**§ 70.51. Penalties.**

Any person violating any provision of this Article shall, upon conviction thereof, be guilty of a misdemeanor.



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ARTICLE 3  
THE GUAM SOCIAL HOST ACT

SOURCE: Added by P.L. 32-001 (Mar. 6, 2013).

§ 70.52. Title.

§ 70.53. Intoxication of Persons Under the Age of Twenty-One.

**§ 70.52. Title.**

This Article shall be known and may be cited as The Guam Social Host Act.

**§ 70.53. Intoxication of Persons Under the Age of Twenty-One.**

(a) No person twenty-one (21) years or older shall knowingly give or otherwise make available any alcoholic beverage or cannabis to a person under the age of twenty-one (21) years. A person violates this Section who gives or otherwise makes available an alcoholic beverage or cannabis to a person under the age of twenty-one (21) with the knowledge that the person to whom the alcoholic beverage or cannabis is made available will violate this § 70.53.

(b) A person violates this Section who owns, occupies, or controls premises on which alcoholic beverages or cannabis are consumed by any person under twenty-one (21) years of age, and who knows of alcohol or cannabis consumption by persons under twenty-one (21) years of age on such premises, and who reasonably could have prohibited or prevented such alcohol or cannabis consumption.

(c) Any person who violates this Section:

(1) *shall* be punished by a fine of not more than Two Thousand Dollars (\$2,000) or by imprisonment for not more than one (1) year or both; and

(2) in addition to the sentence referenced in Subsection (c)(1) the court *may* require the violator to make restitution for any damages to property or a person caused by a violation of this § 70.53, and *may* require participation in volunteer service to a community service agency.

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(d) The prohibitions of this Section apply only to a person who is present and in control of the location at the time the consumption occurs. The prohibitions of this Section do not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual unit in which the owner or agent resides.

(e) This Section *shall not* apply to any religious practice, observance, or ceremony.

(f) The violations of this Section and the resulting penalties prescribed herein, *supra*, are in addition to other violations of public law related to alcoholic beverages or cannabis.

**SOURCE:** Added by P.L. 32-001 (Mar. 6, 2013), Amended by P.L. 35-005:15 (April 4, 2019).

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