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CH. 5 SIZE, WEIGHT AND LOAD LIMITATIONS
AND RESTRICTION OF CERTAIN VEHICLES**

**CHAPTER 5
SIZE, WEIGHT AND LOAD LIMITATIONS AND
RESTRICTION OF CERTAIN VEHICLES**

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§ 5101. Definitions.

As used in this Chapter, the following definitions will hold true:

(a) Axle: The common axis of rotation of one (1) or more wheels, whether in one (1) or more segments and regardless of the number of wheels carried thereon.

(b) Axle Group: An assemblage of two (2) or more consecutive axles considered together in determining their combined load effect on a bridge or pavement structure.

(c) Axle Load: The total weight transmitted to the road by a single axle.

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(d) **Connecting Mechanism:** An arrangement of parts interconnecting two (2) or more consecutive axles to the frame of a vehicle in such a manner as to equalize the load between the axles.

(e) **Continuous Trip Permit:** A special permit issued for oversize or overweight loads, valid for multiple days, multiple routes and/or between multiple points of destination, for the duration of a specific project, but not to exceed ninety (90) days, unless deemed warranted otherwise by the DPW Director.

(f) **Gross Combination Weight (GCW):** The total weight of the power unit and the total weight of the towed unit and any load thereon.

(g) **Gross Combination Weight Rating (GCWR):** The value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

(h) **Gross Vehicle Weight (GVW):** The total weight of the loaded vehicle. This includes the vehicle itself and the cargo that is loaded within that vehicle.

(i) **Gross Vehicle Weight Rating (GVWR):** The value specified by the manufacturer as the loaded weight of a single motor vehicle.

(j) **Gross Weight:** The weight of a vehicle and/or vehicle combination without load, plus the weight of any load thereon.

(k) **Height:** The total vertical dimension of any vehicle above the ground surface including any load and load holding device thereon.

(l) **Highway:** The entire width between the boundary lines of every publicly maintained surface, when any part thereof is open to the use of the public for purposes of vehicular travel; synonymous and interchangeable in usage with "street".

(m) **Length:** The total longitudinal dimension of any vehicle or combination of vehicles, including any load or load holding devices thereon.

(n) **Load:** A weight or quantity of anything resting upon a support.

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(o) Motor Vehicle: A vehicle which is self-propelled or propelled by electric power obtained from overhead trolley wires, but not operating upon rails.

(p) Owner: A person, other than a lienholder, having the property in or title to a vehicle, including a person entitled to use and possession of a vehicle subject to a security interest in another person, but excluding a lessee under a lease not intended as security.

(q) Portable Scales: A movable weighing device.

(r) Primary Road: A primary road is a road with two (2) or more lanes each way, or any road with at least two (2) contiguous miles with a speed limit of thirty-five (35) miles per hour or greater.

(s) Scale Tolerance: An allowable variation in the static weight of an axle load in accordance with, but not exceeding, the precision of the scale involved.

(t) Secondary Road: A secondary road is any road, paved or unpaved, that does not meet the definition of “primary road” as herein stated.

(u) Semi-Trailer: A vehicle designed for carrying persons or property and drawn by a truck-tractor on which parts of its weight and load rests.

(v) Single Axle: An assembly of two (2) or more wheels, whose centers are on one (1) transverse vertical plane or may be included between two (2) parallel transverse vertical planes forty (40) inches or less apart extending the full width of the vehicle.

(w) Single Axle Weight: The total weight transmitted to the road by a single axle.

(x) Single Trip Permit: A special permit issued for oversize or overweight loads, valid for a single trip on a specified route between predetermined points of origin and destination, and which shall expire within twenty-four (24) hours.

(y) Special Permit: A written authorization to move or operate on a highway, a vehicle or vehicles with indivisible load of a size and/or

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weight exceeding the limits prescribed for vehicles in regular operation. Said permit may be for a single trip or for a continuous trip.

(z) Static Scales: An immovable measuring scale, similar to a ruler, that is attached to the edge of an optical comparator screen.

(aa) Tandem Axle: Any two (2) or more consecutive axles whose centers are more than forty (40) inches and not more than ninety-six (96) inches apart, and are individually attached and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between the axles.

(bb) Tandem Axle Weight: The total weight transmitted to the road by a tandem axle.

(cc) Trailer: A vehicle designed for carrying persons or property and drawn by a motor vehicle which carries no part of the weight and load of the trailer on its own wheels.

(dd) Truck: A motor vehicle designed, used or maintained primarily for the transportation of property.

(ee) Truck-Tractor: A motor vehicle designed for drawing other vehicles, but not for a load other than a part of the weight of the vehicle and load drawn.

(ff) Vehicle: A device in, upon or by which any person or property may be transported or drawn upon a highway.

(gg) Vehicle Combination: A truck-tractor and semi-trailer, either with or without a full trailer, or a truck with one (1) or more full trailers.

(hh) Weigh-in-Motion Scales: Weighing-in-Motion (WIM) is, as the name implies, the process of weighing a vehicle as it is moving along the highway in an effort to estimate the equivalent static weight of the vehicle.

(ii) Wheel Load: The total load transmitted to the road by a wheel. Dual wheels that share an axle mounting are considered a single wheel for load requirements.

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(jj) Width: The total outside transverse dimension of a vehicle, including any load or load holding devices thereon, but excluding approved safety devices and tire bulge due to load.

SOURCE: GC § 23200, enacted by P.L. 13-016:1 (May 7, 1975). Amended by P.L. 29-027:3 (Oct. 24, 2007). Subsections (e), (f), (g), (h), (p), (x), and (ff) were added by P.L. 31-027:4 (Apr. 18, 2011) without subsection designations. Amended by P.L. 33-106:2 (Dec. 2, 2015) without subsection designations.

2015 NOTE: Pursuant to P.L. 33-106:10, “This Act shall be come effective sixty (60) days after enactment.

Subsection designations were added to adhere to the Compiler’s alpha-numeric scheme in accordance with the authority granted by 1 GCA § 1606.

§ 5102. Size, Weight and Load Limitations.

(a) It is unlawful for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved on any highway, any vehicle or vehicles of a size, weight or a load exceeding or otherwise failing to comply with the limitations or requirements stated in this Chapter.

(b) The provisions of this Chapter governing size, weight and load shall not apply to a vehicle operated under the terms of a special permit issued as herein provided.

SOURCE: GC § 23201, enacted by P.L. 13-016:1 (May 7, 1975).

§ 5103. Width of Vehicles and Loads.

No vehicle, including any load and load holding device thereon shall exceed a total width of one hundred two (102) inches.

SOURCE: GC § 23202, enacted by P.L. 13-016:1 (May 7, 1975).

§ 5104. Height of Vehicles and Loads.

No vehicle, including any load and load holding devices thereon, shall exceed a total height of fifteen (15) feet for public roads, streets or highways.

SOURCE: GC § 23203, enacted by P.L. 13-016:1 (May 7, 1975), amended by P.L. 29-027:4 (Oct. 24, 2007), and P.L. 33-106:3 (Dec. 2, 2015).

2015 NOTE: Pursuant to P.L. 33-106:10, “This Act shall be come effective sixty (60) days after enactment.

§ 5105. Length of Vehicles and Loads.

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(a) No vehicle, including any load and load holding devices, shall exceed a total length of forty (40) feet extreme overall dimension, inclusive of front and rear bumpers.

(b) A bus, equipped with three (3) axles, shall not exceed an equal overall length, inclusive of front and rear bumpers of forty (40) feet.

(c) No combination of two (2) vehicles coupled together, including any load thereon, shall have an overall length, inclusive of front and rear bumpers, in excess of sixty (60) feet, except as otherwise provided in respect to the use of a pole or pipe dolly as authorized in Subsection 5105(f) of this Chapter.

(d) No other combinations of vehicles shall consist of more than two (2) units, except that one (1) truck-tractor semi-trailer may haul one (1) trailer. No such combinations, including any load, shall exceed an overall length, inclusive of front and rear bumpers of sixty-five (65) feet.

(e) Subject to the foregoing provisions of this Chapter limiting the length of vehicles and loads, the load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles shall not exceed more than three (3) feet beyond the foremost part of that vehicle. The load upon any vehicle operated alone, or the load upon the rear vehicle of a combination of vehicles shall not extend more than six (6) feet beyond the rear of the fixed bed or body of the vehicle, unless that vehicle is followed by an escort vehicle with a rotating yellow beacon and a sign stating "Long Load."

(f) The limitations as to the length of vehicles and loads heretofore stated in § 5105 shall not apply to any load upon a pole or pipe dolly as defined in Subsection 1102(y). No poles or pipes or structural materials or crane which cannot be dismembered, provided, that no pole or pipe or material or crane exceeds eighty (80) feet in length, shall be so transported unless a permit has first been obtained as authorized in § 5114.

SOURCE: GC § 23204, enacted by P.L. 13-016:1 (May 7, 1975).

§ 5106. Trailers and Towed Vehicles.

(a) When one (1) vehicle is towing another the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby, and said drawbar or other connection shall not exceed fifteen (15) feet from one vehicle to the other, except the connection between any two (2) vehicles

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transporting poles, pipes, machinery or other objects of a structural nature which cannot readily be dismembered.

(b) When one (1) vehicle is towing another, and the connection consists of a chain, rope or cable, that connection shall be not less than ten (10) feet and no more than fifteen (15) feet, and there shall be displayed upon such a connection, a white flag or cloth, not less than twelve (12) inches on an edge. When one (1) vehicle is towing another, their speed shall not exceed twenty-five (25) miles per hour or the posted speed limit, whichever is lower.

SOURCE: GC § 23205, enacted by P.L. 13-016:1 (May 7, 1975).

§ 5107. Gross Weight, Axle, and Wheel Loads.

No motor vehicle or combination of vehicles equipped wholly with pneumatic tires, which has a gross weight, an axle load, or a wheel load in excess of the limits set forth in this Section shall be operated or moved upon any public road, street, or highway; and no vehicle or combination of vehicles shall be operated on or moved over any bridge or other highway structure if the gross weight, including vehicle and load, exceeds the posted maximum gross weight limitation for the bridge or other highway structure.

(a) The total gross weight, in pounds, imposed on any public road, street, or highway by any axle group on a vehicle or combination of vehicles *shall not* exceed the following when the distance between the first and last axles of the group under consideration is:

(1) forty (40) inches or less; the axle load *shall not* exceed twenty thousand (20,000) pounds;

(2) more than forty (40) inches, but not more than eight (8) feet; the tandem axle weight imposed *shall not* exceed thirty-four thousand (34,000) pounds.

(b) The total gross weight, in pounds, imposed on any public road, street, or highway by any axle group on a vehicle or combination of vehicles *shall not* exceed that resulting from application of the Bridge Formula:

$W = 500 (LN/(N-1) + 12N + 36)$ when the distance between the first and last axles of the axle group under consideration is over eight (8) feet and where

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- W = maximum gross weight in pounds carried on any axle group,
- L = distance in feet between the outer axles of any axle group, to the nearest foot, and
- N = number of axles in group under consideration; provided that two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand (34,000) pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six (36) feet or more; and provided also that the overall gross weight *does not* exceed eighty thousand (80,000) pounds.
- (c) No vehicle or combination of vehicles shall be used or operated on any public road, street, or highway with:
- (1) a load upon any single or tandem axle or combination of axles which exceeds the carrying capacity of the axles specified by the manufacturer; or
 - (2) with a total weight in excess of its designed capacity as indicated by its designed gross vehicle weights or gross combination weights.
- (d) The single axle weight *shall not* exceed twenty thousand (20,000) pounds.
- (e) The maximum wheel load imposed upon any public road, street, or highway *shall not* exceed ten thousand (10,000) pounds.
- (f) The Director of the Department of Public Works (DPW Director) may place and maintain signs to limit the gross weight of a vehicle or combination of vehicles traveling over a bridge or other highway structure in the interest of public safety when it is determined that the theoretical load carrying capacity of the bridge or structure is less than the maximum gross vehicular weight allowed by this Chapter.
- (g) The DPW Director may issue an Overweight Vehicle Load Permit for a vehicle that meets the axle group load requirements of the formula in Subsection (b) of this Section, but with a gross vehicle weight in excess of eighty thousand (80,000) pounds. Such special permit *shall* be issued in accordance with § 5114 of this Chapter.

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SOURCE: GC § 23206, enacted by P.L. 13-016:1 (May 7, 1975). Amended by P.L. 33-106:4 (Dec. 2, 2015).

2015 NOTE: Pursuant to P.L. 33-106:10, “This Act shall be come effective sixty (60) days after enactment.

§ 5108. Performance Requirements.

(a) Brake performance shall conform to the requirements set forth in the most recent Uniform Vehicle Code of the National Committee on Uniform Traffic Laws and Ordinances.

(b) Linkage between any combination of vehicles shall conform to the current recommended practice of the Society of Automotive Engineers.

(c) Vehicles in regular operations shall be permissible only when such loads are transmitted to the highway surface through wheels equipped with pneumatic tires, and no such tire equipment shall be designed for use or used with an operating inflation pressure in excess of one hundred five (105) pounds per square inch.

(d) Vehicles in regular operation shall be permissible only when on said vehicles, the wheels of the last axle in contact with the highway surface are covered by fendering and/or mud flaps, or a similar device that will deflect any object thrown by the wheels in motion.

(e) Vehicles in regular operation shall have their identification numbers painted in a contrasting color and at a minimum height of three (3) inches. These numbers shall be in a conspicuous place on the front and rear of that vehicle. The company name will be clearly displayed on the side doors of all vehicles in regular operation. Numbers, license plates and all lights shall be wiped clean before any and all hauls.

(f) Vehicles operated on any highway and loaded and carrying any of the following loads shall have said load covered and secured in such manner as to prevent said load or covering from being loosened, detached or in any manner creating litter or constituting a hazard to other users of the highway:

(1) Any trash, refuse or garbage of composition which is of such nature as to permit any portion or piece of such to be loosened or detached.

(2) Sand, soil, crushed rocks or aggregate of less than four inches (4") per unit/pebble or other standard measure for such aggregate.

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(3) Any liquid or similar load that if leaking will cause a road hazard.

(4) Any other load, which in the opinion and discretion of the Guam Police Department, the Guam Environmental Protection Agency, the Department of Public Health and Social Services, or the Department of Parks and Recreation, poses a potential hazard or potential litter is such load were not covered and/or secured.

(5) The Guam Police Department shall promulgate rules and regulations, pursuant to the Administrative Adjudication Law, governing the enforcement of this subparagraph (f), which regulations shall not include any requirement for a permit for the private hauling of loads unless the same are hazardous and being hauled commercially, but shall include a requirement that trucks must be equipped with mudflaps to prevent their tires from ejecting pebbles and other debris to following vehicles.

SOURCE: GC § 23207, enacted by P.L. 13-016:1 (May 7, 1975). Subsection (f) is R/R by P.L. 20-100:1.

§ 5109. Authority to Stop, Inspect and Weigh Vehicles; Removal of Excess Loads.

(a) For purposes of the enforcement of this Chapter, the Director of Revenue and Taxation (DRT Director) and the DPW Director shall have such powers of enforcement as may be necessary to implement their respective responsibilities under this Chapter.

(1) The DRT Director, whose Department is primarily responsible for implementing and enforcing this Chapter as such relates to the registration and safety of vehicles, may delegate enforcement to the Administrator of the Division of Motor Vehicles/Motor Carrier Safety Assistance Program (DMV/MCSAP).

(2) The DPW Director, whose Department is primarily responsible for implementing and enforcing this Chapter as such relates to truck gross weight and the safety and maintenance of Guam's public roads, streets and highways, may delegate the enforcement of this Chapter to the Administrator of the Division of Highways.

(b) For the purpose of the safety, welfare and health of the general public, and the safe transportation of hazardous materials, waste and other

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materials on any public road, street or highway, and the enforcement of this Chapter and of all rules adopted pursuant to this Chapter, the responsibilities of each agency shall be as follows:

(1) Department of Revenue and Taxation (DRT):

(A) inspect business premises, buildings, freight and equipment of commercial motor carriers;

(B) stop and inspect freight and equipment of all motor carriers operating on any public road, street or highway, except that any motor carrier with military cargo shall be permitted to proceed, unless safety to the general public dictates otherwise, to the vehicle's destination for appropriate review therein and such action shall not be a violation of this Chapter;

(C) inspect shipping papers and hazardous waste manifests of all motor carriers and persons subject to this Chapter operating on any public road, street or highway;

(D) during the course of an inspection, weigh any vehicle and/or combination of vehicles equipped wholly with pneumatic tires to ensure compliance with the provisions of § 5107(c)(1) and (2) of this Chapter;

(E) whenever a police officer or DMV/MCSAP inspector, upon inspection of a vehicle and/or load, determines the existence of a violation, a citation may be issued. The vehicle may be allowed to proceed directly to its own shop or facility for correction. When a vehicle is found to be unsafe to the driver or the public, the police officer or DMV/MCSAP inspector has the authority to direct the discontinuance of the vehicle passage and require corrective action on the spot as appropriate, and such vehicle shall not be allowed back into normal operations until corrections are made;

(F) every police officer, or DMV/MCSAP inspector shall assist in the enforcement of this Chapter and of all rules adopted pursuant to this Chapter and may issue citations for violations as appropriate; and

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(G) fines collected from citations issued by DMV/MCSAP inspectors for violations of this Subsection shall be deposited in the Better Public Service Fund and expended in accordance with § 16101 of Chapter 161, Title 11, Guam Code Annotated.

(2) Department of Public Works (DPW):

(A) operate the Truck Enforcement Screening Station (TESS) Facility located on Route 11 to weigh vehicles and/or combinations of vehicles operating on Guam's roads, streets, or highways;

(B) every police officer or DPW inspector having reason to believe that the weight or dimension of a vehicle operating on a public road, street or highway, either with or without load, is in violation of the provisions of this Chapter, shall be authorized to require the driver to stop and submit to an inspection of same by means of portable scales, static scales, or weigh-in-motion scales, or as otherwise appropriate, except that any motor carrier with military cargo shall be permitted to proceed, unless safety to the general public dictates otherwise, to the vehicle's destination for appropriate review therein and such action shall not be a violation of this Chapter. Violations for any dimensions or GVW in excess of permissible limits, as established by the provisions of this Chapter, shall be subject to the penalties cited in § 5112(a) of this Chapter;

(C) whenever a police officer or DPW inspector, upon weighing a vehicle and load, as provided above, determines that the GVW exceeds allowable limits, such police officer or DPW inspector may require the driver to stop the vehicle in a suitable area where corrective action can be determined by the police officer or DPW inspector. Corrective action may include removal of the non-conforming portion of the load and distribution to another vehicle, or allowance of the vehicle to proceed to another location for unloading. Nothing herein is intended to waive any applicable fines;

(D) every police officer or DPW inspector shall assist in the enforcement of this Chapter and of all rules adopted pursuant to this Chapter and issue citations for violations as appropriate;

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(E) fines collected from citations issued by DPW inspectors for violations of this Subsection shall be deposited in the TESS Facility Fund, and shall be expended in accordance with § 5118 of this Chapter.

(c) Any driver of a vehicle who fails or refuses to stop and submit the vehicle, either with or without load, to an inspection and/or weighing, or who fails or refuses when directed by a police officer, DMV inspector, or DPW inspector upon inspection and/or weighing of the vehicle to discontinue the operation of the vehicle and otherwise comply with the provisions of this Section shall be guilty of a civil violation. Each violation for failure or refusal to stop and submit the vehicle to an inspection and/or take subsequent corrective actions shall be subject to the following:

(1) a first violation shall be subject to a penalty of One Hundred Dollars (\$100.00);

(2) a second violation of the provisions of this Subsection within a six (6) month period from the date of the first violation shall be subject to a penalty of Two Hundred Dollars (\$200.00);

(3) a third violation of the provisions of this Subsection within a six (6) month period from the date of a second violation shall be subject to a penalty of Five Hundred Dollars (\$500.00);

(4) a fourth violation of the provisions of this Subsection within a six (6) month period from the date of the third violation shall be subject to a penalty of One Thousand Dollars (\$1,000.00) and the operator shall be subject to revocation of their driver's license.

SOURCE: GC § 23208, enacted by P.L. 13-016:1 (May 7, 1975); Subsection (e) amended by P.L. 13-187:150. Amended by P.L. 29-027:5 (Oct. 24, 2007). Subsection (a) amended by P.L. 31-027:5 (Apr. 18, 2011). Subsection (c) amended by P.L. 31-027:6 (Apr. 18, 2011). Amended by P.L. 33-106:5 (Dec. 2, 2015).

2015 NOTE: Pursuant to P.L. 33-106:10, "This Act shall be come effective sixty (60) days after enactment.

§ 5110. Restriction of Certain Vehicles.

(a) It is unlawful for any person to drive or move, or the owner to cause or knowingly permit to be driven on any highway, off-road heavy construction equipment, steel rollers, solid rubber tires, sheeps-foot, tracks, tracks with lugs, tires that incorporate steel mats or chains and/or any other

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wheel, vehicle or contrivance that the Director of Public Works or his authorized representative deems harmful or destructive to the highway surface, except for those vehicles that are engaged in actual work on or near the highway.

(b) The provisions of this Section governing restrictions of certain vehicles from the highway shall not apply to any said vehicle or vehicles that are transported by trailer, so long as the total gross weight does not exceed the maximum allowable weight provided in § 5107.

SOURCE: GC § 23209, enacted by P.L. 13-016:1 (May 7, 1975).

§ 5111. Liability for Damage to Highways or Structures.

(a) Any person driving or moving any vehicle, object or contrivance, including any person operating or moving a vehicle or combination of vehicles, either legally or under a special permit authorized in § 5114, shall be liable for all damage any highway or highway structure may sustain as the result of any careless, negligent or illegal driving or moving of said vehicle, combination of vehicles, object or contrivance.

(b) Any person driving or moving any vehicle, object or contrivance, including any person operating or moving a vehicle or combination of vehicles either legally or under a special permit authorized in § 5114, shall be liable for all damage to structures spanning the highway, or a part of the highway, by reason of vehicles or load heights in excess of that which such structure will permit, when the clearance height of the vehicle or load or load-holding device thereon is in excess of thirteen (13) feet six (6) inches.

(c) Any person driving or moving any vehicle, object or contrivance, including any person operating or moving a vehicle or combination of vehicles either legally or under a special permit authorized in § 5114, shall be liable for all damage to structures spanning the highway, or part of the highway, by reason of vehicles or load width in excess of that which such structure will permit and, in any event, where the width of the vehicle or load is in excess of one hundred two (102) inches.

(d) Any vehicle or combination of vehicles of an unusually large size or weight shall be required to obtain a special hauling permit at least forty-eight (48) hours in advance of the expected moving date. At this time the owner of said vehicle or combination of vehicles will provide proof that arrangements have been made for the removal and replacement of overhead and off-road

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obstructions, routing, authorized testing of the highway surface, police escort and any other requirements deemed necessary for moving by the Director of Public Works or his authorized representative. All costs shall be borne by the owner.

(e) Whenever such driver or mover is not the owner of any vehicle or combination of vehicles, object or contrivance, but is so driving or moving same with the express or implied permission of the owner, then the owner and driver or mover shall be jointly and severally liable for any damage.

(f) Any such damage may be recovered in a civil action.

SOURCE: GC § 23210, enacted by P.L. 13-016:1 (May 7, 1975).

§ 5112. Penalties.

(a) Every person, entity or organization convicted of a violation of any of the provisions of this Chapter for which another penalty is not provided *shall* be guilty of a civil violation and subject to a penalty of up to Five Hundred Dollars (\$500.00). Every person, entity or organization found to be in violation of the weight limitations established in this Chapter *shall* be subject to the following:

(1) for a first violation, such person, entity or organization *shall* be guilty of a civil violation and punished by a fine of up to Five Hundred Dollars (\$500.00) and Twenty-five Cents (\$0.25)/pound over the maximum allowable load authorized in § 5107;

(2) for a second violation within a six (6) month period from the date of the first violation, such person, entity or organization *shall* be guilty of a civil violation and punished by a fine of up to Seven Hundred Fifty Dollars (\$750.00) and Fifty Cents (\$0.50)/pound over the maximum allowable load authorized in § 5107; and

(3) should a person, entity or organization be found guilty of a third violation of the weight limitations established by this Chapter within six (6) months after a second violation, such person, entity or organization *shall* be guilty of a civil violation and subject to fine of *not less than* One Thousand Dollars (\$1,000.00) and Seventy-five Cents (\$0.75)/pound over the maximum allowable load authorized in § 5107; and the responsible party, as defined in Subsection (d) of this Section, may have their Guam business license revoked in accordance with the following:

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(A) The Director of the Department of Public Works (DPW Director) *shall* notify the responsible party (respondent), in writing, of the finding of a third violation of this Section.

(B) The respondent may request, in writing, an administrative hearing to dispute the findings of the Director. Said request for a hearing must be delivered, in writing, to the Office of the DPW Director within fifteen (15) calendar days from the date of receipt of the DPW Director's findings.

(C) Notwithstanding § 9220 of Chapter 9 of Title 5, Guam Code Annotated, the hearing *shall* be conducted by the DPW Director who *shall* be the hearing officer. The Office of the Attorney General or a Special Assistant Attorney General, appointed by the Attorney General, *shall* assist in providing advice to the DPW Director when matters of law arise. The hearing process *shall* be subject to the procedures of Chapter 9 of Title 5, Guam Code Annotated, with the exception noted above, to § 9220 of the same. The findings of the Director, upon the delivery to the respondent, *shall* fulfill the requirements of § 9201 of Chapter 9 of Title 5, Guam Code Annotated.

(D) In the event that the DPW Director affirms the finding of a third violation is valid, or if no hearing is requested in writing within fifteen (15) calendar days from the date of receipt of the findings by the respondent, the DPW Director may request, in writing, that the appropriate licensing entity revoke the respondent's license to do business on Guam immediately, for a period of up to three (3) years, as determined by the Director. Upon receipt of the DPW Director's written recommendation, the appropriate licensing entity may suspend such license to do business on Guam in accordance with the recommendation of the DPW Director. The hearing required of this Subsection *shall* fulfill the requirements to suspend a business license found in Chapter 9 of Title 5 GCA.

(4) Any person found to be in violation of the dimensional limitations established by this Chapter *shall* be guilty of a civil violation and subject to the following:

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If the excess dimension (length or width) is as follows, the fine *shall* be:

Up to 5 feet	\$ 50.00
Over 5 feet and up to 10 feet	\$100.00
Over 10 feet and up to 15 feet	\$150.00
Over 15 feet	\$200.00,

plus \$10.00 for each additional foot.

(5) Any person who commits any of the acts prohibited by this Section or any rules adopted to enforce this Chapter where no penalty is provided for *shall* be guilty of a civil violation and *shall* be fined *not less than* Five Hundred Dollars (\$500.00), as determined by the DPW Director.

(b) All fines levied by a DMV/MCSAP inspector in accordance with the applicable provisions of this Chapter *shall* be deposited in the Better Public Service Fund of the Department of Revenue and Taxation, to be used by the Division of Motor Vehicles in accordance with § 16101 of Chapter 16, Title 11, Guam Code Annotated.

(c) All fines levied by a DPW/TESS inspector and any permits and administrative fees collected by the Department of Public Works in accordance with this Chapter *shall* be deposited in the TESS Facility Fund and *shall* be expended in accordance with § 5118 of this Chapter.

(d) Responsible Party.

(1) Import Shipping Containers Under Seal. Any importer or consignee, whether an individual or an entity, organization, or company, whose shipping container placed under seal has been determined to be in violation of § 5107 of this Chapter *shall* be responsible for any fine, penalty, handling, additional transportation or other associated cost (including storage).

(2) Export Shipping Containers Under Seal. Any exporter, whether an individual or an entity, organization, or company, whose shipping container placed under seal has been determined to be in violation of § 5107 of this Chapter *shall* be responsible for any fine,

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penalty, handling, additional transportation or other associated cost (including storage).

(3) Local Containers Under Seal. Any individual and any organization, entity, or company loading a shipping container under seal not designated for export that has been determined to be in violation of § 5107 of this Chapter *shall* be responsible for any fine, penalty, handling, additional transportation or other associated cost (including storage).

(4) All Other Local Transport Not Under Seal. Any individual or any cargo transporting entity, organization, or company determined to be in violation of § 5107 of this Chapter *shall* be responsible for any fine, penalty, handling, additional transportation or other associated cost (including storage) prescribed in this Section.

(e) The fine schedules of the Superior Court of Guam and the Commercial Vehicle Safety Alliance (CVSA) for violations cited during roadside inspections, and the method for penalty assessment outlined in the Federal Uniform Fine Assessment (UFA) Program, specifically for violations identified as a result of a Compliance Review, are hereby adopted pursuant to fines and fees as applicable to Guam.

(f) For the purposes of this Section, *person* means the driver of the vehicle, unless the driver is an employee and is operating the vehicle in the scope and course of employment, in which case *person* means the employer of the driver. In the case of the transportation of a sealed container or transportation by flatrack, *person* means:

- (1) the individual or company the cargo is consigned to; or
- (2) the individual or company located on Guam shipping the cargo.

The owner of the vehicle or combination of vehicles may request the operator be held harmless and the citation be transferred to that owner of the vehicle or combination of vehicles. The consignee or the shipper *shall not* be cited if the power units' (tractors') drive axle group is overweight, and the weight is *not more than* that allowed for a tandem axle with any applicable tolerances.

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(g) All permit and administrative fees, fines and reimbursements generated under this Chapter (applicable to the Department of Public Works) *shall* be deposited in the Tess Facility Fund, and *shall not* lapse at the end of the fiscal year, but *shall* roll over into the next fiscal year or until expended in accordance with § 5118 of this Chapter.

SOURCE: GC § 23211, enacted by P.L. 13-016:1 (May 7, 1975); Subsection (a) as amended by P.L. 13-187:151. Amended by P.L. 29-027:6 (Oct. 24, 2007). Subsection (b) amended by P.L. 31-027:7 (Apr. 18, 2011). Subsection (d) added by P.L. 31-027:8 (Apr. 18, 2011). Amended by P.L. 33-106:6 (Dec. 2, 2015).

2015 NOTE: Pursuant to P.L. 33-106:10, “This Act shall be come effective sixty (60) days after enactment.

§ 5113. Proceedings to Make Owner Co-Defendant.

In any provision, limitation or requirement of this Chapter of an employee of the owner of the vehicle concerning which the violation occurred, employed to operate the vehicle, the court shall, on the request of such employee, take appropriate action to make the owner of the vehicle a co-defendant. In the event it is found that the employee has reasonable grounds to believe that the vehicle or vehicles operated by him as such employee did not violate any provision, limitation or requirement, the court may dismiss the charges against the employee.

SOURCE: GC § 23212, enacted by P.L. 13-016:1 (May 7, 1975).

§ 5114. Permits for Excess Size and Weight.

(a) A surety bond in a minimum amount of Five Hundred Dollars (\$500.00), or proper evidence of adequate insurance, must be filed with the Director of Public Works before a permit will be issued for transporting over-width, over-length or over-weight loads on the highway, except when the applicant is a territorial or federal government agency.

(b) The Director of Public Works, or his authorized representative, may in his discretion, upon application in writing and good cause being shown therefore, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight exceeding the maximum specified in this Chapter, or otherwise not in conformity with the provisions of this Chapter, upon the highways of Guam. A permit issued under this Section *shall not* authorize the operation or moving of any vehicle or combination of vehicles without the compliance with Chapter 7 of this Title.

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(c) The application for any such permit *shall* specifically describe the vehicle or combination of vehicles and load to be operated or moved, and the particular highways for which the permit to operate is requested, and whether such permit is requested for a single trip, or for continuous operation for a designated period of time.

(d) The Director of Public Works, or his authorized representative, is authorized to issue or withhold such permit at his discretion, or, if such a permit is issued, to limit the number of trips or to establish time limitations within which the vehicles described may be operated, or to prescribe the conditions of the operations of such vehicle or vehicles when necessary to assure against undue damage to the highway foundations, surfaces or structures, and may require such undertaking or other security as may be deemed necessary to compensate for any injury to any such highway foundations, surfaces or structure. Each permit *shall* be valid only for a designated number of consecutive calendar days as specified in the permit, but in no event shall a permit be granted for a period longer than ten (10) days.

(e) At the discretion of the Director of Public Works or his authorized representative, blanket permits will be issued for over-sized vehicles presently on island, and said over-sized vehicles may be subject to time-of operations restrictions.

(f) Every such permit *shall* be carried in the vehicle or combination of vehicles to which it refers and *shall* be open to inspection by any police officer. It *shall* be unlawful for any person to violate any of the terms or conditions of such permits.

(g) All permitted vehicle or combination of vehicles to which it refers must display two (2) warning signs in addition to the permit number. Each warning sign *shall* consist of black letters at least twelve inches (12") high and not less than one and a half inches (1½") wide on a yellow background. The sign *shall* state "OVERSIZED LOAD" or "WIDE LOAD," as provided in the permit, and include the permit number. One sign will either be bumper-mounted or roof-mounted. If one of the signs is roof-mounted, then the other sign must be at the rear of the towed unit or at the rear of the load. The permit number shall consist of black letters at least ten inches (10") high and not less than one and a half inches (1½") wide. Clearance lights are also

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required during night time travel. Voids (holes) may be cut in the warning signs, as the signs must not cover any vehicle light or reflector.

(h) A fee *shall* be charged for each permit issued by the DPW Director as follows:

(1) Single trip permit for oversize and overweight loads: Fifty Dollars (\$50.00).

(2) Continuous trip permit for oversize and overweight loads: One Hundred Dollars (\$100.00).

All permits may include date, time and route restrictions as determined by the DPW Director. Such fees *shall* be deposited in the TESS Facility Fund of the Department of Public Works, and *shall* be expended in accordance with § 5118 of this Chapter.

(i) Any vehicle issued with a permanent special equipment license or requiring a special permit, as required under this Chapter, *shall* be prohibited from operating on the highways during the hours of 7:00 to 9:00 a.m., 12:00 to 1:00 p.m., and 4:00 to 6:00 p.m., Mondays through Fridays, except in cases of emergencies or at the direction of the Director of Public Works.

SOURCE: GC § 23213, enacted by P.L. 13-16-1. Amended by P.L. 33-106:7 (Dec. 2, 2015).

2015 NOTE: Pursuant to P.L. 33-106:10, “This Act shall be come effective sixty (60) days after enactment.

§ 5115. When the Director of Public Works May Restrict the Use of Highways.

(a) The Director of Public Works or his authorized representative may prohibit the operations of certain vehicles upon any highway, or impose restrictions as to the weight of vehicles to be operated upon any highway, whenever any highway, by reason of deterioration, rain or other climatic conditions which will seriously damage the highway unless the use of vehicles thereon is prohibited or the weight thereon is reduced. Such prohibition or restriction shall be effective when notice thereof are erected upon the highway affected and/or effected when notice is given by publication.

(b) Effective Date. This Act shall be effective immediately provided that those provisions of this Act which limit height, width and length as

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defined in § 5101 shall not be applicable to vehicles which were duly registered on the date that this Act became law until April 30, 1982.

SOURCE: GC § 23214, enacted by P.L. 13-016:1 (May 7, 1975).

§ 5116. Carrier Safety and Hazardous Material Regulations.

(a) The Director of the Department of Revenue and Taxation (“Director”) is authorized to promulgate as Guam regulations, either:

(1) the Federal Motor Carrier Safety Regulations (49 CFR Parts 385, 386, 390 through 399), *except* such portions as may be determined by the Director to be inapplicable, and highway-related portions of the Federal Hazardous Materials Regulations (49 CFR Parts 107, 171 through 173, 177, 178 and 180); or

(2) such Guam regulations applicable to motor carrier safety, including highway transportation of hazardous materials, as are compatible with Federal regulations.

The regulations promulgated by the Director shall be effective as interim regulations until such date as they may be amended pursuant to the Administrative Adjudication Law, Chapter 9 of Title 5 of the Guam Code Annotated.

(b) The Director is authorized to promulgate regulations providing for the right of entry and inspection; the right to inspect commercial motor vehicles; and the right to inspect and copy documents necessary to determine compliance with applicable law, rules and regulations related to motor carrier requirements by government personnel sufficient to enforce the Regulations adopted pursuant to Subsections (a) and (c) of this Section and to perform the activities set forth in Guam’s Enforcement Plan for implementation of the Regulations. Such Regulations shall be effective as interim Regulations from the date of promulgation until such date as they be amended pursuant to the Administrative Adjudication Law.

(c) Whenever the Federal Motor Carrier Safety Regulations and Federal Hazardous Materials Regulations used by the government of Guam referenced in this § 5116(a)(1) pursuant to this Chapter are updated, the Department of Revenue and Taxation is authorized to automatically adopt such updates as Guam regulations, subject to the promulgation of rules pursuant to procedures required under the Administrative Adjudication Law.

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(d) The regulations adopted in this Section *shall* be applicable to both interstate commerce and intrastate commerce. Furthermore, the Department of Revenue and Taxation, Guam Motor Carrier Safety Assistance Program (MCSAP) personnel *shall* have the authority to enforce the regulations on both intrastate and interstate motor vehicle carriers.

SOURCE: Added by P.L. 19-4:15. Subsection (a) amended by P.L. 25-50:1. Amended by P.L. 27-66:2. Subsection (d) added by P.L. 31-027:9 (Apr. 18, 2011).

2015 NOTE: Pursuant to P.L. 32-223:1 (Dec. 29, 2014), 49 CFR Part 180 was adopted as the Guam Motor Carrier Safety and Hazardous Material Regulations. These regulations are found at Chapter 13, Division 2 of Title 30 of the Guam Administrative Rules and Regulations. P.L. 32-223:1(b) further stated that “the Compiler of Laws shall appropriately reference 49 CFR Part 180 in an appropriate Subparagraph of §5116 of Chapter 5 of Title 16, Guam Code Annotated, as the version ‘adopted’ by the government of Guam.” However, the reference to 49 CFR Part 180 was not made in § 5116, as the Compiler could not comply with this legislative instruction without acting beyond the scope of the general authority granted by 1 GCA § 1606.

Subsection designations were added to subsection (a) pursuant to the authority granted by 1 GCA § 1606.

§ 5117. Accounts, Records, and Reports. Inspection.

(a) The Director of Revenue and Taxation may require annual, periodic, or special reports from all motor carriers, prescribe the manner and form in which the reports shall be made, and require from the carriers specific and full, true, and correct answers to all questions which the Director may deem necessary for the safety regulation of motor carrier vehicles.

(b) The Director may prescribe the forms of any and all records and memoranda to be maintained by motor carriers as related to the safety of motor carrier operations consistent with the guidelines set forth in Title 30, Guam Administrative Rules and Regulations. The Director or Director’s duly authorized representative *shall* at all reasonable times and places consistent with § 9302, 30 GAR, Division 2, Article 3 have access to and authority, under the Director’s or representative’s order, to inspect and examine any and all equipment of motor carriers and *shall* have authority to inspect and copy any and all books, records, memoranda, and other documents as are related to the safety of motor carrier operations.

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(c) Each motor carrier operating vehicle in Guam *shall* keep all records and reports required by this Section at an office or place of business located within Guam.

SOURCE: Added by P.L. 31-027:10 (Apr. 18, 2011).

§ 5118. Truck Enforcement Screening Station (TESS) Facility Fund.

Notwithstanding any law to the contrary, a revolving fund, designated as the TESS Facility Fund (Fund), *shall* be established separate and apart from other funds of the government of Guam, and separate records *shall* be kept therefore. The Director of Public Works *shall* administer the Fund and *shall* issue vouchers properly certifying the use of the Fund's monies. The DPW Director is authorized to use revenues in the Fund and any interest derived therefrom for the operation and maintenance of the TESS Facility, or to establish, operate and maintain similar compliance facilities or programs. All monies in the Fund are hereby appropriated and are *not* subject to *I Maga'låhi's* transfer authority.

SOURCE: Added by P.L. 33-106:8 (Dec. 2, 2015).

2015 NOTE: Pursuant to P.L. 33-106:10, "This Act shall be come effective sixty (60) days after enactment.
