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**CHAPTER 69  
BOATING**

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**ARTICLE 1  
TERRITORIAL BOATING ACT**

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**NOTE:** References to "Director of Public Safety" changed to "Chief of Police", and references to "Department of Public Safety" changed to Guam Police Department pursuant to P.L. 17-78:1, which repealed §5102 GC providing for the Department of Public Safety and reenacted §5102 establishing the Guam Police Department.

**§ 69100. Declaration of Policy.**

It is the policy of this Territory to promote safety for persons and properties in and connected with the use, operation and equipment of vessels and to promote uniformity of laws relating thereto.

**SOURCE:** GC § 8995.1.

**§ 69101. Definitions.**

As used in this Chapter unless the context clearly requires a different meaning:

(1) *Vessel* means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(2) *Motorboat* means any vessel not more than sixty-five (65) feet in length propelled by machinery whether or not such machinery is the principal source of propulsion.

(3) *Owner* is a person having all the incidents of ownership, including the legal title of a vessel or a person holding equitable title to the vessel as the purchaser under a conditional sale contract or as the mortgagor of a vessel.

(4) *Waters* of this Territory means any waters within the territorial limits of Guam, and the marginal sea adjacent to Guam and the high seas when navigated as a part of a journey to or from the shore of Guam.

(5) *Person* means an individual, partnership, firm, corporation, association or other legal entity.

(6) *Operate* means to navigate or otherwise use a vessel.

(7) *Operator* means the person who operates or has charge of the navigation or use of a vessel.

(8) *Undocumented vessel* means a vessel which is not required to have and does not have a valid marine document issued by the United States Coast Guard or Federal agency successor thereto.

(9) *Reportable boating accident* means an accident, collision, or other casualty involving a vessel subject to this Act which results in loss of life,

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injury sufficient to require first aid or medical attention, or actual physical damage to property including vessels in excess of One Hundred Dollars (\$100).

(10) *Boat livery* means a business which holds any vessel for renting, leasing or chartering.

(11) Omitted.

(12) *Legal owner* is a person holding the legal title to a vessel under a conditional sale contract or as the mortgagee of a vessel.

**SOURCE:** GC § 8995.2, as amended by P.L. 15-54.

**§ 69102. Operation of Unnumbered Vessels Prohibited.**

Every vessel using the waters of this Territory shall be numbered except those exempted by §69103 of this Chapter. No person shall operate or be given permission to operate any vessel on such waters unless the vessel is numbered in accordance with this Chapter or in accordance with applicable Federal law or in accordance with a federally approved numbering system of the United States and unless (1) the certificate of number issued to such vessel is on board and in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed on each side of the bow of such vessel.

**SOURCE:** GC § 8995.3, as amended by P.L. 15-54.

**§ 69103. Exemption from Numbering Provisions of This Act.**

A vessel shall not be required to be numbered under this Act if it is:

(1) Covered by a certificate of number in full force and effect which has been issued to it pursuant to Federal Law or a federally approved numbering system of the United States provided that such vessel shall not be used on the waters of this Territory for a period in excess of sixty (60) consecutive days.

(2) From a country other than the United States, provided that such vessel shall not be used on the waters of this Territory for a period in excess of sixty (60) consecutive days.

(3) A vessel whose owner is the United States, a state or a subdivision thereof, used exclusively in the public service and which is clearly identifiable as such.

(4) A vessel's lifeboat if the boat is used solely for lifesaving purposes. This exemption does not include dinghies, tenders, speedboats, of other

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types of craft carried aboard vessels and used for other than lifesaving purposes.

(5) A vessel belonging to a class of boats which has been exempted from numbering by the Guam Police Department after said Department has found that (1) the numbering of such class will not materially aid in their identification and (2) an agency of the Federal government has a numbering system applicable to the class of vessels to which the vessel in questions belongs, or (3) the vessel would also be exempt from numbering if it were subject to the Federal law.

(6) Documented by the United States Coast Guard or a Federal agency successor thereto.

(7) When operating temporarily by virtue of evidence that a recent application for a certificate of number has been submitted.

**SOURCE:** GC § 8995.4.

**§ 69104. Identification Number.**

(a) Application. The owner of each vessel required to be numbered by this Territory shall file an application for number with the Guam Police Department on forms approved for it. Such forms shall be prepared in cooperation with the Department of Revenue and Taxation. The application shall contain the name and address of the owner and of the legal owner, if any, and the builder's hull number or any hull number of the vessel as may be required by the Department. The application shall be signed by the owners of the vessel and shall be accompanied by a fee of Forty Dollars (\$40.00). Upon receipt of the application in approved form, the Guam Police Department shall enter the same upon its records and issue a certificate of ownership to the legal owner or if none, to the owner and a certificate of number to the owner, stating the number assigned to the vessel, the name and address of the owner and such additional information as may be prescribed by regulation of the Guam Police Department. The owner shall paint on or attach to each side of the forward half of the vessel the identification number in such a manner as may be prescribed by rules and regulations of the Guam Police Department in order that it may be clearly visible. The number shall be maintained in legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the vessel for which issued, whenever such vessel is in operation.

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(b) Recording of current number before use in excess of sixty (60) days. The owner of any vessel already covered by a number in full force and effect which has been assigned to it, pursuant to the operative Federal law or a federally approved numbering system of a state of the United States, shall record the number prior to operating the vessel on the waters of this Territory in excess of the sixty (60) day period provided for in §69103 of this Chapter. Such recordation shall, upon payment of the fee prescribed by Subsection (a) of this Section, be in the manner prescribed by regulation of the Department of Public Safety provided, however, that no additional or substitute number shall be issued. This Subsection shall not apply if the state or principal use has been changed.

(c) Change of ownership. Should the ownership of a numbered vessel change, the existing certificate of ownership and a new application form with a fee of Forty Dollars (\$40.00) shall be filed with the Guam Police Department and a new certificate of ownership and a new certificate of number shall be issued in the same manner as provided for in the original assignment of number and the number shall be reassigned to the new owner.

(d) Conformity with Federal numbering system. The numbering system employed pursuant to this Chapter by the Guam Police Department shall be in conformity with the standard numbering system established by the Secretary of the United States Government in which the Coast Guard is operating pursuant to the Federal Board Safety Act of 1971, 46 U.S.C., §1452.

(e) Issuing agents. The Guam Police Department may issue any certificate of ownership and any certificate of number or temporary certificate of number directly or may authorize any person to act as agent for the issuing thereof. In the event that a person accepts such authorization, he may be allotted a block of numbers and certificates therefor which upon assignment and issue, in conformity with this Chapter, and with any rules and regulations of the Guam Police Department, shall be valid as if assigned and issued directly by the Guam Police Department.

(f) Numbering records to the public. All records of the Guam Police Department made or kept pursuant to this Section shall be public records.

(g) Registration period. Every certificate of number issued pursuant to this Chapter shall continue in full force and effect for a period of three (3) years unless sooner terminated or discontinued in accordance with the provisions of this Chapter. Certificates of number may be renewed by the

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owner in the same manner provided for in the initial securing of the same; provided that the fee for renewal shall be Forty Dollars (\$40.00).

(h) Expiration date. The Guam Police Department shall fix a day and a month of the year on which certificates of number due to expire during the calendar year shall lapse and no longer be of any force and effect unless renewed pursuant to this Chapter.

(i) Notice of transfer, destruction or abandonment. The owner shall furnish the Guam Police Department written notice of the transfer of all or any part of his interest in a vessel numbered in this Territory pursuant to this Section, or the destruction or abandonment of such vessel within fifteen (15) days thereof. Such transfer, destruction or abandonment shall terminate the certificate of number for such vessel except that in the case of a transfer of a part interest which does not affect the owner's right to operate such vessel, such transfer shall not terminate the certificate of number.

(j) Change of address. Any holder of a certificate of number or certificate of ownership shall notify the Guam Police Department in writing within fifteen (15) days if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the Guam Police Department with his new address.

(k) No other number on forward half. No number other than the number validly assigned to a vessel shall be painted, attached or otherwise displayed on either side of the forward half of such vessel.

(l) Provision for regulations. The Guam Police Department shall, subject to the provisions of the Administrative Adjudication Act, promulgate regulations to administer the provisions of this Section related to numbering applications, certificates of ownership, certificates of number, display of number, reports on change of address, destruction, abandonment, sale or transfer of ownership.

(m) Proof of ownership. The Guam Police Department shall, subject to the provisions of the Administrative Adjudication Act, promulgate rules and regulations setting forth requirements relative to establishing proof of ownership to be submitted by the owner at the time of filing initial application for a certificate of number and a certificate of ownership.

(n) Transfer to dealer.

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(i) Application for a new certificate of number or payment of the fee shall not be required on transfer of a vessel to a dealer in the course of his business as is otherwise provided in this Chapter, provided that:

(1) the vessel is held and operated by the dealer only for the purpose of resale in the course of his business;

(2) the dealer has been issued a sales permit by the appropriate department or agency covering sale of such property; and

(3) the dealer shall, not later than the end of the next business day following such transfer, give written notice of purchase to the Guam Police Department upon an appropriate form provided for it.

(ii) Upon receipt of the notice of purchase referred to in Subdivision (i), the Guam Police Department shall issue a temporary certificate of number of such vessel in the name of the dealer upon payment of a fee of Twenty Dollars (\$20.00) and note the transfer on the Department's record of ownership.

(iii) The certificate of ownership bearing the endorsement of the transferrer to the dealer of a vessel registered pursuant to this Section and the certificate of number thereof shall be retained by the dealer until a transfer of the vessel by him, during such time, such certificates shall be subject to inspection by the Guam Police Department or other authorized agency. Upon transfer of the vessel by the dealer, the certificate of ownership shall be endorsed by the dealer and transfer further accomplished as otherwise provided in this Chapter.

**SOURCE:** GC § 8995.5, as amended by P.L. 15-54.

**§ 69105. Certificate: Duration.**

The certificate of ownership shall not be renewed but shall remain valid until suspended, revoked or cancelled by the Guam Police Department for cause or upon a transfer of any interest shown therein. If the transfer of the certificate of ownership is from a legal owner to the owner, then the Department shall collect a transfer fee of Twenty Dollars (\$20.00).

**SOURCE:** GC § 8995.6, as added by P.L. 15-54.

**§ 69106. Acceptance of Prior Record of Title.**

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(a) Upon application for registration of a vessel previously registered outside Guam, the Guam Police Department shall grant full faith and credit to the currently valid certificate of title describing such vessel, the ownership thereof and liens noted thereon, issued by the jurisdiction in which the vehicle was last registered.

(b) Acceptance by the Guam Police Department of a certificate of title issued by another jurisdiction as provided in Subsection (a) of this Section, in the absence of knowledge by the Department that any such certificate is forged, fraudulent or void, shall be a sufficient determination of genuineness and regularity of such certificate and of the truth of the recitals therein, and no liability shall be incurred by any officer or employee of the Department by reason of so accepting any such certificate of title.

(c) In the event a certificate of title issued by another jurisdiction shows any lien or encumbrance upon the vessel, then the Guam Police Department upon registering such vessel in Guam and upon issuing a certificate of ownership, shall include therein the name of such lienholder as legal owner unless documents submitted with the foreign certificate of title establish that the lien and encumbrance have been fully satisfied.

(d) In the event application is made in Guam for registration of a vessel of another jurisdiction which issues only a number and does not issue a certificate of ownership or its equivalent and in the event the Guam Police Department is not satisfied after the owner of the vessel of the existence of foreign liens thereon, then the Department may issue a certificate of number but shall withhold issuance of a Guam certificate of ownership until the applicant shall present such documents as to reasonably satisfy the Department of the applicant's ownership of the vessel.

(e) In the event the Guam Police Department refuses to grant an application for registration in Guam of the vessel previously registered in another jurisdiction, the Department shall immediately return to the applicant all documents submitted by the applicant with such application.

**SOURCE:** GC § 8995.7, as added by P.L. 15-54.

**§ 69107. Government Vessels.**

The registration requirements of this Chapter apply to every vessel owned by the Government or leased for a period exceeding six (6) months by the Government, except in the following particulars:

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(a) The certificate of number of any such vessel issued shall not be renewed every three (3) years but shall remain valid until the certificate of ownership for such vehicle is suspended, revoked or cancelled by the Guam Police Department for cause or upon transfer of any interest in such certificate of ownership. Upon any change in ownership, the vessel shall be re-registered in accordance with the provisions of this Chapter relating to any vessel privately owned.

(b) The Guam Police Department may suspend, cancel, revoke or renew any permanent certificate of number made under this Section when the Department determines that it is advisable to reissue any such registration.

**SOURCE:** GC § 8995.8, as added by P.L. 15-54.

**§ 69108. Assignment.**

A legal owner may assign his title or interest in or to a vessel registered under this Chapter to a person other than the owner without the consent and without affecting interest of such owner. Upon receiving a certificate of ownership endorsed by the legal owner and the transfer of legal ownership, the Guam Police Department shall accordingly transfer the legal ownership and shall issue a new certificate of ownership to the new legal owner.

**SOURCE:** GC § 8995.9, as added by P.L. 15-54.

**§ 69109. Suspension, Cancellation, Revocation.**

The Guam Police Department may suspend, cancel or revoke the certificate of ownership or the certificate of number in any of the following events:

(a) when the Department is satisfied that such certificate of ownership or certificate of number was fraudulently obtained or erroneously issued;

(b) when the Department determines that a vessel is mechanically unfit or unsafe to be operated;

(c) when a vessel has been dismantled or wrecked;

(d) when the Department determines that the required fee has not been paid and the same is not paid upon reasonable notice and demand;

(e) when the certificate of number or the painted number is knowingly displayed upon a vessel other than the one for which issued; and

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(f) when the certificate of number could have been refused when last issued or renewed or when the Department is so authorized under any other provision of law.

Whatever the Guam Police Department, as authorized under this Chapter, cancels, suspends or revokes the certificate of ownership or the certificate of number, the owner or person in possession shall immediately return the documents so cancelled, suspended or revoked to the Department.

**SOURCE:** GC § 8995.10, as added by P.L. 15-54.

**§ 69110. Abandoned Vessel Fund.**

**[Repealed]**

**SOURCE:** GC § 8995.11, as added by P.L. 15-54.

**NOTE:** P.L. 23-128:IV:21 repeals the Abandoned Vessel Fund and provides for "... any and all remaining balances are reverted to the General Fund. All revenue previously earmarked into this Fund shall continue to be collected and credited to the General Fund.

**§ 69111. Security Interest: Validity.**

A security interest in any vessel registered under this Chapter, irrespective of whether such registration was effected prior or subsequent to the execution of this security agreement, is not valid as against creditors or subsequent purchasers or encumbrances until the secured party or his successor or an assignee, has deposited with the Guam Police Department a copy of such security agreement with an attached certificate of a notary public stating that the same is a true and correct copy of the original, accompanied by a properly endorsed certificate of ownership to the vessel described in the security agreement that the vessel has been registered under this Chapter, or if a vessel is not so registered, by application and usual form for an original certificate of ownership, together with an application for certificate of ownership as legal owner, and upon payment of the fee as provided in this Chapter. The Department in accepting the security agreement for deposit, or in registering the secured party, his successor or his assignee as legal owner, shall not be required to examine the security agreement or determine the genuineness, regularity or legal sufficiency thereof.

**SOURCE:** GC § 8995.12, as added by P.L. 15-54.

**§ 69112. Same: Notice.**

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When the secured party, his successor or assignee has deposited with the Department a copy of this security agreement as provided in this Chapter, such deposit constitutes constructive notice of this security agreement and its contents to creditors and subsequent purchasers or encumbrancer.

**SOURCE:** GC § 8995.13, as added by P.L. 15-54.

**§ 69113. Classification and Required Equipment.**

- (a) Classification. Motorboats subject to the provisions of this Act shall be divided into four classes as follows:

CLASS A. Less than 16 feet in length.

CLASS 1. 16 feet or over and less than 26 feet in length.

CLASS 2. 26 feet or over and less than 40 feet in length.

CLASS 3. 40 feet or over and not more than 65 feet in length.

(b) Motorboat lights. Every motorboat in all weathers from sunset to sunrise shall carry and exhibit the following lights when underway, and during such time no other lights which may be mistaken for those prescribed shall be exhibited:

- (1) Every motorboat of Classes A and 1 shall carry the following lights:

First. A bright white light aft to show all around the horizon.

Second. A combined light in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points (22-1/2°) abaft the beam on their respective sides.

- (2) Every motorboat of Classes 2 and 3 shall carry the following lights:

First. A bright white light in the fore part of the vessel as near the stem as practicable, so constructed as to show the unbroken light over an arc of the horizon of twenty points (225°) of the compass, so fixed as to throw the light ten points (112-1/2°) on each side of the vessel, namely from right ahead to two points (22-1/2°) abaft the beam on either side.

Second. A bright white light aft to show all around the horizon and higher than the white light forward.

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Third. On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points ( $112\text{-}1/2^\circ$ ) of the compass, so fixed as to throw the light from right ahead to two points ( $22\text{-}1/2^\circ$ ) abaft the beam on the starboard side. On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points ( $112\text{-}1/2^\circ$ ) of the compass, so fixed as to throw the light from right ahead to two points ( $22\text{-}1/2^\circ$ ) abaft the beam on the port side. The side lights shall be fitted with inboard screens so set as to prevent these lights from being seen across the bow.

(3) Motorboats of Classes A and 1 when propelled by sail alone shall exhibit the combined light prescribed by Paragraph (1) of this Subsection and a twelve point ( $135^\circ$ ) white light aft. Motorboats of Classes 2 and 3, when so propelled, shall exhibit the colored side lights, suitably screened as prescribed by Paragraph (2) of this Subsection and a twelve point ( $135^\circ$ ) white light aft.

(4) Every white light prescribed by this Section shall be of such character as to be visible at a distance of at least two (2) miles. Every colored light prescribed by this Section shall be of such character as to be visible at a distance of at least one (1) mile. The word visible in this Subsection, when applied to lights, shall mean visible on a dark night with clear atmosphere.

(5) When propelled by sail and machinery every motorboat shall carry the lights required by this Section for a motorboat propelled by machinery only.

(c) Light on manually propelled vessels. Manually propelled vessels shall carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

(d) International lights. Any vessel may carry and exhibit the lights required by the Federal Regulations for Preventing Collisions at Sea, 1960, Federal Act of September 24, 1963 (33 USC 1051-1053) and (1061-1064) as amended, in lieu of the lights required by Subsection (b) of this Section.

(e) Lights on vessels over 65 feet and those propelled solely by wind. All other vessels over 65 feet in length and those propelled solely by wind effect on the sail shall display lights prescribed by Federal regulations.

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(f) Whistle. Every motorboat of Class 1, 2 or 3, shall be provided with an efficient whistle or other sound producing mechanical appliance capable of producing signals required for the prevention of collisions.

(g) Bell. Every motorboat of Class 2 or 3, shall be provided with an efficient bell.

(h) Lifesaving devices. Every vessel shall carry at least one (1) U.S. Coast Guard approved lifesaving device of the sort prescribed by the regulations of the Guam Police Department for each person on board, so placed as to be readily accessible; provided that every motorboat carrying passengers for hire shall carry, so placed as to be readily accessible, at least one (1) U.S. Coast Guard approved life preserver of the sort prescribed by regulations of the Department of Public Safety for each person on board. All lifesaving devices shall be in good and serviceable condition.

(i) Fire extinguishers. Every motorboat shall be provided with such number, size and type of U.S. Coast Guard approved fire extinguishers capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by the regulations of the Guam Police Department which fire extinguishers shall be at all times kept in condition for immediate and effective use and so placed as to be readily accessible.

(j) Equipment exemptions in authorized races. The provisions of Subsections (f), (g) and (i) of this Section shall not apply to motorboats while competing in any race conducted pursuant to §69121 of this Chapter or, if such boats be designed and intended solely for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.

(k) Flame arrestor. Every motorboat shall have the carburetor or carburetors of every engine therein except outboard motors using gasoline as fuel, equipped with such efficient USCG approved flame arrestor, backfire trap, or other similar device as may be prescribed by the regulations of the Guam Police Department.

(l) Ventilation. Every such motorboat and every such vessel, except open boats as defined by the regulations of the Guam Police Department, using as fuel any liquid of a volatile nature, shall be provided with such means as may be prescribed by the regulations of the Guam Police Department for properly and efficiently ventilating the bilges of the engine and fuel tank compartments so as to remove any explosive or flammable gases.

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(m) Authority for regulations. The Guam Police Department is hereby authorized to make rules and regulations required to carry out in the most effective manner all of the provisions of this Section and to modify the equipment requirements contained in this Section to the extent necessary to keep these requirements in conformity with the provisions of the Federal Navigation Laws or with the navigation rules promulgated by the United States Coast Guard and to prescribe additional equipment requirements not in conflict with Federal Navigation Laws.

(n) Pilot rules. For the operation of vessels on the waters of this Territory, the Guam Police Department is hereby authorized to establish and maintain for the operation of vessels on the waters of this Territory pilot rules in conformity with the pilot rules contained in the Federal Navigation Laws or the navigation rules promulgated by the United States Coast Guard.

(o) Prohibition against operation of improperly equipped vessel. No person shall operate or give permission for the operation of a vessel which is not equipped as required by this Act or the rules and regulations of the Guam Police Department made pursuant thereto.

**SOURCE:** GC § 8995.14, as renumbered by P.L. 15-54.

**§ 69114. Boat Liveries.**

(a) Livery record. The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any motorboat or vessel, the identification number thereof, and the departure date and time, and the expected time of return. The record shall be preserved for at least six (6) months.

(b) Responsibility for required equipment. Neither the owner of a boat livery nor his agent or employees shall permit any motorboat or vessel to depart from his premises unless it shall have been provided, either by the owner or renter, with the equipment required pursuant to §69113 and any rules and regulations made pursuant thereto.

**SOURCE:** GC § 8995.15, as renumbered by P.L. 15-54.

**§ 69115. Muffling Devices.**

The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by an efficient muffling device or system used as to muffle the noise of the exhaust in a reasonable manner. The use of cut-outs is prohibited, except for motorboats competing in a regatta or boat race approved as provided in §69121 of this Chapter, and for

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such motorboats while on trial runs, during a period not to exceed forty-eight (48) hours immediately preceding such regatta or race and for such motorboats while competing in official trials for speed records during a period not to exceed forty-eight (48) hours immediately following such regatta or race.

**SOURCE:** GC § 8995.16, as renumbered by P.L. 15-54.

**§ 69116. Prohibited Operation.**

(a) Reckless or Negligent. No person shall operate or manipulate any water skis, aquaplane, surfboard, or similar device in a reckless or negligent manner so as to endanger the life, limb or property of any person.

(b) Under the Influence of Alcohol or Drugs. No person shall operate or manipulate any water skis, aquaplane, surfboard, or similar device while under the influence of alcohol, any narcotic drug, barbiturate or marijuana.

**SOURCE:** GC § 8995.17, as renumbered by P.L. 15-54. Amended by P.L. 24-87:3.

**§ 69117. Collisions, Accidents and Casualties.**

(a) Duty to render assistance. It shall be the duty of the operator of a vessel involved in a collision, accident or other casualty, so far as he can do so without serious danger to his own vessel, crew and passengers (if any), to render to other persons affected by the collision, accident or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident or other casualty, and also to give his name, address and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident or other casualty.

(b) Accident report required. In the case of a reportable boating accident, the operator of any vessel involved shall file with the Guam Police Department a full description of the accident, including such information as said agency may, by regulation, require. If the operator or owner is incapable of making such report the investigating officer shall submit such report.

(c) Protection of accident reports. Any such report shall be without prejudice, shall be for the information of the Guam Police Department and shall not be open to public inspection. The fact that such report has been made shall be admissible in evidence solely to show compliance with this Section but no such report nor any part thereof nor any statement contained

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therein shall be admissible as evidence for any purpose in any trial, civil or criminal.

**SOURCE:** GC § 8995.18, as renumbered by P.L. 15-54.

**§ 69118. Transmittal of Information.**

In accordance with any request duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the Guam Police Department pursuant to §69117(b) shall be transmitted to said official or agency of the United States for analytical and statistical purposes.

**SOURCE:** GC § 8995.19, as renumbered by P.L. 15-54.

**§ 69119. Water Skis, Aquaplanes, Surfboards, or Similar Devices.**

(a) Observer. No person shall operate a vessel on any waters of this Territory for towing a person or persons on water skis, aquaplane, surfboard, or similar device unless there is in such vessel a competent person, in addition to the operator, in a position to observe the progress of the person or persons being towed. This Section shall not apply to motorboats classified as Class A motorboats, actually operated by the person being towed and so constructed as to be incapable of carrying the operator in or on the motorboat.

(b) Hours for skiing. No person shall operate a vessel on any waters of this Territory towing a person or persons on water skis, aquaplane, a surfboard, or similar device, nor shall any person engage in water skiing, aquaplaning, surfboarding, or similar activity at any time between the hours from one (1) hours after sunset to one (1) hour before sunrise.

(c) A performer engaged in an authorized activity. The provisions of Subsections (a) and (b) of this Section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in an activity authorized under §69121 of this Chapter.

**SOURCE:** GC § 8995.20, as renumbered by P.L. 15-54.

**§ 69120. Safe Loading.**

(a) Vessels required to display capacity plate. Every vessel less than twenty-six (26) feet in length designed to carry two (2) or more persons and to be propelled by machinery as its principal source of power or designed to be propelled by oars, shall, if manufactured or offered for sale in this Territory, have affixed permanently thereto by the manufacturer a capacity plate as required by this Section. Canoes and sailboats shall be exempt from

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the provisions of this Section. As used in this Section, manufacture means to construct or assemble a vessel or alter a vessel in such manner as to change its weight carrying capacity.

(b) Capacity plate information and location. A capacity plate shall bear the following information permanently marked thereon in such manner as to be clearly visible and legible from the position designed or normally intended to be occupied by the operator of the vessel when under way:

(1) For all vessels designed for or represented by the manufacturer as being suitable for use with outboard motor:

(a) The total weight of persons, motor, gear and other articles placed aboard which the vessel is capable of carrying with safety under normal conditions.

(b) The recommended number of persons commensurate with the weight capacity of the vessel and the presumed weight in pounds of each such person. In no instance shall such presumed weight per person be less than one hundred fifty (150) pounds.

(c) Clear notice that the information appearing on the capacity plate is applicable under normal conditions and that the weight of the outboard motor and associated equipment is considered to be part of total weight capacity.

(d) The maximum horsepower of the motor the vessel is designed or intended to accommodate.

(2) For all other vessels to which this Section applies:

(a) The total weight of persons, gear and other articles placed aboard which the vessel is capable of carrying with safety under normal conditions.

(b) The recommended number of persons commensurate with the weight capacity of the vessel and the presumed weight in pounds of each such person. In no instance shall such presumed weight per person be less than one hundred fifty (150) pounds.

(c) Clear notice that the information appearing on the capacity plate is applicable under normal conditions.

(c) Regulations for determining capacity. The information relating to maximum load capacity required to appear on capacity plates by Subsection (b) of this Section shall be determined in accordance with such methods and

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formulas as shall be prescribed by rule or regulation adopted by the Guam Police Department. In prescribing such methods and formulas, the Guam Police Department shall be guided by and give due regard to the necessity for uniformity in methods and formulas lawful for use in determining small vessel capacity in the several states of the United States and to any methods and formulas which may be recognized or recommended by the United States Coast Guard, or any agency successor thereto.

(d) Vessels not having a capacity plate affixed. Any vessel to which this Section applies not having a capacity plate meeting the requirements of law affixed thereto by the manufacturer thereof may have such affixed by any other person in accordance with such rules and regulations as the Guam Police Department may prescribe, and may thereafter be offered for sale in this Territory, but no action taken pursuant to this Subsection shall relieve any manufacturer from liability for failure to comply with the requirements of this Section.

(e) Warranty. The information appearing on a capacity plate shall be deemed to warrant that the manufacturer, or the person affixing the capacity plate as permitted by Subsection (d) of this Section, as the case may be, has correctly and faithfully employed a method and formula for the calculation of maximum weight capacity prescribed by the Guam Police Department and that the information appearing on the capacity plate with respect to maximum weight capacity and recommended number of persons is the result of the application of such method and formula, and with respect to information concerning horsepower limitations that such information is not a deliberate or negligent misrepresentation.

(f) Impractical to affix capacity plate. If any vessel required by this Section to have a capacity plate affixed thereto is of such design or construction as to make it impracticable or undesirable to affix such plate, the manufacturer, or other persons having the responsibility for affixing the plate, may represent such impracticability or undesirability to the Guam Police Department in writing. Upon determination by the Guam Police Department that such representation has merit and that a proper and effective substitute for the capacity plate which will serve the same purpose is feasible, the Guam Police Department may authorize such alternative compliance and such alternative compliance shall thereafter be deemed in compliance with the capacity plate requirement of this Section.

(g) Unconventional design. The Guam Police Department may by rules and regulations exempt from the requirements of this Section vessels which

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it finds to be of such unconventional design or construction that the information required on capacity plates would not assist in promoting safety or is not reasonably obtainable.

(h) Violation. Failure to affix a proper capacity plate shall constitute a separate violation for each vessel with respect to which such failure occurs.

(i) Authority to issue regulations. The Guam Police Department is authorized to issue rules and regulations to carry out the purposes of this Section.

(j) Effective date. This Section shall apply to vessels manufactured after January 1, 1973.

**SOURCE:** GC § 8995.21, as renumbered by P.L. 15-54.

**§ 69121. Regattas, Races, Marine Parades, Tournaments or Exhibitions.**

(a) Agency may regulate. The Guam Police Department may regulate the holding of regattas, motorboat or other boat races, marine parades, tournaments or exhibitions which, by their nature, circumstance or location will introduce extra or unusual hazards to the safety of life on any waters of this Territory. It shall adopt and may from time to time amend regulations concerning the safety of motorboats and other vessels and persons thereon, either observers or participants. Whenever a regatta, motorboat or other boat race, marine parade, tournament or exhibition is proposed to be held, the person in charge thereof, shall at least thirty (30) days prior thereto, file an application with the Guam Police Department for permission to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition. The application shall set forth the date, time and location where it is proposed to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition, and such other information as the Guam Police Department may by regulation require and it shall not be conducted without authorization of the Guam Police Department.

(b) Permit by U.S. Agency. The provisions of this Section shall not exempt any person from compliance with any applicable Federal law or regulation, but nothing contained herein shall be construed to require the securing of a territorial permit pursuant to this Section if a permit therefor has been obtained from an authorized agency of the United States.

**SOURCE:** GC § 8995.22, as renumbered by P.L. 15-54.

**§ 69122. Territorial Waterway Marker System.**

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(a) Definitions:

(1) *Aids to navigation* mean buoys, beacons or other fixed objects in the water which are used to mark obstruction to navigation or to direct safe channels.

(2) *Regulatory markers* mean any anchored or fixed marker in or on the water or sign on the shore or on a bridge over the water other than aids to navigation and shall include but not be limited to bathing markers, speed zone markers, information markers, danger zone markers, boat keep out areas and mooring buoys.

(b) Department may make regulations. The Guam Police Department may, subject to the provisions of the Administrative Adjudication Act, make rules for the uniform marking of the water areas in this Territory through the placement of aids to navigation and regulatory markers. Such rules shall establish a marking system compatible with the system of aids to navigation prescribed by the United States Coast Guard. No person shall mark or obstruct the waters of this Territory in any manner so as to endanger the operation of watercraft or conflict with the marking system prescribed by the Guam Police Department.

(c) Violation of regulatory type markers. It shall be unlawful for a person to operate a vessel on the waters of this Territory in a manner other than that prescribed or permitted by regulatory markers.

(d) Interference with aids or markers. No person shall moor or fasten a vessel to any aid to navigation or regulatory marker except a mooring buoy and no person shall wilfully damage, tamper, remove, obstruct or interfere with any aid to navigation or regulatory marker whatsoever.

**SOURCE:** GC § 8995.23, as renumbered by P.L. 15-54.

**§ 69123. Authority for Special Rules.**

The Guam Police Department is hereby authorized to make special rules and regulations with reference to the operation of vessels on any waters within the territorial limits of Guam.

**SOURCE:** GC § 8995.24, as renumbered by P.L. 15-54.

**§ 69124. Comprehensive Safety and Educational Program.**

The Guam Police Department is hereby authorized to inaugurate a comprehensive boating safety and boating education program, to establish appropriate advisory committees, and to seek the cooperation of boatmen,

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the Federal government and other states of the United States. The Guam Police Department may issue safety certificates to persons who complete courses in boating safety education.

**SOURCE:** GC § 8995.25, as renumbered by P.L. 15-54.

**§ 69125. Owner's Civil Liability.**

The owner of a vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel whether such negligence consists of a violation of the provisions of the statutes of this Territory or neglecting to observe such ordinary care in such operation as the rules of common law require. The owner shall not be liable, however, unless such vessel is being used with his or her expressed or implied consent. It shall be presumed that such vessel is being operated with the knowledge and consent of the owner, if at the time of the injury or damage, it is under control of his or her spouse, father, mother, brother, sister, son, daughter or other immediate member of the owner's family. Nothing contained herein shall be construed to relieve any other person from any liability which he would otherwise have, but nothing contained herein shall be construed to authorize or permit any recovery in excess of injury or damage actually incurred.

**SOURCE:** GC § 8995.26, as renumbered by P.L. 15-54.

**§ 69126. Filing of Regulations.**

A copy of the rules and regulations adopted pursuant to this Chapter, and of any amendments thereto, shall be filed in the office of the Guam Police Department. Rules and regulations shall be published by the Guam Police Department in convenient form.

**SOURCE:** GC § 8995.27, as renumbered by P.L. 15-54.

**§ 69127. Coordination Under Federal Laws.**

(a) The Chief of Police shall be the territorial administrator under the Federal Boating Safety Act of 1972.

(b) The Director shall cooperate with the United States Coast Guard and other appropriate agencies of the Federal government in the enforcement of this Act and all applicable federal statutes, rules and regulations relating to boating on Guam.

**SOURCE:** GC § 8995.28, as renumbered by P.L. 15-54.

**§ 69128. Enforcement.**

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(a) Authority to stop and board. Any person empowered to enforce the provisions of this Act and of any rule or regulation adopted pursuant thereto shall have the authority to stop and board any vessel subject to this Act for the purpose of inspection or determining compliance with this Act or any such rule or regulation, and is empowered to issue a summons for appearance in court or before a magistrate for all violations of this Act or of the rules and regulations prescribed thereunder. Vessels of law enforcement personnel shall be marked to identify them as designated enforcement vessels.

(b) Vessels required to cooperate. Every vessel subject to this Act if under way and upon being hailed by a designated law enforcement officer shall stop immediately and lay to, or shall maneuver in such a way as to permit such officer to come aboard.

(c) Authorization of enforcement officers. Any person employed or elected by this Territory whose duty is to preserve the peace or to make arrest or to enforce the law is empowered to enforce the provisions of this Act. The Guam Police Department shall be primarily responsible for enforcement of this Act and rules and regulations issued thereunder.

**SOURCE:** GC § 8995.29, as renumbered by P.L. 15-54.

**§ 69129. Penalties.**

(a) Any person who violates any provision of §§69102, 69104, 69113, 69115, 69117 and 69121 of this Chapter or the implementing regulations shall be guilty of a violation and shall be subject to a fine of not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00) for each such violation.

(b) Any person who violates any provision of §§69114 and 69119 of this Chapter or the implementing regulations shall be guilty of a violation and shall be subject to a fine of not less than Twenty-Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each such violation.

(c) Any person who violates any provision of §§69116, 69120 and 69122 of this Chapter or the implementing regulations shall be guilty of a petty misdemeanor.

(d) Any person convicted of reckless or negligent operation or manipulation of any water skis, aquaplane, surfboard, or similar device while under the influence of intoxicating liquids, narcotic drugs, barbiturates or marijuana may, in addition to the above penalties, be

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prohibited by the court having jurisdiction of such violation, from operating any water skis, aquaplane, surfboard, or similar device on any waters of this Territory for a period of not more than two (2) years.

**SOURCE:** GC § 8995.21, as amended by P.L. 13-187; renumbered to §8995.30 by P.L. 15-54. Subsection (d) repealed and reenacted by P.L. 24-87:4.

**§ 69130. Severability.**

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SOURCE:** §8995.31 as renumbered by P.L. 15-54.

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**ARTICLE 2**

**OFFENSES INVOLVING ALCOHOL AND CONTROLLED SUBSTANCES**

§ 69200. Definitions.

§ 69201. Influence of Alcohol and Controlled Substances; Causing Bodily Injury to Person Other than Driver; Alcoholic Content in Blood; Proof.

§ 69202. Operating While Intoxicated; Presumptions.

§ 69203. Conviction of First Violation of §69201. Punishment.

§ 69204. Second Conviction of §69201; Punishment.

§ 69205. Conviction of Violation of §69201 Within Five Years After

Two Violations; Punishment.

§ 69206. Conviction of Violation of §69201 Within Five Years of Three or More Violations of Designated Sections; Punishment.

§ 69207. Forfeiture of Motorboat or Vessel.

§ 69208. Conviction Involving a Child.

§ 69209. Motorboat or Vessel Negligence; Third Degree Felony.

§ 69210. Motorboat or Vessel Homicide; Classified.

§ 69211. Use of Controlled Substance as Defense to Violations.

§ 69212. Implied Consent of Operator of a Motorboat or Vessel to Submit to Blood, or Breath Testing to Determine Alcohol or Controlled Substances Content of Blood.

**SOURCE:** This article was added by P.L. 24-87:2.

**§ 69200. Definitions.**

As used in this Chapter:

(a) *Operating under the influence or while intoxicated* means any person operating or in physical control of any motorboat or vessel, or similar device under the influence of an alcoholic beverage or a controlled substance or a combination thereof, when as a result of consuming such alcoholic beverage or controlled substance or the combination thereof, his or her physical or mental abilities are impaired to such a degree that he or she no longer has the ability to operate the motorboat or vessel with the caution characteristics of a sober person of ordinary prudence, under the same or similar circumstance, and includes any person operating or in actual physical control of a motorboat or vessel, or similar device, who has eight one-hundredths of one percent (0.08%) or more, by weight, of alcohol in his or her blood.

(b) *Percent of alcohol by weight* shall be based upon grams of alcohol per one hundred (100) milliliters of blood.

(c) *Prior offense of operating under the influence* includes a conviction based on laws regarding the operation of motorboats or vessels under the influence in effect prior to enactment of this Chapter, or under laws in any other jurisdiction in the world if the offense upon which the conviction is based would, if committed in Guam, be a violation of §69201 of this Chapter.

(d) *Controlled substances* means those so defined by Chapter 67, Title 9, Guam Code Annotated, the Uniform Controlled Dangerous Substances Act.

(e) *Motorboat or Vessel Homicide* means a person who does any act forbidden by law in the operation of a motorboat or vessel or who negligently operates a motorboat or vessel, which act or negligence proximately causes death to any person other than the operator.

(f) *Motorboat or Vessel homicide while intoxicated* means a person, while operating a motorboat or vessel under the influence does any act forbidden by law in the operation of a motorboat or vessel or if he or she negligently operates a motorboat or vessel, which act or negligence proximately causes death to any person other than the operator.

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(g) *Negligence* means the failure to use the ordinary or reasonable care which a person of ordinary prudence would use in order to avoid injury to himself or others under similar circumstances.

(h) *Reasonable cause* means such a state of facts as would lead a person of ordinary care and prudence to believe and conscientiously entertain an honest strong suspicion that the person operating and in physical control of a motorboat or vessel is under the influence of alcohol or of a controlled substance or of a combination thereof.

**§ 69201. Influence of Alcohol and Controlled Substances; Causing Bodily Injury to Person Other than Operator; Alcoholic Content in Blood; Proof.**

(a) It is unlawful for any person, while under the influence of an alcoholic beverage or any controlled substance, or under the combined influence of an alcoholic beverage and any controlled substance, to operate or be in physical control of any motorboat or vessel, or similar device.

(b) It is unlawful for any person, while having eight one-hundredths of one percent (0.08%) or more, by weight, of alcohol in his or her blood to operate or be in physical control of any motorboat or vessel, or similar device.

(c) It is unlawful for any person, while under the influence of an alcoholic beverage or any controlled substance, or under the combined influence of an alcoholic beverage and any controlled substance, to operate or be in physical control of any motorboat or vessel, or similar device and, when doing so, do any act forbidden by law or neglect any duty imposed by law in the operation of such device or who negligently operates such device, which act or neglect or negligence proximately causes bodily injury to any person other than the operator.

(d) It is unlawful for any person, while having eight one-hundredths of one percent (0.08%) or more, by weight, of alcohol in his or her blood to operate or be in physical control of any motorboat or vessel, or similar device and, when doing so, do any act forbidden by law or neglect any duty imposed by law in the operation of such vessel, which act or neglect proximately causes bodily injury to any person other than the operator.

(e) In any prosecution under this Section, it is a rebuttable presumption that the person with eight one-hundredths of one percent (0.08%) or more, by weight, of alcohol in his or her blood at the time of operating or in actual physical control of any motorboat or vessel, or similar device is under the

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influence of alcohol if the person had eight one-hundredths of one percent (0.08%) or more, by weight, of alcohol in his or her blood at the time of the performance of a blood or breath test within three (3) hours after the driving.

(f) In proving the person neglected any duty imposed by law in the operation of any motorboat or vessel, or similar device, it is not necessary to prove that any specific Section of this Title was violated.

(g) (1) Notwithstanding the other provisions of this Section, a person under the age of eighteen (18) shall be guilty of a violation of Subsections (b) or (d) of this Section if such person shall be found within three (3) hours of his or her arrest for a violation of this Section to have four one-hundredths of one percent (0.04%) or more, by weight, of alcohol in his or her blood.

(2) A person convicted for the first time of a violation of Item (1) of this Subsection shall be guilty of a misdemeanor.

**§ 69202. Driving While Intoxicated; Presumptions.**

(a) Upon the trial of any criminal action, or preliminary proceeding in a criminal action, arising out of acts alleged to have been committed by any person while operating or being in actual physical control of any motorboat or vessel, or similar device, while under the influence of an alcoholic beverage in violation of Subsections (b) or (d) of §69201 of this Chapter, the amount of alcohol in the person's blood at the time of the test as shown by an analysis of that person's blood or breath shall give rise to the following presumptions affecting the burden of proof:

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

(2) If there was at that time eight one-hundredths of one percent (0.08%) or more by weight of alcohol in the person's blood, it shall be presumed that the person was under the influence of an alcoholic beverage at the time of the alleged offense.

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

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

(2) that any chemicals employed in the test were of the correct kind and compounded in the proper proportions;

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

(4) that the test was given by a qualified operator and in the proper manner.

The provisions of this Subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person ingested any alcoholic beverage or was under the influence of an alcoholic beverage at the time of the alleged offense.

**§ 69203. Conviction of First Violation of § 69201; Punishment.**

(a) If any person is convicted of a first violation of §69201 of this Chapter, that person shall be guilty of a misdemeanor and shall be punished by imprisonment in the custody of the Department of Corrections ('DOC') or the Guam Police Department ('GPD') for not less than a mandatory forty-eight (48) hours nor more than one (1) year and a fine of not less than One Thousand Dollars (\$1,000) nor more than Five Thousand Dollars (\$5,000). In addition, the judge may impose any additional penalties, including requiring the offenders to pay restitution to persons injured or for property damaged.

(b) The court may order that any person punished under this Section, who is to be punished by imprisonment by DOC or GPD, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(c) The court may order that any person punished under this Section be prohibited from operating any motorboat or vessel on any waters of this Territory for a period of not more than two (2) years.

**§ 69204. Second Conviction of § 69201; Punishment.**

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(a) If any person is convicted of a violation of §69201 of this Chapter and the offense occurred within five (5) years of a separate conviction of a violation of said §69201 or of conviction of a prior offense as defined in §69201(c) of this Chapter, that person shall be guilty of a misdemeanor and shall be punished by imprisonment in the custody of DOC or GPD for not less than a mandatory seven (7) days nor more than two (2) years and by a fine of not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00).

(b) The court may order that any person punished under this Section be prohibited from operating any motorboat or vessel on any waters of this Territory for a period of not more than three (3) years.

**§ 69205. Conviction of Violation of § 69201 Within Five Years After Two Violations; Punishment.**

(a) If any person is convicted of a violation of §69201 of this Chapter and the offense occurred within five (5) years of two (2) separate convictions of a violation of said §69201 or of two (2) separate convictions of a prior offense as defined in §69201(c) of this Chapter, or any combination thereof resulting in two (2) or more prior convictions, that person shall be guilty of a felony of the third degree and shall be punished by imprisonment in the custody of DOC or GPD for not less than a mandatory ninety (90) days and not more than five (5) years and by a fine of not less than Three Thousand Dollars (\$3,000.00) nor more than Five Thousand Dollars (\$5,000.00).

(b) The court may order that any person punished under this Section be prohibited from operating any motorboat or vessel on any waters of this Territory for a period of not more than five (5) years.

**§ 69206. Conviction of Violation of § 69201 Within Five Years of Three or More Violations of Designated Sections; Punishment.**

(a) If any person is convicted of a violation of §69201 of this Chapter and the offense occurred within five (5) years of three (3) or more separate convictions of a violation of said §69201 or of three (3) or more separate convictions of a prior offense as defined in §69201(c) of this Chapter, or any combination thereof resulting in three (3) or more prior convictions, that person shall be punished by imprisonment in the custody of DOC or GPD for not less than a mandatory one (1) year nor more than six (6) years, and by a fine of not less than Four Thousand Dollars (\$4,000.00) nor more than Seven Thousand Dollars (\$7,000.00).

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(b) The court may order that any person punished under this Section be prohibited from operating any motorboat or vessel on any waters of this Territory for a period of not more than seven (7) years.

**§ 69207. Forfeiture of Motorboat or Vessel.**

Any person convicted of violating the provisions of §69201 of this Chapter three (3) or more times, as provided in §69206 of this Chapter, shall forfeit the motorboat or vessel in which the third offense, or more, was committed. However, in those cases where there is a showing of extreme circumstances, or where the motorboat or vessel is owned by a person other than the person convicted of three (3) or more violations of said §69201, and the owner had no knowledge that the motorboat or vessel would be driven by an intoxicated person and that the driver had been convicted of prior violations of said § 69201, the court may order that there be no forfeiture of the motorboat or vessel.

At the time of arrest for an offense under said §69201, the motorboat or vessel in which the offense was committed shall be impounded by GPD and released only upon the approval of the Prosecution Division of the Attorney General's Office when it is determined that the motorboat or vessel is not subject to forfeiture under this Section. The seizure and forfeiture of the motorboat or vessel shall be enforced by GPD, and the motorboat or vessel shall be disposed of in accordance with those provisions of law relating to assets forfeiture by public sale or auction at such times as GPD may choose to conduct such sale or auction. The profits made from such sale or auction shall be deposited into the Special Assets Forfeiture Fund, under the Local Assets Forfeiture Account. The Chief of Police of GPD shall convey clear title as owner of said confiscated motorboat or vessel, subject to any perfected security interests in said motorboat or vessel.

**SOURCE:** Amended by P.L. 26-120:5.

**§ 69208. Conviction Involving a Child.**

Notwithstanding any other provision of law, a person convicted of a violation of §69201 of this Chapter shall be guilty of a felony of the third degree if at the time of his or her arrest the person was operating a motorboat or vessel in which a child under the age of sixteen (16) was a passenger or if a child under the age of sixteen (16) was injured as a result of an accident in which the motorboat or vessel operated by the person was involved.

**§ 69209. Motorboat or Vessel Negligence; Third Degree Felony.**

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Any violation of Subsections (c) or (d) of §69201 of this Chapter shall be a felony of the third degree.

**§ 69210. Motorboat or Vessel Homicide; Classified.**

(a) A person is guilty of motorboat or vessel homicide if, while, he or she does any act forbidden by law in the operation of any motorboat or vessel or if he or she negligently operates a motorboat or vessel, which act or negligence proximately causes death to any person other than himself or herself. As allowed in §4.45 of Title 9, Guam Code Annotated, in proving that the person did any act forbidden by law, it shall not be necessary to prove that the person possessed a culpable mental state. Motorboat or vessel homicide is a felony of the second degree and shall be punishable by imprisonment in the custody of DOC and GPD for up to eight (8) years.

(b) A person is guilty of motorboat or vessel homicide while intoxicated if, while operating a motorboat or vessel in violation of §69201 of this Chapter, he or she does any act forbidden by law in the operation of such motorboat or vessel or if he or she negligently operates a motorboat or vessel, which act or negligence proximately causes death to any person other than himself or herself. As allowed in §4.45 of Title 9, Guam Code Annotated, in proving that the person did any act forbidden by law, it shall not be necessary to prove that the person possessed a culpable mental state. Motorboat or vessel homicide while intoxicated is a felony of the second degree and shall be punishable by imprisonment in the custody of DOC or GPD for not less than a mandatory five (5) years, and up to fifteen (15) years. The court may order that any person punished under this Subsection be prohibited from operating any motorboat or vessel on any waters of this Territory for a period of not more than ten (10) years.

**§ 69211. Use of Controlled Substance as Defense to Violations.**

The fact that any person charged with operating a motorboat or vessel under the influence of alcohol or any controlled substance or a combination thereof, in violation of §69201 of this Chapter, is or has been entitled to use a controlled substance shall not constitute a defense against any violation of said §69201.

**§ 69212. Implied Consent of Operator of a Motorboat or Vessel to Submit to Blood, or Breath Testing to Determine Alcohol or Controlled Substances Content of Blood.**

(a) Any person who operates a motorboat or vessel within Guam's Exclusive Economic Zone shall be deemed to have given consent to a blood

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or breath test for the purpose of determining the alcohol or controlled substance content of the person's blood.

(b) The blood or breath tests shall be administered at the request of the peace officer having reasonable cause to believe the person operating or in actual physical control of a motorboat or vessel within Guam's Exclusive Economic Zone is under the influence of alcohol or controlled substances only after: (1) a lawful arrest, and (2) the person has been informed by a peace officer that his or her refusal to be tested may be used in evidence against him or her in any charge arising from the arrest.

(c) If there is probable cause to believe that a person is in violation of §69201 of this Chapter, then the person shall have the option of using a blood or breath test for the purpose of determining the alcohol or controlled substance content of that person's blood.

(d) No person, other than a physician, registered nurse, or person licensed in a clinical laboratory, may withdraw blood for the purpose of determining the alcohol or controlled substance content thereof. This limitation shall not be apply to the taking of a breath specimen.

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

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