

TITLE 22

HIGHWAYS AND MOTOR VEHICLES

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Chapter 01

DEFINITIONS-PENALTY-ADMINISTRATION

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22.0101 Definitions.

The following words and phrases shall, for the purposes of this title, have the following meanings, except when the context otherwise requires:

(1) "Aftermarket" means the market for replacement parts, accessories, and equipment for the care or the enhancement of an original motor vehicle.

(2) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

(3) "Bicycle" means a device propelled by human power upon which any person may ride, having 2 tandem wheels either of which is more than 14 inches in diameter.

(4) "Chief" means the Chief of Police or his designee.

(5) "Commissioner" means the Commissioner of Public Safety in American Samoa.

(6) "Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadwalk; or any portion

of a roadway at an intersection distinctly indicated for pedestrian crossing by lines or other surface marking.

(7) “Dealer” means every person engaged in the business of buying, selling or exchanging vehicles, who has an established place of business for such purpose in this Territory.

(8) “Driver” means every person who drives or is in actual physical control of a vehicle.

(9) An “authorized emergency vehicle” is a police, fire or ambulance vehicle, or an emergency repair vehicle of the Department of Public Works, or any other vehicle specified by the commissioner, equipped with emergency flashing lights and other equipment required by the commissioner.

(10) “Governor” means the Governor of American Samoa.

(11) “Highway” means the entire width between the boundary lines of every publicly maintained way when any part thereof is opened to the use of the public for the purpose of vehicular travel.

(12) “Intersection” means the area embraced within the prolongation or connection of the lateral curblines or if none, then the lateral boundary lines of the roadways of 2 highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(13) “License tag” means that visible material required by the Commissioner to be affixed to a motor vehicle for purposes of evidencing that such vehicle is validly licensed in accordance with the laws of American Samoa.

(14) “Motorcycle” means every motor vehicle having one or more seats for the use of one or more riders and designed to travel on not more than 3 wheels in contact with the ground. No distinction shall be made between motorcycles and motor-driven cycles or motorbikes.

(15) “Motor vehicle” means every vehicle which is self-propelled, including motorcycles, track and road tractors, trucks, forklifts, except where specific exception is made.

(16) “Moving traffic offense” means any manner of operating a moving motor vehicle which is prohibited by this title, excluding serious traffic offenses.

(17) “Nonresident” means not a permanent resident.

(18) “Official traffic-control devices” means all signs, signals, markings and devices not inconsistent with this title, placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

(19) “Owner” means a person, other than a lienholder, having the property in or title to a vehicle. This term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes the lessee under a lease not intended as security.

(20) “Park or parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily, for the purpose of and while actually engaged in, loading or unloading merchandise or passengers.

(21) “Pedestrian” means any natural person on foot.

(22) “Person” means every natural person, firm, copartnership, association or corporation.

(23) “Police officer” means every officer authorized to direct or regulate traffic or to make an arrest for violation of traffic regulations.

(24) “Registration” means the registration certificates issued under the laws of this Territory and pertaining to the registration of vehicles.

(25) “Right-of-way” means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other.

(26) “School bus” means every motor vehicle which complies with the provisions of this title and is used to transport children to or from school or in connection with school activities.

(27) “Serious traffic offense” means any offense enumerated in 22.0701 et seq.

(28) “Sidewalk” means that portion of a highway between the curblines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

(29) “Stand or standing” means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

(30) “Stop” when required means complete cessation of movement.

(31) “Stop or stopping” when prohibited means any halting, even momentarily, of a motor vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

(32) “Territory” means the Territory of American Samoa.

(33) “Treasurer” means the Treasurer of the Government of American Samoa.

(34) “Vehicle”, where not referring to motor vehicle, means any conveyance or device in, upon or by which any person or property is or may be transported upon a highway.

History: 1972, PL 12-65 § 1; amd 1977, PL 15-17, 1980, PL 16-57 § 1; amd 2011, PL 32-4.

Amendments: 1977 Subsections (3) and (15): added.
1980 Subsection (14): added “track and road tractor, trucks, forklifts”.

22.0102 Violation a misdemeanor-Exceptions-Penalty.

(a) It shall be a class B misdemeanor for any person to violate any provision of this title unless such violation is punishable as an infraction or a felony under this title or other law of this Territory.

(b) Unless another penalty is by this title or other law of this Territory provided, every person convicted of a misdemeanor for the violation of any provision of this title shall be punished by a fine of not more than \$500, or imprisonment for not more than 6 months, or both.

History:1972, PL 12-65 § 1; amd 1980, PL 16-90 § 56; 2001, PL 27-8.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

22.0103 Provision for felony—Penalty.

If any person is convicted of a violation of any provision of this title, and this title or other law of this Territory declares such violation to constitute a felony, such person shall, unless another penalty is provided by this title or other law of this Territory, be punished as for a class D felony.

History:1972, PL 12-65 § 1; amd 1980, PL 16-90 § 57.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

Chapter 02

DRIVER’S LICENSE

Sections:

- 22.0201 Requirement-Exceptions.**
- 22.0202 Types of licenses-Learner's permit**
- 22.0203 License qualifications-Establishment.**
- 22.0204 Operator’s license.**

- 22.0205** **Learner’s permit.**
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- 22.0209** **Expiration and renewal of driver’s licenses.**
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- 22.0212** **Suspension or revocation for careless driving, or fleeing from or attempting to elude police officer.**
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- 22.0217** **Surrender of suspended or revoked license-Notation on reissued or new license.**
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- 22.0221** **Reexamination of licensees.**
- 22.0222** **Misdemeanor.**
- 22.0223** **Felony driving while license is suspended.**

22.0201 Requirement-Exceptions.

(a) No person may operate any motor vehicle in American Samoa without a valid driver’s license issued by the Commissioner, except as otherwise provided in this chapter.

(b) The following persons, if over the age of 18 years, are exempt from the licensing requirements of this section:

(1) a nonresident on active duty in the armed forces of the United States who has a valid license issued by his home state, and such nonresident’s spouse or dependent son or daughter who has a valid license issued by such person’s home state;

(2) a nonresident who has in his possession a valid driver’s license issued to him by another jurisdiction may operate a vehicle in American Samoa for a period not to exceed 30 days.

History: 1972, PL 12-65 § 1.

22.0202 Types of licenses-Learner’s permit.

(a) Only 2 types of driver’s licenses shall be issued in American Samoa: a provisional driver’s license and a private driver’s license.

(b) A learner’s permit shall be considered a driver’s license for purpose of authorizing a person to operate a motor vehicle in American Samoa.

(c) The issuance of any licenses to operate motor vehicles in the Territory of American Samoa other than those specifically authorized in this section is prohibited, except that any government or private enterprise may issue permits for the purpose of allowing their employees to operate motor vehicles owned by the government or private enterprise. Such permit shall contain the following language: “THIS PERMIT IS NOT A DRIVER’S LICENSE. IT DOES NOT SATISFY THE REQUIREMENTS OF 22.0201 REQUIRING THE PERSON TO WHOM THIS PERMIT IS ISSUED TO POSSESS A VALID DRIVER’S LICENSE BEFORE OPERATING ANY MOTOR VEHICLE IN THE TERRITORY OF AMERICAN SAMOA.”

The requirements of this subsection shall apply to commercial driver's permits.

History: 1972, PL 12-65 § 1.

22.0203 License qualifications-Establishment.

The Commissioner shall establish such qualifications as he believes reasonably necessary for the safe operation of the various types, sizes and combinations of vehicles and shall appropriately examine each applicant to determine his qualifications according to the type of license applied for.

History: 1972, PL 12-65 § 1.

22.0204 Operator's license.

(a) No person may be permitted to obtain an operator's license before reaching the age of 18 unless he has successfully completed an approved course in driver's education. Persons who have successfully completed an approved course in driver's education may obtain their operator's license at age 16.

(b) The applicant for an operator's license must provide legal proof of age and identification such as a birth certificate or passport.

(c) The applicant must pass examinations on the traffic rules and traffic signs of American Samoa, and must pass a vision test with a minimum vision acuity level of 20/40 corrected.

(d) The applicant must pass a road test.

(e) The applicant must pay the required fees.

(f) The parent or guardian of all applicants under the age of 18 shall:

(1) submit written consent to the Office of Motor Vehicles before issuance of an operator's license; and

(2) be financially responsible at all times for the operation of the vehicle by the applicant.

(g) Persons who hold a valid driver's license from another jurisdiction may be issued an American Samoa operator's license by producing that license for inspection at the Office of Motor Vehicles or, if the license is not available, then a letter from the Department of Motor Vehicles in that jurisdiction stating that the driver's license has not been canceled and is not currently suspended shall suffice. For purposes of this paragraph, "jurisdiction" means places other than American Samoa.

History: 1972, PL 12-65 § 1, 1978, PL 15-108 § 2.

22.0205 Learner's permit.

(a) No person may be permitted to obtain a learner's permit before reaching the age 18 provided that persons enrolled in driver education may obtain their learner's permit at age 16.

(b) The applicant for a learner's permit must provide proof of age and identification such as birth certificate or passport.

(c) The applicant must pass examinations on the traffic rules and traffic signs of American Samoa, and must pass a vision test with a minimum vision acuity level of 20/40 corrected.

(d) The applicant must pay the required fees.

(e) While learning to operate a motor vehicle on the public roads, the learner shall be in possession of his learner's permit and shall be accompanied by a competent, licensed driver in the front seat.

(f) The parent or guardian of all learners under the age of 18 shall:

(1) submit written consent to the Office of Motor Vehicles before issuance of a learner's

permit; and

(2) be financially responsible at all times for the operation of the vehicle by the learner.

(g) Any person, regardless of previous driving experience, who does not qualify for a private driver's license, shall be licensed to drive in American Samoa as a provisional driver; provided, that no provisional driver's license shall be issued to any person unless he:

(1) is 18 years of age or more;

(2) has successfully completed examinations designed to test his driving skill and knowledge of the provisions of this title;

(3) has paid all driver's license fees; and

(4) has otherwise complied with the applicable provisions of this title.

History: 1972, PL 12-65 § 1; 1978, PL 15-108 § 1.

22.0206 Qualifications for school bus driver's permit.

(a) No person under the age of 21 years may drive any school bus transporting school children.

(b) The Commissioner shall not issue a permit for the driving of a school bus carrying children unless the applicant has had at least one year of driving experience prior thereto and the Commissioner is fully satisfied as to the applicant's good character, competency, and fitness to be so employed.

History: 1972, PL 12-65 § 1.

22.0207 License application-Issuance and contents-Fees.

(a) Application for a driver's license shall be made to the Commissioner on such forms as are prescribed by the Commissioner.

(b) The Commissioner shall issue to every applicant qualifying there for a driver's license indicating the type or general class of vehicles the licensee may drive, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address and a brief description and a photograph of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license, and such other information as is determined necessary by the Commissioner.

(c) No license may be valid until it has been signed by the licensee.

(d) A license shall be issued to a person only under the name of that person as shown on his social security card.

History: 1972, PL 12-65 § 1.

22.0208 License fees.

(a) The following license fees are established:

- | | |
|--|----------|
| (1) 3-year motor vehicle Private driver license, | \$12.00; |
| (2) 6-month learner's permit | \$5.00; |
| (3) Visitor permit, | \$9.00; |
| (4) Provisional driver license, | \$9.00; |
| (5) Commercial driver license, | \$8.00; |
| (6) Renewal of Private driver license, | \$12.00; |
| (7) Renewal of Commercial driver license, | \$8.00; |
| (8) Duplicate Provisional driver license, | \$6.00; |

(9) Duplicate Private driver license, \$6.00;

(10) Duplicate Commercial driver license, \$6.00.

(b) For purposes of this section only, a total of \$4.00 from each fee paid shall be placed in a revenue fund for the Department of Public Safety for law enforcement costs and maintenance and supplies for production of driver licenses.

(c) For purposes of this section, the definitions in 22.0101 apply.

History: 1963, PL 8-6; 1969, PL 11-49; amd 1977, PL 15-35; amd 1980, PL 16-57 § 2; amd 2005, PL 29-13.

Amendments: 1977 Paragraph (a) (2): substituted “6-month” for “three-month.”
1980 Subsection (b): added.

Research Guide: See 27.0243 for administration and enforcement of this section.

22.0209 Expiration and renewal of driver’s license.

(a) All private driver’s licenses shall expire 3 years from the date of issue. They shall be renewable on or before their expiration upon application, payment of the required fee, and satisfactory completion of such examinations as may be required by the Commissioner.

(b) A provisional driver’s license shall expire when the licensee has completed 2 years’ experience as a provisional driver, excluding any time during which the license was suspended. At the time of expiration, the provisional licensee shall be eligible for a private driver’s license.

History: 1972, PL 12-65 § 1.

22.0210 Possession and display of license or permit.

Every person shall have a driver’s license or learner’s permit in his immediate possession at all times when operating a motor vehicle and shall display the same upon demand of a police officer. However, no person charged with violating this section may be convicted if he produces in court a driver’s license or learner’s permit theretofore issued to him and valid at the time of his arrest.

History: 1972, PL 12-65 § 1.

22.0211 Suspension or revocation for driving under the influence.

(a) A court shall, upon conviction of driving under the influence under 22.0707 or 22.0708, suspend or revoke a license as follows:

(1) upon first conviction, for a period of 6 months;

(2) upon second conviction, for a period of 2 years;

(3) upon third conviction, permanently;

(4) notwithstanding paragraphs (1) and (2), if the court finds after hearing that a person has demonstrated habitual substance abuse which indicates he cannot safely drive a motor vehicle, the court may permanently revoke his license.

(b) If bodily injury or death of a person is caused by reason of such intoxication, the period of suspension may be doubled by the court.

(c) Periods of suspension or revocation shall be imposed to take effect only after completion of any period of incarceration or detention.

History: 1972, PL 12-65 § 1; amd 1986, PL 19-40 § 3; amd 2010, PL 31-12 § 1.

Amendments: 1986 Subsection (a): changed “may” to “shall”.

22.0212 Suspension or revocation for careless driving, or fleeing from or attempting to elude police officer.

The court may, upon conviction of careless driving, or fleeing from or attempting to elude a police officer under 22.0701 and 22.0705, suspend or revoke a license as follows:

- (1) upon first conviction, for a period of 60 days;
- (2) upon second conviction, for a period of 180 days;
- (3) upon third and subsequent convictions, for a period of 1 year;
- (4) notwithstanding paragraph (3), if the person has 4 or more convictions of serious traffic offenses, his license may be revoked permanently.

History: 1972, PL 12-65 § 1.

22.0213 Suspension or revocation for reckless driving or homicide by vehicle.

(a) The court may, upon conviction of reckless driving or homicide by vehicle under 22.0702 and 22.0706, suspend or revoke a license as follows:

- (1) upon first conviction, for a period of 180 days;
- (2) upon second and subsequent convictions, for a period of 2 years;
- (3) notwithstanding paragraph (2), if the person has 3 convictions of serious traffic offenses within a 10-year period, his license may be revoked permanently.

(b) For conviction of homicide by vehicle, periods of suspension may be double those set out in subsection (a).

History: 1972, PL 12-65 § 1.

22.0214 Suspension or revocation for offenses not specifically provided for.

For all offenses contained in this title for which a suspension or revocation period is not otherwise specified, the court, upon conviction and in addition to other specified penalties, may suspend or revoke a license as follows:

- (1) upon the first conviction, for a period not to exceed 14 days;
- (2) upon the second conviction, for a period not to exceed 90 days,
- (3) upon a third or subsequent conviction, for a period not to exceed 180 days;
- (4) notwithstanding paragraph (3), if the person has 4 or more convictions within a period of 2 years for offenses under this title, his license may be suspended for a period of 1 year.

History: 1972, PL 12-65 § 1.

22.0215 Suspension or revocation by discretion of court.

Notwithstanding 22.0211 through 22.0214, a court may, in its discretion, suspend or revoke the license of any driver who has been convicted of any offense under this title and who is shown to the court's satisfaction to be incapable of safely driving a motor vehicle because of physical or psychological infirmity or impairment, ignorance of safe motor vehicle operation or traffic laws, or gross disregard for the safety of himself and others.

History: 1972, PL 12-65.

22.0216 Conviction defined.

As used in 22.0211 through 22.0215, "conviction" includes those offenses to which a person pleads guilty by utilizing the procedure set forth in this title for payment of fine in lieu of court appearance.

History: 1972, PL 12-65 § 1.

22.0217 Surrender of suspended or revoked license-Notation on reissued or new license.

A license suspended or revoked pursuant to 22.0211 through 22.0215 shall be surrendered to the Commissioner for the period of the suspension and may not be reissued, nor may any new license be issued without recording thereon the offense for which the license was suspended or revoked.

History: 1972, PL 12-65.

22.0218 Suspension of provisional driver's license.

(a) Any holder of a provisional driver's license who has been issued a uniform traffic complaint-summons must surrender his license to the Commissioner in addition to the payment of the required fine if the complaint-summons charges a moving traffic offense or serious traffic offense and the licensee files a plea of guilty to the charge before the violations bureau, or if the licensee is found guilty of such charge in a proceeding in the district court.

(b) If the offense charged is a moving traffic offense, the period of suspension shall be:

(1) for first offense, 1 month;

(2) for second offense, 3 months;

(3) for third offense, 9 months;

(4) for fourth or subsequent offenses for a period specified by the court, but not less than 1 year.

(c) The period of suspension for serious traffic offenses shall be determined with reference to the schedule for moving traffic offenses except that each serious traffic offense shall count as 2 moving traffic offenses.

History: 1972, PL 12-65 § 1, and 1979, PL 16-53 § 62

Amendments: 1979 Subsection (a): substituted "violations bureau" for "violations clerk" and "district court" for "High Court of American Samoa"

22.0219 Driving while license is suspended.

The Clerk of the High Court, upon receiving a record of the conviction of any person upon a charge of driving a vehicle while his provisional or private license is suspended shall extend the period of such suspension for an additional like period unless otherwise directed by the court.

History: 1972, PL 12-65 § 1.

22.0220 Cancellation of license.

The Commissioner may cancel any provisional or private driver's license upon determining that the licensee was not entitled to the issuance thereof or that the licensee failed to give the required or correct information in his application.

History: 1972, PL 12-65 § 1.

22.0221 Reexamination of licensees.

The Commissioner, having good cause to believe that a licensed driver (provisional or private) is incompetent or is otherwise not qualified to be licensed, may, upon written notice of at least 5

days to the licensee, require him to submit to art examination. Upon the conclusion of such examination, the Commissioner shall take such action as may be appropriate and may suspend or revoke the license of such person, permit him to retain such license, or issue a license subject to physical operational restrictions or restrictions as to the type or class of vehicles that may be driven. Refusal or neglect of the licensee to submit to such examination shall be grounds for suspension or revocation of his license.

History: 1972, PL 12-65 § 1.

22.0222 Misdemeanor.

It is a class B misdemeanor for any person to (1) display, or cause or permit to be displayed, or have in his possession, any canceled, revoked, suspended, fictitious or fraudulently altered driver's license:

(2) lend his driver's license to any other person or knowingly permit the use thereof by another;

(3) display or represent as one's own any driver's license not issued to him;

(4) fail or refuse to surrender to the commissioner upon lawful demand, any driver's license which has been suspended, revoked or canceled;

(5) use a false or fictitious name in any application for a driver's license or to knowingly conceal a material fact or otherwise commit a fraud in any such application;

(6) permit any unlawful use of a driver's license issued to him;

(7) cause or knowingly permit his child or ward under the age of 18 years to drive a motor vehicle upon any highway when such minor is not authorized to drive under this chapter or is in violation of any provision of this chapter;

(8) authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not licensed for the type of class of vehicle to be driven, or in violation of any provision of this chapter;

(9) do any act forbidden, or fail to perform any act required, by this chapter.

History: 1972, PL 12-65 § 1; amd 1980, PL 16-90 § 58.

Amendments: 1980 Amended to conform with penalties provided for in Title 46. Criminal Justice.

22.0223 Felony driving while license is suspended.

Any person who drives a motor vehicle while his license is suspended pursuant to 22.0211 shall be guilty of a class D felony and, upon conviction, shall be sentenced to serve at least 90 days in custody.

History: 1986, PL 19-40 § 5.

Case Notes:

Statute drawing a distinction between people whose licenses were suspended for driving under the influence and people whose licenses were suspended for other reasons had a rational basis, since classification was based on conduct rather than status and legislature believed there was a special need to deter and punish drunken driving. A.S.C.A. § 22.0223. *American Samoa Government v. Macomber*, 8 A.S.R.2d 182 (1988).

Even under equal protection analysis more stringent than the rational basis test, statute punishing those who drove after their licenses had been suspended for driving under the influence did not create unconstitutional classification, since (1) statutory distinction was not incoherent or unclear; (2) court should not substitute its opinion for that of the Legislature on relative culpability, need for deterrence, and other factors necessary to determine range of appropriate sentences for various offenses; (3) drunken driving does appear to present special statutory treatment. U.S. Const. Amend 14; A.S.C.A. § 22.0223. *American Samoa Government v. Macomber*, 8 A.S.R.2d 182 (1988).

RULES OF THE ROAD

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- 22.0302 Obedience to traffic-control devices.
- 22.0303 Unauthorized signs, signals and markings.
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- 22.0351 Use of emergency warning devices.
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22.0301 Refusal to obey law officer.

It is unlawful to willfully fail or refuse to comply with any lawful order, signal or direction of any member of the Department of Public Safety when such member is engaged in enforcing the provisions of this title or directing traffic.

History: 1972, PL 12-65 § 1.

22.0302 Obedience to traffic-control devices.

(a) The Commissioner shall place and maintain, or cause to be placed and maintained, such appropriate official traffic-control devices as may be necessary to carry out the provisions of this title or direct or warn traffic upon the highways.

(b) The driver of any vehicle shall obey the instructions of any applicable official traffic-control device placed in accordance with the provisions of this title unless otherwise directed by a police officer, subject to the exceptions granted under this title to the driver of an authorized emergency vehicle.

(c) No provision of this title relating to official traffic-control devices may be enforced against an alleged violator if, at the time and place of the alleged violation, an official device was not in reasonably proper position and sufficiently legible to be seen by an ordinarily observant person.

History: 1972, PL 12-65 § 1.

22.0303 Unauthorized signs, signals and markings.

(a) No person may place, maintain or display upon or in view of any highway, any unauthorized sign, signal, marking or device which purports to be, is an imitation of, or resembles an official traffic-control device, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of an official traffic-control device.

(b) No person may place or maintain, nor shall any public authority permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising.

(c) This section may not be deemed to prohibit the erection, upon private property adjacent to highways, of signs giving useful directional information and of a type which cannot be mistaken for official signs.

(d) Every such prohibited sign, signal or marking is a public nuisance and the authority having jurisdiction over the highway is empowered to remove the same or cause it to be removed without notice.

History: 1972, PL 12-65 § 1.

22.0304 Defacement or destruction of road signs.

No person may deface, obliterate, bend, break or otherwise injure or destroy any road sign or marker, lettering thereon, or the post or other framework supporting the sign or marker.

History: 1972, PL 12-65 § 1.

22.0305 Driving on right-hand side of highway.

Upon all highways of sufficient width, a vehicle shall be driven upon the right half of the highway, except as follows:

(1) when overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement;

(2) when an obstruction exists making it necessary to drive to the left of the center of the highway; provided, that any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

(3) upon a highway restricted to one-way traffic.

History: 1972, PL 12-65 § 1.

22.0306 Passing approaching vehicles.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and each driver shall give to the other at least one-half of the main traveled portion of the roadway whenever possible.

History: 1972, PL 12-65 § 1.

22.0307 Passing vehicle on the left.

The following rules shall govern when a vehicle overtakes and passes, on the left, a vehicle proceeding in the same direction:

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall not pass the overtaking vehicle on the right.

(b) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and may not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(c) The driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

(d) No vehicle may be driven to the left side of the center line of a roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the normal operation of any vehicle approaching from the opposite direction, or any vehicle overtaken. In any event, the overtaking vehicle must return to the right-hand side of the roadway before coming within 100 feet of any vehicle approaching from the opposite direction.

(e) No vehicle may at any time be driven to the left side of the roadway under the following conditions:

(1) when approaching the crest of a grade upon a curve in the highway, where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) when the view is obstructed upon approaching any bridge, building, tree or natural obstruction;

(3) when within 100 feet of or traversing any intersection;

(4) when prohibited by any official traffic-control device.

History: 1972, PL 12-65 § 1.

22.0308 Passing vehicle on the right.

The driver of a vehicle may overtake and pass on the right of another vehicle only under the following conditions:

(1) when the vehicle overtaken is making or is about to make a left turn;

(2) upon a street or highway with unobstructed pavement not occupied by parked vehicles;

(3) upon a one-way street, or upon any roadway on which traffic is one way, where the roadway is free from obstructions and of sufficient width for 2 or more lines of moving vehicles;

(4) when conditions permit such movement with safety;

(5) in no event shall such movement be made by driving off the pavement or main traveled portion of the roadway.

History: 1972, PL 12-65 § 1.

22.0309 Designation of no-passing zones.

The Commissioner is directed to determine those portions of the highway where overtaking and passing on, or driving to, the left would be especially hazardous and to prohibit the same through the use of official traffic-control devices.

History: 1972, PL 12-65 § 1.

22.0310 Following too closely-Prima facie evidence of violation.

(a) The driver of a motor vehicle may not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and condition of the roadway.

(b) The fact that a vehicle operated by a person has struck the rear portion of a vehicle preceding it on the roadway shall constitute prima facie evidence that such person has violated this section.

History: 1972, PL 12-65 § 1.

22.0308 Passing vehicle on the right.

The driver of a vehicle may overtake and pass on the right of another vehicle only under the following conditions:

- (1) when the vehicle overtaken is making or is about to make a left turn;
- (2) upon a street or highway with unobstructed pavement not occupied by parked vehicles;
- (3) upon a one-way street, or upon any roadway on which traffic is one way, where the roadway is free from obstructions and of sufficient width for 2 or more lines of moving vehicles;
- (4) when conditions permit such movement with safety;
- (5) in no event shall such movement be made;

History: 1972, PL 12-65 § 1.

22.0311 Right-of-way-Approaching or entering unregulated intersection.

(a) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.

(b) When 2 vehicles enter an intersection from different highways at the same time, the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on the right. This section does not apply to vehicles approaching each other from opposite directions, when the driver of one of such vehicles is intending to or is making a left turn. Such movements shall be governed by 22.0313.

History: 1972, PL 12-65 § 1.

22.0312 Right-of-way-Approaching or entering regulated intersection.

(a) Preferential right-of-way at an intersection may be indicated by stop signs or yield signs.

(b) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an

immediate hazard during the time when such driver is moving across or within the intersection.

History: 1972, PL 12-65 § 1.

22.0313 Right-of-way-Left-hand turns.

A driver intending to turn left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction and within the intersection or so close thereto as to constitute an immediate hazard.

History: 1972, PL 12-65 § 1.

22.0314 Right-of-way-Entering through highways.

The driver of any vehicle shall slow down at the entrance to a through highway and yield the right-of-way to other vehicles which have entered the intersection from the through highway or which are approaching so closely on the through highway as to constitute an immediate hazard. A driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection on the through highway shall yield the right-of-way to the vehicle about to enter or cross the through highway.

History: 1972, PL 12-65 § 1.

22.0315 Turns.

The driver of a vehicle intending to turn at an intersection shall proceed as follows:

- (a) Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (b) A driver turning left at any intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection, the turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered.

History: 1972, PL 12-65 § 1.

22.0316 Signaling turns and stops.

(a) No person may turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety and then only after giving an appropriate signal in the manner provided in this section in the event any other vehicle may be affected by such movement.

(b) Any signal of intention to turn right or left shall be given continuously during the last 100 feet traveled by a vehicle before turning.

(c) No person may stop or suddenly decrease the speed of a vehicle on a highway without first giving an appropriate signal in the manner provided in this section to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(d) Signals shall be given either by means of the hand and arm or by signal lamp or mechanical signal device, except that when the body of a vehicle, or a load on any vehicle projects 32 inches or more to the left of the center of the steering wheel, or under any other condition when a hand and arm signal would not be visible both to the front and rear of such vehicle, then such vehicle must be equipped with a signal lamp or device and signals must be given by such lamp or device.

(e) All signals herein required to be given by hand and arm shall be given from the left side of a vehicle in the following manner:

- (1) for a left turn, hand and arm extended horizontally beyond the side of the vehicle;
- (2) for a right turn, hand and arm extended upward beyond the side of the vehicle;
- (3) for a stop or sudden decrease of speed, hand and arm extended downward beyond the side of the vehicle.

History: 1972, PL 12-65 § 1.

22.0317 Moving stopped or parked vehicle.

No person may move a vehicle which is stopped, standing or parked unless and until such movement can be made with reasonable safety.

History: 1972, PL 12-65 § 1.

22.0318 Emerging from alley, building, private road or driveway.

The driver of a vehicle emerging from an alley, building, private road or driveway within a business or residential district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road or driveway, or, in the event there is no sidewalk area, shall stop at the point nearest the street to be entered, where he has a view of approaching traffic thereon.

History: 1972, PL 12-65 § 1.

22.0319 Meeting or overtaking school bus.

The driver of a vehicle, upon meeting or overtaking from either direction a school bus which has stopped for the purpose of receiving or discharging school children, shall stop the vehicle before reaching the school bus when there is in operation on the school bus a visual signal as specified in 22.1107. The driver may not proceed until the visual signals are turned off and the bus either resumes motion or the bus driver signals the driver to proceed.

History: 1972, PL 12-65 § 1; amd 1983, PL 18-9 § 1.

Amendments: 1983 Amended for grammar.

22.0320 Obstructing traffic.

(a) No motor vehicle may be stopped at any place where it is likely to obstruct traffic or create or constitute a dangerous condition to traffic on the road. Parking, standing, and loading or discharging of passengers or freight in such areas, or in "No Parking" zones, is expressly prohibited except where the vehicle is driven completely off the highway.

(b) No person may place any object on the ground within eight feet of the edge of any paved road in the Territory if such object creates any kind of danger to or obstruction of traffic. "Objects" includes but is not limited to rocks, metal, wood, debris, and glass.

History: 1972, PL 12-65 § 1; amd 1988, PL 20-82.

22.0321 Stopping or parking near fire station or hydrant-Parking for disabled persons.

(a) No person may stop or park any vehicle, or leave it standing, in front of a fire station or within 15 feet of a fire hydrant except when such vehicle is attended by a licensed operator or chauffeur who is seated in the front seat and who can immediately move such vehicle in case of necessity.

(b) No person may park a vehicle in a space designated for vehicles of disabled persons

unless the vehicle so parked exhibits on the said vehicle a disabled person's sticker properly issued by the Office of Protection and Advocacy, and at the time it is so parked was driven by or transporting such disabled person. A person who violates this subsection shall be guilty of a Class C misdemeanor and shall be punished accordingly.

History: 1972, PL 12-65 § 1; 1995, PL 24-5; 2002, PL 27-19.

22.0322 Removal of vehicles.

(a) Whenever any police officer finds a vehicle standing upon a highway in violation of any of the provisions of this chapter, such officer may move such vehicle, or require the driver or other person in charge of the vehicle to move it, to a position off the paved or main-traveled part of such highway.

(b) Any police officer may remove or cause to be removed to a place of safety, any unattended vehicle illegally left standing upon any highway or bridge in such position or under such circumstances as to obstruct the normal movement of traffic.

(c) Any police officer may remove or cause to be removed to the nearest garage or other place of safety, any vehicle found upon a highway when:

(1) a report has been made that such vehicle has been stolen or taken without the consent of its owner;

(2) the person or persons in charge of such vehicle are unable to provide for its custody or removal.

History: 1972, PL 12-65 § 1.

22.0323 Speed limits.

(a) No person may operate a motor vehicle on any highway in American Samoa at a rate of speed in excess of 30 miles an hour except as otherwise provided in this title.

(b) The Commissioner shall determine, upon the basis of an engineering and traffic investigation, such other maximum speeds as shall be reasonable and safe under the conditions found to exist at any intersection or any other place on the highways of American Samoa. Such maximum speeds shall be effective when appropriate signs or markings giving notice thereof are erected, and may be declared to be effective at all times or at such times as are indicated upon the signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when notice thereof is given by official traffic-control devices.

History: 1972, PL 12-65 § 1.

22.0324 Backing.

The driver of a vehicle may not back the same unless such movement can be made with safety and without interfering with other traffic.

History: 1972, PL 12-65 § 1.

22.0325 Driving on sidewalks.

No person may drive any vehicle upon a sidewalk or sidewalk area except upon a permanent, or duly authorized temporary, driveway.

History: 1972, PL 12-65 § 1.

22.0326 Obstruction of driver's view or operation of vehicle.

(a) No person may drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, exceeding 3, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle may ride in such position as to interfere with the driver's view ahead or to the sides, or with his control over the driving mechanism of the vehicle.

History: 1972, PL 12-65 § 1.

22.0327 Opening and closing vehicle doors.

No person may open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

History: 1972, PL 12-65 § 1.

22.0328 Coasting.

(a) The driver of any motor vehicle, when traveling on a down grade, may not coast with the gears or transmission of such vehicle in neutral.

(b) The driver of a truck or bus, when traveling on a down grade, may not coast with the clutch disengaged.

History: 1972, PL 12-65 § 1.

22.0329 Crossing fire hose.

No vehicle may be driven over an unprotected fire department hose laid down on any street, private road or driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

History: 1972, PL 12-65 § 1.

22.0330 Littering.

(a) No person may throw, deposit, or place upon any right-of-way road, street or highway, or cause to be thrown, deposited or placed, any glass, glass bottle, container, wire, nails, tacks, can, garbage, trash, refuse, rubbish, or any other object whether or not likely to injure any person, animal or vehicle.

(b) Any person who litters as defined in (a) above, shall immediately remove the same or cause it to be removed or be subject to the penalties in section 46.4806.

(c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

History: 1972, PL 12-65 § 1; amd 1990, PL 21-31.

22.0331 Vehicle loads.

No vehicle may be driven or moved on any highway:

(1) Unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom;

(2) When any load thereon is not entirely within the body of the vehicle. This prohibition does not apply if the load is securely fastened by means of clamps, ropes, straps, cargo nets, or

other suitable mechanical devices to prevent such load from dropping onto the highway or from shifting in any manner.

(3) With any load consisting partially or entirely of loose paper, empty cartons, crates or any other material susceptible to being blown or carried by the wind, unless such load is entirely covered by a tarpaulin, net, canopy or other suitable material, effectively preventing any part of such load from being blown or carried by the wind. This paragraph does not apply to any vehicle carrying a load consisting entirely of soil, sand, coral or gravel if such load is wetted down to prevent particles thereof from being blown or carried by the wind.

(4) While any occupant thereof is riding on a load which exceeds the height of the body of the vehicle.

History: 1972, PL 12-65 § 1.

Case Notes:

Statute regulating height of truckloads was enacted to protect innocent bystanders, and court would not trivialize this protection by redressing the failure of one contracting party to compensate another for systematic over loading of trucks in violation of the statute. A.S.C.A. § 22.0331. R.P. Porter International, Inc., v. Pacific International Engineering, Ltd., 11 A.S.R.2d 124 (1989).

22.0332 Child passenger restraints.

(a) Except as otherwise provided in this section, no person operation a motor vehicle on a public highway in the Territory shall transport a child under four years of age except under the following circumstances:

(1) if the child is under three years of age, the person operating the motor vehicle shall ensure that the child is properly restrained in a child passenger restraint system approved by the United States Department of Transportation at the time of its manufacture; or

(2) if the child is three years of age or older but less than four years of age, the person operating the motor vehicle must either ensure that the child is properly restrained in a child passenger restraint system approved by the United States Department of Transportation at the time of its manufacture or ensure that the child is restrained by a seat belt assembly.

(b) Operators of the following motor vehicles shall be exempt from the requirements of this section: an authorized emergency vehicle while on duty, and a bus, including a school bus, whether publicly or privately owned, which provides service to the general public or provides special service on a regular or continuing basis. Further exemptions from this section may be established by the Commissioner of Public Safety pursuant to rules adopted under the Administrative Procedures Act, 4.1001 et seq.

(c) This section shall not apply if the number of persons in a vehicle exceeds the greater of the following:

(1) the number of seat belt assemblies available in the vehicle; or

(2) the number of seat belt assemblies originally installed in the vehicle; provided that all available seat belt assemblies are being used to restrain a passenger, and those children not restrained by an approved child passenger restraint system to a seat belt assembly are in the back seat of the motor vehicle.

(d) In no event shall failure of a child under the age of four years to be restrained or failure to restrain such a child in a child passenger restraint system or a seat belt assembly be considered as contributory negligence, comparative negligence, or negligence per se.

(e) Penalty: for the first offense, the fine shall be \$25, second offense, \$50, and third or more, \$75.

History: 1988, PL 20-79.

22.0333 Mandatory use of seat belts.

(a) Except as otherwise provided by law, no person:

(1) shall operate a motor vehicle upon any public highway unless the person is restrained by a seat belt assembly and any passengers in the front seat of the motor vehicle are restrained by a seat belt assembly if between the ages of four and fifteen or are restrained pursuant to 22.0332 if under the age of four;

(2) if fifteen years of age or more shall be a passenger in the front seat of a motor vehicle being operated upon any public highway unless such person is restrained by a seat belt assembly. As used in this section and 22.0332 "seat belt assembly" means the seat belt assembly required to be in the motor vehicle under any federal motor vehicle safety standard issued pursuant to Public Law 89-563, the Federal National Traffic and Motor Vehicle Safety Act of 1966, as amended, unless original replacement seat belt assemblies are not readily available, seat belts of federally approved materials with similar protective characteristics may be used. Such replacement seat belt assemblies shall be permanently marked by the belt manufacturer indicating compliance with all applicable federal standards.

(b) The passengers of the following motor vehicles shall be exempt from the requirements of this section: an authorized emergency vehicle while on duty and a bus, including a school bus, whether publicly or privately owned, which provides service to the general public or provides special service on a regular or continuing basis. Further exemptions from this section may be established by rules adopted by the Commissioner of Public Safety pursuant to the Administrative Procedures Act, 4.1001 etc.

(c) No person shall be guilty of violating this section if:

(1) the person is in a motor vehicle which is not required to be equipped with a seat belt assembly under any federal motor vehicle safety standard unless the vehicle is in fact equipped with a seat belt assembly;

(2) the person not restrained by a seat belt assembly is in a vehicle in which the number of person exceeds the number of seat belt assemblies available in the vehicle or the number of seat belt assemblies originally installed in the vehicle, whichever is greater; provided that all available seat belt assemblies are being used to restrain passengers;

(3) the person not restrained by a seat belt assembly has a condition which prevents appropriate restraint by the seat belt assembly, provided such condition is duly certified by a physician who shall state the nature of the condition, as well as the reason such restraint is inappropriate;

(4) the person not restrained by a seat belt assembly is operating a taxicab and is carrying passengers in the vehicle in the course of performing taxicab services; or

(5) otherwise exempted by rules adopted by the Commissioner of Public Safety pursuant to the Administrative Procedures Act, 4.1001 et seq.

(d) This section shall not be deemed to change existing laws, rules, or procedures pertaining to a trial of a civil action for damages for personal injuries or death sustained in a motor vehicle accident.

(e) Penalty: A person violating this section shall be fined not more than \$25 per offense.

History: 1988, PL 20-79.

22.0334 Unaccompanied minors prohibited in back of truck or pickup truck.

No truck or pickup truck may be driven or moved on any highway having as a passenger a minor child of less than twelve (12) years of age in the bed or back of the vehicle, unless the said

child is accompanied at all times by an adult of at least eighteen (18) years of age.

History: 1998, PL 25-17.

22.0350 Exemption from traffic laws-Driver's duty.

(a) The driver of an authorized emergency vehicle shall be exempt from the requirements of 22.0301 et seq., whenever such vehicle is driven in response to an emergency call, used in immediate pursuit of a suspected violator of the law, or is on other errands of great urgency.

(b) The driver of such vehicle may not exceed the maximum speed limit in the area in which he is traveling by more than 10 miles per hour.

(c) There is no maximum speed limit for police officers in the immediate pursuit of suspected violators of the law.

(d) This section may not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

History: 1972, PL 12-65 § 1.

22.0351 Use of emergency warning devices.

Authorized emergency vehicles may not utilize any emergency warning equipment except when responding to an emergency. The pursuit of actual or suspected violators of the law by police shall be considered an emergency. When responding to an emergency, the driver of an emergency vehicle shall utilize emergency warning devices when necessary to warn pedestrians and other drivers of his approach.

History: 1972, PL 12-65 § 1.

22.0352 Duties owed emergency vehicles.

(a) When an emergency vehicle using warning equipment is proceeding on an emergency call, all traffic shall immediately pull to the right side of the road if possible, clear intersections, and stop until all emergency vehicles have passed.

(b) No motor vehicle, except an authorized emergency vehicle or a vehicle of duly authorized members of the police or fire department, may follow within 300 feet of any emergency vehicle which is responding to an emergency call.

History: 1972, PL 12-65 § 1.

22.0353 Construction sites-warning lights.

The government and private companies or individuals who engage in performing construction work on or near the highways are required to install or place red warning lights at the job site between dusk and dawn.

History: 1998, PL 25-18.

22.0360 General infraction provision.

(a) It is unlawful and, unless otherwise declared in this chapter with respect to particular offenses, an infraction for any person to do any act forbidden by, or fail to perform any act required by, this chapter.

(b) In a case involving a violation of a section of this chapter, a rebuttable presumption exists that the registered owner of the vehicle identified in the commission of an infraction is the driver of that vehicle.

History: 1972, PL 12-65 § 1; amd 1980, PL 16-90 § 60; amd 1983, PL 18-9 § 2.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice. 1983 Offense amended from misdemeanor to infraction.

Chapter 04

PEDESTRIANS AND BICYCLISTS

Sections:

- 22.0401 Right-of-way provision.**
- 22.0402 Under the influence.**
- 22.0403 Walking on roadway.**
- 22.0404 Right-of-way on sidewalks.**
- 22.0405 Soliciting rides-Creating a hazard.**
- 22.0406 General duty of drivers.**
- 22.0407 Solicitation of money and fundraising on sidewalk or public roadway prohibited.**
- 22.0420 Bicyclists subject to rules of the road.**

22.0401 Right-of-way provision.

(a) The driver of a vehicle shall yield the right-of-way, slowing down or stopping if necessary in order to so yield, to a pedestrian crossing the roadway within any marked or unmarked crosswalk when the pedestrian is on the half of the roadway upon which the vehicle is traveling, or is approaching so closely from the opposite half of the roadway as to be in danger.

(b) Whenever any vehicle has stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear may not overtake and pass such stopped vehicle.

(c) No pedestrian may suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(d) Every pedestrian crossing a roadway at any point other than within an unmarked crosswalk at an intersection shall yield the right-of way to all vehicles.

History: 1972, PL 12-65 § 1.

Case Notes:

Pedestrian, a minor, was comparatively negligent in crossing the road into the unavoidable path of a vehicle and in failing to yield the right-of-way to vehicles when crossing at a point other than a crosswalk. A.S.C.A. §§ 22.0401(c)-(d), 43.5101. *Sciascia v. Lutali*, 23 A.S.R.2d 38 (1992).

22.0402 Under the influence.

It is unlawful for any pedestrian who is intoxicated to such an extent as to create a hazard to himself or others to walk on or be on any public highway.

History: 1972, PL 12-65 §1.

22.0403 Walking on roadway.

(a) Where sidewalks are provided, it is unlawful for any pedestrian to walk along adjacent roadway.

(b) Where sidewalks are not provided, any pedestrian walking along or upon a highway shall, when practicable, walk only on the left side of the roadway or its shoulder, facing traffic which

may approach from the opposite direction.

History: 1972, PL 12-65 § 1.

Case Notes:

Both motorists and pedestrians have a duty to exercise care on the roadway. A.S.C.A. §§ 22.0403, 22.0406, 22.0701. *Alofipo v. Va*, 20 A.S.R.2d 119 (1992).

22.0404 Right-of-way on sidewalks.

The driver of a vehicle emerging from or entering an alley, building, private road or driveway shall yield the right-of-way to any pedestrian approaching on any sidewalk extending across such alley, building entrance, road or driveway.

History: 1972, PL 12-65 1.

22.0405 Soliciting rides-Creating a hazard.

(a) No person may stand in a roadway for the purpose of soliciting a ride from the driver of any vehicle.

(b) No person may sit, lie, or loiter in a roadway in a manner as to constitute a hazard to himself or to vehicular traffic.

History: 1972, PL 12-65 § 1, amd 1977, PL 15-61.

Amendment: 1977 Added subsection (b) and designated existing section as subsection (a).

22.0406 General duty of drivers.

Notwithstanding other provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person upon a roadway.

History: 1972, PL 12-65.

Case Notes:

Statutory monition is expanded and enlarged in second clause to require the adoption of "proper precaution". In addition to "due care", when a child is observed on the road. *Meredith v. Hartford Fire Ins, Co.* ASR (1977).

Imposed a higher standard of care upon driver after having observed children along the road. *Hartford Fire Ins., Co v. Meredith,* ASR (1977).

Rebuttable presumption of incapacity is a necessary and proper safeguard to ensure the conduct of the child involved is evaluated. *Hartford Fire Ins. Co. v Meredith,* ASR (1977).

Drivers have an overriding duty to pedestrians, especially children, and a duty to refrain from careless driving. A.S.C.A. §§ 22.0406, 22.0701. *Sciascia v. Lutali,* 23 A.S.R.2d 38 (1992).

Drivers whose conduct might result in injury to a child have a duty to exercise proportional vigilance and caution. *Sciascia v. Lutali,* 23 A.S.R.2d 38. Drivers have an overriding duty to pedestrians, especially children, and duty to refrain from careless driving. A.S.C.A. §§ 22.0406, 22.0701. *Sciascia v. Lutali,* 23 A.S.R.2d 38 (1992).

Both motorists and pedestrians have a duty to exercise care on the roadway. A.S.C.A. §§ 22.0403, 22.0406, 22.0701. *Alofipo v. Va,* A.S.R.2d 119 (1992).

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Both motorists and pedestrians have a duty to exercise care on the roadway. A.S.C.A. §§ 22.403, 22.0406, 22.0701. *Alofipo v. Va*, A.S.R.2d 119 (1992).

22.0407 Solicitation of money and fundraising on sidewalk or public roadway prohibited.

(a) No person may solicit money or raise funds on or near a sidewalk or the public roadway by standing, sitting or dancing, with or without the playing of music or the use of a public-address system, to entice, lure, or urge by requests or pleas to drivers, occupants of vehicles or pedestrians for money or funds, or a pledge therefor.

(b) Any police officer who observes a violation of this section shall immediately confiscate and take into possession all equipment and money found at the location of the solicitation or fundraising. Any item confiscated shall be held in the custody of the Department of Public Safety until disposed of by order of the court.

History: 2000, PL 26-17.

22.0420 Bicyclists subject to rules of the road.

Every person riding a bicycle upon a highway shall be subject to all of the duties applicable to the driver of a vehicle under this title, except those provisions which by their very nature are inapplicable.

History: 1972, PL 12-65 § 1.

Chapter 05

ACCIDENT REPORTING

Sections:

- 22.0501 Short title.**
- 22.0502 Accidents involving death or personal injuries.**
- 22.0503 Accident involving damage to vehicles.**
- 22.0504 Duty to give information and render aid.**
- 22.0505 Duty upon striking unattended vehicle.**
- 22.0506 Duty upon striking fixtures, or other property upon a highway.**
- 22.0507 Immediate notice of accidents.**
- 22.0508 Written reports of accidents, additional information, form of report.**
- 22.0509 When driver unable to report-False reports.**
- 22.0510 Accident report forms-Penalty.**
- 22.0511 Clinics or dispensaries to report.**
- 22.0512 Garages to report.**
- 22.0513 Accident reports confidential.**
- 22.0514 Commissioner to tabulate and analyze accident reports.**
- 22.0515 Uniformity of interpretation.**

22.0501 Short title.

This chapter shall be known and may be cited as the “Uniform Accident Reporting Act” for American Samoa.

History: 1977, PL 15-17.

22.0502 Accidents involving death or personal injuries.

(a) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible, but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of 22.0504. Every such stop shall be made without obstructing traffic more than is necessary

(b) Any person failing to stop or to comply with these requirements under such circumstances is guilty of a Class A misdemeanor and upon conviction shall be sentenced accordingly.

(c) The Commissioner shall revoke the license or permit to drive of any resident or any nonresident's operating privilege, of any person so convicted, for the period prescribed under 22.0213.

History: 1977, PL 15-17; amd 1980, PL 16-90 § 69.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice

22.0503 Accident involving damage to vehicles.

The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop the vehicle at the scene of the accident or as close thereto as possible and shall forthwith return to and in every event shall remain at the scene of such accident until he has fulfilled the requirements of 22.0504. Every such stop shall be made without obstructing traffic more than is necessary. Any person failing to stop, or comply with said requirements under such circumstances, shall be guilty of a Class B misdemeanor

History: 1977, PL 15-17; amd 1980, PL 16-90 § 70.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

22.0504 Duty to give information and render aid.

The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address, and the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's or chauffeur's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

History: 1977, PL 15-17.

22.0505 Duty upon striking unattended vehicle.

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck, a written notice giving the name and address of the driver and of the name of the owner of the vehicle doing the striking and a statement of the circumstance thereof.

History: 1977, PL 15-17.

22.0506 Duty upon striking fixtures, or other property upon a highway.

The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his operator's or chauffeur's license and shall make report of such accident when and as required in 22.0508.

History: 1977, PL 15-17.

22.0507 Immediate notice of accidents.

The driver of a vehicle involved in an accident resulting in injury to or death of any person or property damage to an apparent extent of \$100 or more shall immediately by the quickest means of communication give notice of such accident to the Chief.

History: 1977, PL 15-17.

22.0508 Written reports of accidents, additional information, form of report.

(a) The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of \$100 or more shall, within 24 hours after such accident, forward a written report of such accident to the Chief.

(b) The Chief may require any driver of a vehicle involved in an accident, of which report must be made as provided in this section, to file supplemental reports whenever the original report is insufficient, and may require witnesses of accidents to render reports. The Attorney General may issue process to enforce this obligation and the district court may compel.

(c) Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident, of which report must be made as required in this chapter, either at the time of and at the scene of the accident or thereafter by interviewing participants or witnesses shall, within 24 hours after completing the investigation, forward a written report of such accident to the Chief.

History: 1977, PL 15-17, amd 1979, PL 16-53 § 71.

Amendments: 1979 Subsection (b): substituted reference to District Court for reference to High Court.

22.0509 When driver unable to report-False reports.

(a) An accident report is not required under this chapter from any person who is physically incapable of making such report during the period of such incapacity.

(b) Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required under 22.0507 and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall make or cause to be given the notice not given by the driver.

(c) Whenever the driver is physically incapable of making a written report of an accident as required under 22.0508, and the driver is not the owner of the vehicle, then the owner of the vehicle involved in the accident shall within 24 hours after learning of the accident, make the report not made by the driver.

(d) Any person who fails to report or gives information in reports as required under 22.0508,

or in this section, knowing or having reason to believe that such information is false shall be fined not more than \$500, or imprisoned for not more than 6 months, or both.

History: 1977, PL 15-17.

22.0510 Accident report forms-Penalty.

(a) The Chief shall prepare and, upon request, supply to suitable agencies or individuals forms for required accident reports, appropriate with respect to the persons required to make the report and the purposes to be served. The written reports to be made by persons involved in accidents and by investigating officers shall call for sufficiently detailed information to disclose with references to a traffic accident the causes, conditions then existing, and the persons and vehicles involved.

(b) Every accident report required to be made in writing shall be made on the appropriate form approved by the Chief and shall contain all of the information required therein unless not available.

(c) The Commissioner may suspend the license or permit to drive of any resident and any nonresident operating privilege of any person failing to report an accident as herein provided until the report has been filed. Any person convicted of failing to report an accident by the quickest means of communication or failing to forward a written report as required herein shall be deemed guilty of a misdemeanor and punished by a fine of not more than \$25.

History: 1977, PL 15-17.

22.0511 Clinics or dispensaries to report.

Every physician or other official performing like functions shall on or before the 10th day 31 each month report in writing to the Chief the death of any person or injury to any person during the preceding calendar month as the result of a traffic accident, giving the date and time that the person was received, treated and released at LBJ Tropical Medical Center or other clinic or dispensary.

History: 1977, PL 15-17.

22.0512 Garages to report.

The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident of which report must be made as provided under 22.0508, or struck by any bullet, shall report to the Chief within 24 hours after the motor vehicle is received, giving the engine number, registration number, or the name and address of the owner or operator of that vehicle.

History: 1977, PL 15-17.

22.0513 Accident reports confidential.

(a) All required accident reports and supplemental reports shall be without prejudice to the individual so reporting and shall be for the confidential use of the Commissioner or other Territorial agencies having use for the records for accident prevention purposes, or for the administration of the laws of this Territory relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles, except that the Chief may disclose the identity of a person involved in an accident when that identity is not otherwise known or when the person denies his presence at the accident.

(b) All accident reports and supplemental information filed in connection with the administration of the laws of this Territory relating to the deposit of security or proof of financial responsibility shall be confidential and not open to general public inspection, nor shall copying of lists of the reports be permitted, except, however, that the reports and supplemental information may be examined by any person named therein or by his representative designated in writing.

(c) No report may be used as evidence in any trial, civil or criminal, arising out of an accident, except that the Chief shall furnish upon demand of any person who has, or claims to have, made such a report or upon the demand of any court, a certificate showing that a specified accident report has or has not been made to the chief solely to prove a compliance or a failure to comply with the requirement that such a report be made to the Chief.

History: 1977, PL 15-17.

22.0514 Commissioner to tabulate and analyze accident reports.

The Commissioner shall tabulate and may analyze all accident reports and shall publish annually or at more frequent intervals statistical information based thereon as to the number and circumstances of traffic accidents.

History: 1977, PL 15-17.

22.0515 Uniformity of interpretation.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those States and Territories which enact it.

History: 1977, PL 15-17.

Chapter 06

BLOOD TEST CONSENT

Sections:

- 22.0601 Consent to test.**
- 22.0602 Administration of test-Refusal-Report.**
- 22.0603 Evidence of refusal to submit to test.**
- 22.0604 Right to additional testing.**
- 22.0605 Persons permitted to conduct chemical blood test.**
- 22.0606 Right to results of test.**
- 22.0607 Presumptions based on alcoholic content of blood.**
- 22.0608 Suspension for refusal to take test-Notice of right of hearing.**
- 22.0609 Hearing-Oaths and subpoenas.**
- 22.0610 Hearing-Record.**
- 22.0611 Hearing-Scope-Decision.**
- 22.0612 Appeal.**

22.0601 Consent to test.

A person who operates a motor vehicle upon the highways of American Samoa is deemed to have given consent to a chemical test of his breath, blood, urine or saliva for the purpose of determining the alcoholic content of his blood if arrested for driving a motor vehicle while under

the influence of intoxicating liquor.

History: 1972, PL 12-65 § 1.

22.0602 Administration of test-Refusal-Report.

(a) A test shall be administered upon the request of a police officer having reasonable grounds to believe a person arrested to have been driving while under the influence of intoxicating liquor.

(b) If a person under arrest for driving a motor vehicle while under the influence of intoxicating liquor refuses to submit to a chemical test of his breath, blood, urine or saliva, and has been informed of the consequences of such refusal, as provided in 22.0608 and 22.0611, and of his rights as provided in 22.0604, no test may be given, but the police officer shall prepare a sworn report of the refusal and cause it to be delivered to the Office of the Administrative Law Judge.

(c) A report of a refusal to submit to a test shall disclose:

(1) whether the person, at the time he was requested to submit to a test, was under arrest for driving a motor vehicle while under the influence of intoxicating liquor;

(2) whether the police officer has reasonable grounds to believe, at the time the request was made, that the person refusing to submit to the test had been driving under the influence of intoxicating liquor;

(3) whether the person refused to submit to a test;

(4) whether such person was informed of the consequences of his refusal to submit to the test; and

(5) whether such person was informed of his rights as provided in 22.0604.

History: 1972, PL 12-65 § 1, amd 2004, PL 28-17.

22.0603 Evidence of refusal to submit to test.

If a person under arrest refuses to submit to a chemical test of his breath, blood, urine or saliva, evidence of his refusal shall be admissible in any civil or criminal action, suit or proceeding arising out of acts alleged to have been committed while the person was driving a motor vehicle on the highways under the influence of intoxicating liquor.

History: 1972, PL 12-65 § 1.

22.0604 Right to additional testing.

In addition to a chemical test of his breath, blood, urine or saliva administered upon the request of a police officer, a person arrested for driving a motor vehicle upon the highways of American Samoa while under the influence of intoxicating liquor shall be permitted, upon request and at his own expense, reasonable opportunity to have any licensed physician, surgeon, Samoan medical officer, licensed professional nurse or qualified technician administer a chemical test or tests for the purpose of determining the alcoholic content of his blood. The failure or inability to obtain such a test or tests by a person shall not preclude the admission of evidence relating to a test taken upon the request of a police officer.

History: 1972, PL 12-65 § 1.

22.0605 Persons permitted to conduct chemical blood test.

In conducting a chemical test of the blood, only a duly licensed physician, Samoan medical officer, surgeon, registered nurse, licensed professional nurse or qualified technician may

withdraw blood or pierce human tissue.

History: 1972, PL 12-65 § 1.

Amendments: 1986 Added surgeon, registered nurse, licensed professional nurse and qualified technician to list of persons permitted to conduct test.

22.0606 Right to results of test.

In any case in which a test of a person's breath, blood, urine or saliva has been performed, the results of the tests shall be made available to the person upon request.

History: 1972, PL 12-65 § 1.

220607 Presumptions based on alcoholic content of blood.

(a) At the trial of any civil or criminal action, suit or proceeding arising out of the acts committed by a person driving a motor vehicle while under the influence of intoxicating liquor, the amount of alcohol in the person's blood at the time alleged, as shown by chemical analysis of the person's breath, blood, urine or saliva, shall give rise to the following presumptions:

(1) not more than .05% by weight of alcohol in his blood supports a disputable presumption that he was not then under the influence of intoxicating liquor;

(2) more than .05%, but less than .08% by weight of alcohol in his blood is evidence that may be used to determine whether or not he was then under the influence of intoxicating liquor;

(3) not less than .08% by weight of alcohol in his blood supports a presumption that he was then under the influence of intoxicating liquor.

(b) Nothing in this section is intended to limit the introduction of any competent evidence bearing upon the question whether or not a person was under the influence of intoxicating liquor.

History: 1972, PL 12-65 § 1; amd 1986, PL 19-40 § 2.

Amendments: 1986 Subsection (a)(2): changed “.10%” to “.08%”; deleted “indirect”.
Subsection (a)(3): changed “.10%” to “.08%”; deleted “disputable”.

22.0608 Suspension for refusal to take test— Notice of right to hearing.

(a) Upon receipt of a report of a police officer, as required by subsection (b) of 22.0602, the Administrative Law Judge shall notify the reported person by personal service or by mail of the intention to suspend his license, permit or privilege to drive for a period of 90 days and allow the person a 20-day period after the date of service or mailing the notice to request, in writing, hearing before the Administrative Law Judge. If no request is filed within the 20-day period, the Administrative Law Judge shall thereupon suspend the license, permit or privilege of the person to drive a motor vehicle for a period of 90 days.

(b) Notice of intention to suspend or of an order of a suspension is presumed to have been received upon the expiration of 5 days after notice is deposited in the United States mail with postage prepaid, addressed to the person at his last known address as shown by his application for an original, renewal or duplicate license, which mailing may be proved by the certificate of any officer or employee of the Office of the Administrative Law Judge over the age of 21 years specifying the time and place of giving notice.

History: 1972, PL 12-65 § 1, amd 2004, PL 28-17.

22.0609 Hearing-Oaths and subpoenas.

(a) If a request for a hearing is filed, a hearing shall be held before the Administrative Law

Judge, at a time and place set by him.

(b) The Administrative Law Judge may administer oaths and shall issue subpoenas for the attendance of witnesses requested by the person requesting the hearing, the department of legal affairs, or the Department of Public Safety, and for the production of relevant documents.

History: 1972, PL 12-65 § 1, amd 2004, PL 28-17.

22.0610 Hearing-Record.

(a) The hearing shall be recorded by means determined by the Administrative Law Judge and shall include testimony and exhibits, if any.

(b) The record of the proceedings may summarize testimony rather than reporting it verbatim, and shall not be transcribed unless requested by a party to the proceeding.

History: 1972, PL 12-65 § 1, amd 2004, PL 28-17.

22.0611 Hearing-Scope-Decision.

(a) The scope of the hearing shall be limited to:

(1) whether the person, at the time he was requested to submit to a test, was under arrest for driving a motor vehicle while under the influence of intoxicating liquor;

(2) whether the police officer had reasonable grounds to believe, at the time the request was made, that the person refusing to submit to the test had been driving under the influence of intoxicating liquor;

(3) whether the person refused to submit to a test;

(4) whether the person was informed of the consequences of his refusal to submit to the test;

(5) whether the person was informed of his rights as provided in 22.0604.

(b) Upon an affirmative finding on each matter listed in subsection (a), the Administrative Law Judge shall issue an order suspending the license, privilege or permit of the person to drive a motor vehicle for 90 days; otherwise, no suspension shall be ordered.

History: 1972, PL 12-65 § 1, amd 2004, PL 28-17.

22.0612 Appeal.

(a) If, after a suspension hearing, an order of suspension is issued, the person shall have the right, within 30 days after he receives notice of the order of suspension, to appeal the matter by filing a petition in the district court.

(b) The court, upon receipt of the petition, shall set the matter for appeal upon 10 days' notice to the Office of the Administrative Law Judge, the Department of Legal Affairs, the Department of Public Safety and the appellant.

(c) The trial shall be confined to the record made at the suspension hearing.

History: 1972, PL 12-65 § 1; amd 1979, PL 16-53 § 63, amd 2004, PL 28-17.

Amendments: 1979 Subsection (a): substituted reference to district court for reference to Appellate Division of the High Court.

Chapter 07

SERIOUS TRAFFIC OFFENSES

Sections:

- 22.0701 Careless driving-Penalty.**
- 22.0702 Reckless driving-Penalty.**
- 22.0703 Reckless driving-Operator responsibility.**
- 22.0704 Reckless driving-Passenger responsibility-Penalty.**
- 22.0705 Fleeing from or attempting to elude police officer-Penalty.**
- 22.0706 Homicide by vehicle-Penalty.**
- 22.0707 Driving while under the influence of alcohol or other drugs-Penalty-Plea bargaining.**
- 22.0708 Causing death or bodily injury while driving under the influence-Penalty.**
- 22.0709 Jurisdiction over serious offenses.**

22.0701 Careless driving-Penalty.

Any person who drives any vehicle upon a highway, road or place accessible to the public in a careless and imprudent manner without due regard for the width, grade, curves, corners, traffic, or other attending circumstances is guilty of careless driving a class C misdemeanor and shall be sentenced accordingly. Whenever such careless driving of a vehicle proximately causes bodily injury to any person, the person so driving such vehicle is guilty of a class B misdemeanor, and upon conviction, sentenced accordingly.

History: 1972, PL 12-65 § 1; amd 1980, PL 16-90 § 61.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

22.0702 Reckless driving-Penalty.

Any person who drives any vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving a class B misdemeanor and shall upon conviction be sentenced accordingly. Whenever such reckless driving of a vehicle approximately causes bodily injury to any person, the person so driving such vehicle is guilty of a class A misdemeanor and upon conviction shall be sentenced accordingly.

History: 1972, PL 12-65 § 1; amd 1980, PL 16-90 § 62.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

22.0703 Reckless driving-Operator responsibility.

The operation of a motor vehicle while persons are riding on the exterior thereof, or while persons are riding in the vehicle in a manner that their bodies extend beyond the interior portion of the vehicle, constitutes reckless driving and is punishable as under 22.0702. The floor of the box, bed, or frame of a pickup or other truck vehicle is considered the interior portion of the vehicle for purposes of this section.

History: 1978, PL 15-63 § 1.

Case Notes:

It is not necessary for the government to prove knowledge on the driver in order to support a finding of guilty. *Simeaati Rees v. American Samoa Government*, ASR (1980).

22.0704 Reckless driving-Passenger responsibility-Penalty.

Persons riding on the exterior of a motor vehicle, or in vehicles in a manner that their bodies extend beyond the interior portion of the vehicle, are guilty of a misdemeanor and are punishable by a fine of not more than \$50, or imprisonment for not more than 30 days, or both. The floor or

the box, bed, or frame of a pickup or other truck vehicle is considered as the interior portion of the vehicle for the purposes of this section.

History: 1978, PL 15-63 § 2.

22.0705 Fleeing from or attempting to elude police officer-Penalty.

(a) Any driver of a motor vehicle who willfully fails or refuses to bring his vehicle to a stop, or who otherwise flees or attempts to elude a pursuing police vehicle, when given visual or audible signal by a police officer to bring the vehicle to a stop, is guilty of a class B misdemeanor, and upon conviction, shall be punished accordingly.

(b) The signal given by the police officer may be by hand, voice, emergency light or siren. The officer giving such signal shall be in uniform, prominently displaying his badge of office.

History: 1972, PL 12-65 § 1; amd 1980, PL 16-90 § 63.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

22.0706 Homicide by vehicle-Penalty.

Whoever unlawfully and unintentionally causes the death of another person while engaged in a violation of any law applying to the operation or use of a vehicle or to the regulation of traffic shall be guilty of homicide when such violation is the proximate cause of the death. Any person convicted of homicide by vehicle shall be fined not more than \$5,000, or imprisoned not more than 5 years, or both.

History: 1972, PL 12-65 § 1.

Case Notes:

“Proximate cause” proven if regulation violated by defendant was designed to prevent the very harm which occurred and the violation was a substantial factor in bringing about the accident. A.S.G. v. Sale Uo, 4 A.S.R. 2d 14(1987).

“proximate cause” within the meaning of homicide by vehicle statute is proven if the traffic regulation violated by the defendant was designed to prevent the sort of harm that actually occurred and the violation was a substantial factor in bringing about the accident. A.S.C.A. § 22.0706. American Samoa Government v. Sale Uo, 4 A.S.R.2d 14 (1987).

22.0707 Driving while under the influence of alcohol or other drugs-Penalty-Plea bargaining.

(a) Any person who, while under the influence of intoxicating liquor, any narcotic drug, or any other drug, to a degree which renders him incapable of safely driving, drives any motor vehicle upon any highway within American Samoa, or drives any boat within the Territorial waters of American Samoa, is guilty of a class A misdemeanor, and upon conviction, sentenced accordingly.

(b) Whenever there is a motor vehicle accident resulting in either vehicle damage or personal injury, and a driver is charged with driving under the influence of intoxicating liquor, that charge may not be plea bargained to a lesser charge if there is any evidence of intoxication.

History: 1972, PL 12-65 § 1;amd 1980, PL 16-90 § 64; amd 1986, PL 19-40 § 4.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice. 1986 Subsection (b): added.

Research Guide:

For provisions on consumption of alcoholic beverages on public roads or in moving vehicles, see 27.0532. For provisions on operation of watercraft while under the influence, see 20.0330.

22.0708 Causing death or bodily injury while driving under the influence-Penalty.

Any person operating or driving a motor vehicle, boat or ship of any kind while under the influence of intoxicating liquor, and who, by reason of such condition, does any act or neglects any duty imposed by law, which act or neglect of duty causes the death of or bodily injury to any person, shall be punished by imprisonment for not more than 5 years, or a fine not more than \$5,000, or both.

History: 1972, PL 12-65 § 1.

22.0709 Jurisdiction over serious offenses.

The district court shall have original jurisdiction in all cases arising under this chapter.

History: 1972, PL 12-65 § 1; amd 1979, PL 16-53 § 64.

Amendments: 1979 Substituted reference to District Court for reference to traffic department of the trial division of the High Court.

Chapter 08

PROCEDURE FOR TRAFFIC OFFENSES

Sections:

- 22.0801 Purpose.**
- 22.0802 Procedure in lieu of other procedures.**
- 22.0803 Authority of police to issue citation at scene of accident.**
- 22.0804 When person must be taken before court.**
- 22.0805 When person may be taken before court.**
- 22.0806 Violation of written promise to appear.**
- 22.0807 Uniform traffic ticket and complaint-summons.**
- 22.0808 Summons-Service.**
- 22.0809 Answer before violations clerk.**
- 22.0810 Appearance in court-Complaint-Abstract of court record.**
- 22.0811 Arrests.**
- 22.0812 Failure to answer a misdemeanor.**
- 22.0813 Evidence.**
- 22.0814 Costs.**
- 22.0815 Appointment and functions of violations bureau-Fines.**
- 22.0816 Plea of guilty, waiver of trial, payment of fine.**
- 22.0817 Procedure after three convictions.**
- 22.0820 Law enforcement costs.**

22.0801 Purpose.

The purpose of this chapter is to provide a procedure for the adjudication of all vehicle code violations not amounting to a felony and those not taken before a magistrate as herein-before required or permitted. To this end the procedure established by the American Bar Association Standing Committee on Traffic Court and specifically the Uniform Traffic Ticket and Complaint is noted and approved.

History: 1972, PL 12-65 § 1.

22.0802 Procedure in lieu of other procedures.

The procedure set forth in this chapter may be employed in lieu of all others for violations of this title not amounting to felonies.

History: 1972, PL 12-65 § 1.

Case Notes:

Police may initiate prosecution for traffic offense by issuing ordinary traffic citation and summons even well after all parties have left the scene of the offense, and due process does not require usual procedural protection of full criminal prosecution. A.S.C.A. §§ 22.0802, 22.0803. *American Samoa Government v. Ofa*, 6 A.S.R.2d 1 (1987).

22.0803 Authority of police to issue citation at scene of accident.

Except for felonies, a police officer at the scene of a traffic accident may issue a written traffic citation to any driver of a vehicle involved in the accident when, based upon his personal investigation, the officer has reasonable and probable grounds to believe that the person has committed an offense under a provision of this title in connection with the accident.

History: 1972, PL 12-65 § 1.

Case Notes:

Police may initiate prosecution for traffic offense by issuing ordinary traffic citation and summons even well after all parties have left the scene of the offense, and due process does not require usual procedural protection of full criminal prosecution. A.S.C.A. §§ 22.0802, 22.0803. *American Samoa Government v. Ofa*, 6 A.S.R.2d 1 (1987).

22.0804 When person must be taken before court.

Whenever any person is halted by a police officer for any violation of this title not amounting to a felony, he shall be taken without unnecessary delay before the next sitting of the district court in either of the following cases:

- (1) when the person demands an immediate appearance before the court;
- (2) in any other event when the person is issued a traffic citation by an authorized person and refuses to give his written promise to appear in court as hereinafter provided.

History: 1972, PL 12-65 § 1; amd 1979, PL 16-53 § 66.

Amendments: 1979 Substituted reference to district court for reference to traffic department in opening paragraph.

22.0805 When person may be taken before court.

Whenever any person is halted by a police officer for any violation of this title and is not required to be taken before the court the person shall, in the discretion of the officer, either be given a traffic citation or be taken without unnecessary delay before the next sitting of the district court in any of the following cases:

- (1) when the person does not furnish satisfactory evidence of identity or when the officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court;
- (2) When a driver of a vehicle refuses to allow inspection of the vehicle by a police officer as

provided for in 22.1203.

History: 1972, PL 12-65 § 1; amd 1979, PL 16-53 § 67.

Amendments: 1979 Substituted reference to district court for reference to traffic department in opening paragraph.

22.0806 Violation of written promise to appear.

(a) It is unlawful for any person to violate his written promise to appear given to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which such citation was originally issued.

(b) A written promise to appear in court may be complied with by an appearance by counsel.

History: 1972, PL 12-65 § 1.

22.0807 Uniform traffic ticket and complaint-summons.

(a) In the event of any violation of a provision of this title resulting in a misdemeanor or an infraction, proceedings may be instituted by the serving of a summons upon the violator.

(b) The summons shall be signed by a police officer of American Samoa and shall be substantially in the form known as the “Uniform Traffic Ticket and Complaint-Summons.

(c) No code section need be specified in the summons in any case in which the charged violation is specifically designated through the use of indicated boxes provided on the uniform ticket and complaint.

(d) The summons may contain other information pertinent to the charged offense and such forms for appearance, plea and waiver as are necessary under 22.0815 et seq.

History: 1972, PL 12-65 § 1; 2001, PL 27-8.

22.0808 Summons-Service.

(a) The summons may be served by the delivery of a copy thereof to the defendant, or by affixing a copy thereof to the outside of the vehicle’s front windshield, if unoccupied.

(b) The summons may be served by any member of the department of public safety, a police officer or any deputy.

History: 1972, PL 12-65 § 1; 2002, PL 27-18.

22.0809 Answer before violations clerk.

A summons lawfully issued under the provisions of this chapter may be answered by appearing before the close of business hours and within 7 business days from the date of the service, before the violations bureau in any case within the provisions of 22.0815 et seq. In such cases the summons shall constitute a complaint to which the defendant may plead guilty.

History: 1972, PL 12-65 § 1; amd 1979, PL 16-53 § 68.

Amendments: 1979 Substituted “7 business days” for “three business days” and “violations bureau” for “violations clerk”.

22.0810 Appearance in court-Complaint-Abstract of court record.

(a) In any instance in which the summons is not answered by appearance, plea and waiver before a violations clerk, the defendant shall answer the summons by appearing in court at the date and time indicated on the summons.

(b) Before any offense shall be heard by the court, or any plea taken, there shall be filed with

the clerk of the court a complaint signed and sworn to by a police officer of American Samoa, which shall set forth the particulars of the alleged offense. The complaint shall be substantially in the form known as the “Uniform Traffic Ticket and Complaint Affidavit”. The complaint may also contain other information pertinent to the alleged offense.

(c) There shall also be transmitted to the court an “Abstract of Court Record for Violations Bureau”, which shall be substantially in the form known as the “Uniform Traffic Ticket and Complaint-Abstract of Court Record”. Upon disposition of the case, the court shall complete such abstract and cause it to be transmitted to a violations clerk.

(d) The summons and complaint of the uniform traffic ticket and complaint shall be considered sufficient information to initiate and sustain an action under this chapter. Upon proper motion by the defendant, however, the government may be required to produce further information which may have become essential for a fair trial.

History: 1972, PL 12-65 § 1.

Case notes:

The District Court has no jurisdiction to proceed with the trial of a traffic case if no sworn complaint has been filed. *Atapana Aumua v. Government of American Samoa*. ASR (1980).

22.0811 Arrests.

Upon the failure of any person to answer a summons issued pursuant to this chapter, a warrant for his arrest may issue. Such warrant shall be supported by sworn complaint as provided in 46.0802.

History: 1972, PL 12-65 § 1.

22.0812 Failure to answer a misdemeanor.

Any person who willfully fails to answer a lawful summons issued pursuant to the provisions of this chapter is guilty of a misdemeanor, regardless of the disposition of the charge upon which the summons was originally issued.

History: 1972, PL 12-65 § 1.

22.0813 Evidence.

Evidence from radar or other electronic equipment used to check and record the speed of vehicles may be admitted as evidence in the prosecution of alleged motor vehicle violations.

History: 1972, PL 12-65 § 1.

Case Notes:

Not intended to dispense with a proper showing of reliability and accuracy of radar. *Government of American Samoa v. Harriman*, ASR (1979).

22.0814 Costs.

(a) The court may assess reasonable costs against any defendant who fails to appear and answer a lawful summons as provided in this chapter.

(b) Such costs, when assessed, shall be segregated into a fund which shall be administered by the Chief Justice.

(c) Such fund shall be used to defray the expenses of the administration of 22.0815 et seq.

History: 1972, PL 12-65 § 1.

22.0815 Appointment and functions of violations bureau-Fines.

(a) The Chief Justice of the High Court, whenever he determines that the efficient disposition of the court's business and the convenience of persons charged so requires, may constitute the clerk or deputy clerk of the High Court, or any other appropriate official of the government, or if such other appropriate officials are not available for appointment, any suitable and responsible person, as a clerk in the violations bureau.

(b) It shall be the function of the violations bureau to accept appearance, waiver of trial, plea of guilty and payment of fine and costs in misdemeanor traffic offenses and traffic infractions, subject to the limitations prescribed by this chapter.

(c) The violations bureau shall serve under the direction and control of the High Court.

(d) The district court shall by order, which may from time to time be amended, supplemented or repealed, designate the misdemeanor traffic offenses and traffic infractions within the authority of the violations bureau; provided, that such offenses shall in no event include felonies, accidents, resulting in property damage or personal injury, operation of a motor vehicle while under the influence of intoxicating liquor or a narcotic or habit-producing drug, or permitting another person who is under such influence to operate a motor vehicle owned by the defendant or in his custody or control, reckless driving or leaving the scene of an accident.

(e) The District Court, by published order to be prominently posted in the place where the fines are to be paid, shall specify by suitable schedules the amount of fines to be imposed for first, second and subsequent offenses, designating each offense specifically in the schedules, provided such fines are within the limits declared by statute or ordinance. Fines and costs shall be paid to, receipted by and accounted for by the violations bureau in accordance with these rules.

History: 1966, PL9-37; amd 1979, PL 16-53 § 69; 2001, PL 27-8.

Amendments: 1979 Subsections (d) and (e): substituted references to District Court for references to "the court," and references to the violations bureau for references to the violations clerks.

22.0816 Plea of guilty, waiver of trial, payment of fine.

(a) Any person charged with any misdemeanor traffic offense within the authority of the violations clerks may appear in person before a violations clerk and, upon signing a plea of guilty and waiver of trial, pay the fine established for the offense charged, and costs.

(b) He shall, prior to such plea, waiver and payment, be informed of his right to stand trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record of conviction will be sent to the Commissioner of Public Safety of this territory.

History: 1966, PL 9-37.

22.0817 Procedure after three convictions.

No person who has been found guilty of or who has signed a plea of guilty to 3 previous traffic offenses in the current calendar year may be permitted to appear before a violations clerk unless the court shall, by general order applying to certain specified offenses, permit such appearance, conditioned upon the payment of a substantially increased fine, which increase shall be specified in such general order.

History: 1966, PL 9-37.

22.0820 Law enforcement costs.

(a) In addition to any fines or costs assessed under this chapter or imposed pursuant to this title, the Court shall impose a law enforcement costs offset fee of ten dollars (\$10.00) per conviction of any violation of any section of this title or title 20. For the purposes of this section, this fee shall also be imposed against licensed drivers failing to have their license in their immediate possession when operating a motor vehicle pursuant to section 22.0210.

(b) Such fee, when assessed, shall be segregated into a separate checking account designated "ASG - Traffic Rehabilitation Account" administered by the Treasurer of American Samoa. Such costs shall be expended solely for purchase or maintenance of traffic control devices, traffic patrol vehicles, and traffic safety or traffic law enforcement.

(c) The revenues generated from the fee imposed in this section shall be subject to appropriation by the Legislature and approval by the Governor.

History: 1999, PL 26-1.

Chapter 09

MOTOR VEHICLE INFORMATION

Sections:

- 22.0901 Definitions.**
- 22.0902 Disclosure document-Information required.**
- 22.0903 Enforcement and penalty.**
- 22.0904 Effective date.**

22.0901 Definitions.

(a) "Vehicle" means any passenger car or other automobile or truck whether used for commercial, public, or private purposes.

(b) "New vehicle" means a vehicle the title to which has never been transferred by a manufacturer, distributor, or dealer to an original purchaser.

(c) "Dealer" means any person, group of persons, or business organization of any kind engaged in the sale or distribution of new vehicles to the original purchaser.

(d) "Original purchaser" means the first person, other than a dealer acting as a dealer, who purchases the new vehicles for purposes other than resale.

History: 1985, PL 19-30 § 1.

22.0902 Disclosure document-Information required.

(a) Every new vehicle sold to an original purchaser in the Territory must have affixed to a side window prior to the sale a disclosure document which contains the following information regarding that new vehicle:

(1) certification that the motor vehicle conforms to all applicable federal motor vehicle safety standards, as established under the Motor Vehicle Safety Act, 15 U.S.C. § 1381, et seq.;

(2) make, model, serial number, and other identification numbers provided by the manufacturer;

(3) the name and location of business of the dealer to whom the car was delivered.

(4) the method of transportation of the new vehicle from the manufacturer to the dealer;

(5) the amounts charged by the manufacturer for:

(A) each accessory or optional item which is attached to the car upon delivery to the dealer:

and

- (B) transportation of the new vehicle to the location of the dealer;
- (6) the retail price suggested for the new vehicle by the manufacturer, not including amounts listed in paragraph (4): and
- (7) the total of the amounts charged under paragraphs (4) and (5).

History: 1985, PL 19-30 § 1.

22.0903 Enforcement and penalty.

(a) This chapter shall be enforced by the Director of the Consumer Protection Bureau. The Director is authorized to bring civil actions to enjoin violations of this chapter and recover money damages for such violations.

(b) Any dealer who sells a new vehicle in the Territory to an original purchaser without the disclosure document or all of the information required by 22.0902 is guilty of a class B misdemeanor. Each new vehicle sold in violation of this chapter constitutes a separate offense.

History: 1985, PL 19-30 § 1:

22.0904 Effective date.

In order to provide dealers in the Territory a fair opportunity to obtain for present new vehicles and order for future new vehicles the disclosure document, this act will take effect 120 days after approval by the Governor.

History: 1985, PL 19-30 § 1.

Chapter 10

VEHICLE LICENSING AND REGISTRATION

Sections:

- 22.1001 Motor vehicle registration and license required.**
- 22.1002 Application for and issuance of license-Fees.**
- 22.1003 Display of license.**
- 22.1004 Expiration of license.**
- 22.1005 Exemptions.**
- 22.1006 Offenses.**
- 22.1007 Vehicles of servicemen.**

22.1001 Motor vehicle registration and license required.

No motor vehicle may be operated on any highway in American Samoa without a valid registration and vehicle license tags as required by this chapter.

History: 1972, PL 12-65 § 1.

Case Notes:

Section is part of statutory scheme intended to ensure recovery in tort for victims injured by drivers who could not afford to pay damages. Amount to be recovered against defendants not to exceed amount that would have been covered by insurance had defendant not breached its statutory duty to provide insurance. *Foma'i v. Samana*, 4 A.S.R.2d 102 (1987).

Rental company that allowed its automobile to be operated on the highway without insurance required by law

was liable for damages suffered by person injured by negligent driver of company's automobile, up to the amount that would have been covered by insurance if the rental company had not breached its statutory duty to provide insurance. A.S.C.A. §§ 22.1001, 22.2002-03. *Foma'i v. Samana*, 4 A.S.R.2d 102 (1987).

Statute requiring the owner of a vehicle to purchase and maintain liability insurance for losses inflicted by any person using his vehicle, and related statutes forbidding the operation of uninsured vehicles on the public highway and giving an injured person the right to bring direct action against the insurer, were intended to ensure recovery in tort for victims injured by drivers who could not afford to pay damages. A.S.C.A. §§ 22.1001, 22.2002-03. *Foma'i v. Samana*, 4 A.S.R.2d 102 (1987).

Licensing of a car requires proof of liability insurance, and only licensed cars may be driven on public highways, so that use of public highways is effectively conditioned on maintenance of insurance. A.S.C.A. §§ 22.1001, 22.1002. *Pu'u v. Lepule*, 8 A.S.R.2d 68 (1988).

22.1002 Application for and issuance of license-Fees.

(a) Application for a motor vehicle license shall be made to the Commissioner on forms as the Commissioner may prescribe.

(b) No motor vehicle license may be issued without:

- (1) payment of the prescribed motor vehicle license fee;
- (2) presentation of a valid inspection certificate issued pursuant to 22.1201 et seq.;
- (3) certification of insurance coverage as required by 22.2001 et seq., provided that such coverage will be effective for the period of the license;
- (4) issuance of a valid motor vehicle registration.

(c) Upon satisfactory compliance with the provisions of this section the Commissioner shall issue 2 decals to the applicant which decals denominate the period for which registration is effective and are to be placed on the license tags.

(d) The following vehicle license registration fees are established:

- (1) motor vehicle, including private vehicles, cargo vehicles, buses, motorcycles, taxis, trailers, tractors and rentals, \$32.00; plus per ton of weight, \$12.00;
- (2) bicycle, \$2.00;
- (3) renewal for motor vehicle, \$32.00;
- (4) Legal Ownership Certificates and Titles, \$10.00;
- (5) Transfers, \$10.00;
- (6) Shipments, \$10.00;
- (7) Conversions, \$12.00;
- (8) Duplicate titles, \$10.00;
- (9) Late penalties, \$9.00.

(e) For the purposes of subsection (d), the definitions in 22.0101 apply.

(f) The Commissioner shall issue 2 license tags to each applicant:

- (1) registering a vehicle not registered in the Territory in the preceding 5 years; or
- (2) whose tags have been lost or stolen, upon proof of same. The fee for replacing lost or stolen tags or plates shall be \$22.00.

(g) For purposes of this section only, a total of \$7.00 from each fee paid shall be placed in a revenue fund for the Department of Public Safety for law enforcement costs and maintenance and supplies for production of driver licenses and vehicle registrations.

History: 1963, PL 8-6; 1969, PL 11-49; 1972, PL 12-65 § 1; amd 1977, PL 15-41 § 1; 1980, PL 16-57 § 2; amd 1980, PL 16-80 § 1; 2005, PL 29-13.

Amendments: 1977 Subsections (a) and (c): substituted "Commissioner" for Treasurer".

1980 Paragraph (d)(l): added fee for ton of weight.

Subsection (e): added.

Subsection (c): amended.

Subsection (f): added.

Research Guide:

See 27.0242 for administration and enforcement of subsection (d).

Case Notes:

Licensing of a car requires proof of liability insurance, and only licensed cars may be driven on public highways, so that use of public highways is effectively conditioned on maintenance of insurance. A.S.C.A. §§ 22.1001, 22.1002. *Pu'u v. Lepule*, 8 A.S.R.2d 68 (1988).

22.1003 Display of license.

License tags shall be displayed only on the vehicle for which they were issued, and in the following manner:

- (1) one firmly attached to the front and the other firmly attached to the rear of the vehicle at all times, which shall at all times be kept clean and plainly visible for a distance of 50 feet;
- (2) the license tags shall be properly illuminated in accordance with subsection (e) of 22.1101.

History: 1972, PL 12-65 § 1.

22.1004 Expiration of license.

All motor vehicle licenses issued under this chapter expire annually at times as designated by the Commissioner by rules in the interest of public safety. The Commissioner may allow up to 30 days' grace period to obtain vehicle inspection certificates.

History: 1972, PL 12-65 § 1; amd 1977, PL 15-41 § 2.

Amendments: 1977 Changed expiration date and substituted 'commissioner' for 'Treasurer'.

22.1005 Exemptions.

The following motor vehicles are exempt from the provisions of this chapter:

- (1) motor vehicles owned and operated by the Government of American Samoa or the Government of the United States;
- (2) motor vehicles validly licensed in any state, except that they are exempt only for a period not to exceed the expiration date of such license or the period specified in 22.1004, whichever comes first, and except that such vehicles must comply with the requirements of paragraphs (b) (2) through (b) (4) of 22.1002, pertaining to inspection, insurance and registration, before such vehicle may be operated on any highway in American Samoa;
- (3) motor vehicles owned by or in custody of licensed dealers or importers, while being transported from the point of entry to American Samoa to the premises of the dealer or importer;
- (4) motor vehicles being operated to or from vehicle inspection stations for the purposes of obtaining a motor vehicle license as required by this chapter, except that such vehicles must comply with the requirements of paragraph (b)(3) of 22.1002, pertaining to insurance, before such vehicle may be operated on any highway in American Samoa.
- (5) Notwithstanding subsection (1), all vehicles owned or operated by the American Samoa Government must be identified with the appropriate government branch or department tags.

History: 1972, PL 12-65 § 1; amd 1994, PL 23-12.

22.1006 Offenses.

(a) A person who, with fraudulent intent, does any of the following, is guilty of a class D felony:

- (1) alters, forges or counterfeits a registration card, motor vehicle license application, license

tag or insurance or inspection certificate;

(2) has possession of or uses a registration card, motor vehicle license application or license tag, or insurance or inspection certificate, knowing it to have been altered, forged or counterfeited;

(3) uses a false or fictitious name or address, makes a material false statement, or fails to disclose or conceal any material fact in an application for registration, motor vehicle license or insurance or inspection certificate.

(b) A person is guilty of a class B misdemeanor who:

(1) with fraudulent intent, permits another, not entitled thereto, to use or have possession of a registration card or license tag;

(2) commits a fraud in any application for a registration, motor vehicle license or insurance or inspection certificate;

(3) attaches to and uses on any vehicle plates, tags, or emblems not furnished in accordance with the law;

(4) fraudulently uses vehicle plates, tags, or emblems upon any vehicle other than the one to which the number, plates, tags or emblems were issued;

(5) violates any other provision of this chapter.

History: 1972, PL 12-65 § 1;amd 1980,PL 16-90 § 59; amd 1988, PL 20-49.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

22.1007 Vehicles of servicemen.

(a) A person who is an active member of the United States military services in a jurisdiction that allows the serviceman to operate a motor vehicle with a foreign registration and license plates, may apply for and receive by mail a registration certificate and license plates or tags from the Commissioner.

(b) The Commissioner shall adopt administrative rules pursuant to 4.1001 et seq., to implement this section.

History: 1983, PL 18-20 § 1.

Chapter 11

MOTOR VEHICLE EQUIPMENT

Sections:

22.1101 Head lamps and tail lamps.

22.1102 Stop lamps.

22.1103 Lamp or flag on projecting load or part of a vehicle.

22.1104 Dimming of head lamps on parked vehicles.

22.1105 Lamps on vehicles not specifically covered by chapter.

22.1106 Backup lamps.

22.1107 School bus lamps, signals and signs.

22.1108 Brakes.

22.1109 Standards for brakes.

22.1110 Horns.

22.1111 Muffler and exhaust systems.

22.1112 Mirrors.

- 22.1113 Windshields, windows, and wipers.**
- 22.1130 Motorcycle engine size limits-Exception.**
- 22.1131 Motorcycle protective devices-Penalty.**
- 22.1141 Exceptions to operation of chapter.**
- 22.1142 Exclusion of emergency warning equipment from unauthorized vehicles.**
- 22.1143 Sound amplification systems.**
- 22.1150 General misdemeanor provision.**

22.1101 Head lamps and tail lamps.

Every vehicle upon a highway at any time from a half hour after sunset to a half hour before sunrise, during heavy rainstorms, or at any other times when there is not sufficient light to render clearly discernible any person or vehicle on the highway at a distance of 200 feet, must be equipped with lighted lamps and lighting devices as follows:

(a) Each side of the front of every motor vehicle, except motorcycles, must be equipped with at least 1, but not more than 2, head lamps. All head lamps must be located at a height of not more than 54 inches nor less than 24 inches, measured above the level surface upon which the vehicle stands.

(b) Every motorcycle or bicycle must be equipped with a lamp on the front exhibiting a white light visible at least 500 feet to the front.

(c) All vehicles utilizing single beam head lamps must have lights positioned to illuminate persons and vehicles at a distance of not more than 200 feet and not less than 150 feet.

(d) All vehicles utilizing multiple beam head lamps must use the lower beam when an on-coming vehicle approaches within 500 feet from the front and whenever the driver of the vehicle approaches another vehicle within 300 feet from the rear.

(e) Every motor vehicle, or vehicle being drawn at the end of a motor vehicle, must be equipped with 1 or more lighted rear lamps exhibiting red light plainly visible from a distance of 500 feet to the rear. One of such rear lamps or a separate lamp, must be so constructed and placed as to illuminate with a white light the rear license tag and render it clearly legible from a distance of 50 feet to the rear.

(f) Every bicycle must be equipped with a red reflector on the rear visible from a distance of 300 feet to the rear.

History: 1972, PL 12-65 § 1.

Case Notes:

“Heavy rainstorms” means rainstorms so heavy that there is not sufficient light to render clearly discernible any person or vehicle on the highway at a distance of 200 feet. *Mageo v. Hartford Fire Insurance Co.*, ASR (1978).

22.1102 Stop lamps.

Every vehicle must be equipped with at least 1, but not more than 2 stop lamps on the rear of the vehicle, which must display a red or amber light, or any color between red and amber, visible from a distance of not less than 200 feet to the rear in normal sunlight and which must be actuated upon application of the service (foot) brake and which may, but need not, be incorporated with one or more other rear lamps.

History: 1972, PL 12-65 § 1.

22.1103 Lamp or flag on projecting load or part of a vehicle.

(a) Whenever the load upon any vehicle extends, or any integral part of any vehicle projects, to the rear 4 feet or more beyond the bed or body of such vehicle, there must be displayed at the

extreme end of the load or projecting part of the vehicle, at the times specified in 22.1101, in addition to the required rear light, a light plainly visible under normal atmospheric conditions from a distance of at least 500 feet to the sides and rear. At any other time, there must be displayed at the extreme end of such load or projecting part of the vehicle a red flag or red cloth not less than 16 inches square.

(b) Whenever the load upon any vehicle extends from the left side of such vehicle 1 foot or more to the left of the front hubcap on the left side, there must be displayed at the extreme left side of such load at the times specified in 22.1101, a lighted lantern or other light plainly visible under normal atmospheric conditions from a distance of at least 300 feet to the left and to the front and rear of such vehicle.

History: 1972, PL 12-65 § 1.

22.1104 Dimming of head lamps on parked vehicles.

Any lighted head lamps on a parked vehicle must be depressed or dimmed.

History: 1972, PL 12-65 § 1.

22.1105 Lamps on vehicles not specifically covered by chapter.

Every motor or other vehicle, including bicycles and all other conveyances used on a highway, not specifically required by this chapter to be equipped with lamps or other lighting devices, must at all times, as specified in 22.1101, be equipped with a lamp emitting a light visible under normal atmospheric conditions from a distance of 300 feet in front of such vehicle and with a red reflector on the rear so designed as to be visible at least 300 feet directly in front of a motor vehicle displaying lawful dimmed head lamps or with a rear lamp exhibiting a red light visible from a distance of 300 feet to the rear.

History: 1972, PL 12-65 § 1.

22.1106 Backup lamps.

Any motor vehicle may be equipped with 1 or more backup lamps either separately or in combination with other lamps, but any such backup lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

History: 1972, PL 12-65 § 1.

22.1107 School bus lamps, signals and signs.

Every school bus purchased after 1 September 1971, in addition to any other equipment and distinctive markings required by this chapter, must:

(1) be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front 2 alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, which shall have sufficient intensity to be visible at 500 feet in normal sunlight;

(2) bear upon the front and rear thereof plainly visible signs containing the words "SCHOOL BUS" in letters not less than 8 inches in height, and, in addition, must be equipped with visual signals meeting the requirements of 22.1101 and 22.1102, which must be actuated by the driver of the school bus whenever, but only whenever, such vehicle is stopped on the highway for the purpose of receiving or discharging schoolchildren.

History: 1972, PL 12-65 § 1.

22.1108 Brakes.

(a) Every motor vehicle other than a motorcycle, when operated upon a highway, must be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle, including 2 separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least 2 wheels. If these 2 separate means of applying the brakes are connected in any way, they must be so constructed that failure of any one part of the operating mechanism will not leave the motor vehicle without brakes on at least 2 wheels.

(b) Any combination of motor vehicle, trailer, semitrailer or other vehicle must be equipped with brakes upon one or more of such vehicles.

(c) Every motorcycle, and bicycle with motor attached, when operated upon a highway, must be equipped with at least one brake, which may be operated by hand or foot.

(d) All brakes must be maintained in good working order and shall conform to the regulations set forth in 22.1109.

History: 1972, PL 12-65 § 1.

22.1109 Standards for brakes.

(a) The brakes of a motor vehicle or combination of vehicles shall be deemed adequate if, on a dry, hard, approximately level stretch of highway free from loose materials, such brakes are capable of stopping the motor vehicle combination of vehicles, when operating at speeds set forth in the following table, within the distance set opposite such speeds:

Miles per Hour	Stopping Distance (in feet)
10	9.3
15	20.8
20	37.0
25	58.0
30	83.3

(b) The test to be used in determining whether vehicles meet the performance requirements set forth in subsection (a) must be conducted as prescribed by the Commissioner. The test may be conducted by the use of instruments suitable for the purpose approved by the United States Bureau of Standards. No vehicle may be tested for brake efficiency at a speed higher than that permitted by law for such vehicle.

History: 1972, PL 12-65 § 1.

22.1110 Horns.

(a) Every motor vehicle, when operated upon a highway, must be equipped with a horn in good working order and capable of emitting sound audible under normal conditions for a distance of not less than 200 feet, but no horn shall emit an unreasonably loud or harsh sound.

(b) The driver of a motor vehicle, when reasonably necessary to insure its safe operation, shall give audible warning with his horn. Such horn shall not otherwise be used.

History: 1972, PL 12-65 § 1.

22.1111 Muffler and exhaust systems.

(a) Any motor vehicle on a highway must at all times be equipped with a muffler to prevent any excessive or unusual noise.

(b) No muffler or exhaust system may be equipped with a cutout, bypass, or similar device, and no person may modify the exhaust system of a motor vehicle in a manner which will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the muffler originally installed on the vehicle.

(c) All exhaust pipes must be parallel to the ground and the vehicle, or vertical, and the exhaust from such pipes may not be directed to the side of the vehicle.

History: 1972, PL 12-65 § 1.

22.1112 Mirrors.

Every motor vehicle must be equipped with a mirror located so as to reflect to the driver a view of the highway for a distance of at least 200 feet to the rear.

History: 1972, PL 12-65 § 1.

22.1113 Windshields, windows, and wipers.

(a) No person may drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings or side or rear windows which materially obstructs, obscures or impairs the driver's clear view of the highway or any intersecting highway.

(b) The windshield on every motor vehicle must be equipped with a device for clearing rain or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(c) Every windshield wiper upon a motor vehicle must be maintained in good working order.

History: 1972, PL 12-65 § 1.

22.1130 Motorcycles engine size limits-Exception.

The maximum engine size limits for motorcycles is 1200 cubic centimeters.

History: 1972, PL 12-65 § 1; amd 1976, PL 14-21; 1979, PL 16-34 § 1; amd 1980, PL 16-59 § 1.

Amendments: 1976 Section formerly provided that the governor was to determine "maximum horsepower limits", and that motorcycles with horsepower in excess of the limits could not be imported, operated or used without the governor's written permission. 1979 Raised cubic centimeters from 100 to 350, and added exception. 1980 Changed "350" to "1200", and deleted exception for law enforcement motorcycles.

22.1131 Motorcycle protective devices-Penalty.

(a) It is unlawful for a person to operate a motorcycle or motor scooter on any public roadway in the Territory unless he and any passenger he carries on the vehicle wears:

(1) a safety helmet on the head. securely fastened with a chin strap;

(2) safety glasses, goggles, or a face shield in the case of a motorcycle or motor scooter that is not equipped with windscreens or windshields; and

(3) other protective devices required by rules adopted by the commissioner of public safety under 4.1001 et seq.

(b) The penalty, upon conviction, for a violation of this section is a fine of not more than \$25, or imprisonment for not more than 1 month, or both.

History: 1975, PL 14-7.

22.1141 Exceptions to operation of chapter.

The provisions of this chapter relating to equipment required on vehicles shall not apply to implements of husbandry, road machinery, road rollers, farm tractors, motorcycles or motor-driven cycles, except as made applicable by this chapter.

History: 1972, PL 12-65 § 1.

22.1142 Exclusion of emergency warning equipment from unauthorized vehicles.

Only authorized emergency vehicles may be equipped with the following:

- (1) sirens or siren-like devices other than horns;
- (2) any red or blue light visible from the front center portion of any vehicle;
- (3) flashing lights other than turn signals or headlights and taillights used to warn others of a particular hazard;
- (4) any other special warning device which the Commissioner has designated for use on emergency vehicles.

History: 1972, PL 12-65 § 1.

22.1143 Sound amplification systems.

(a) No driver of a motor vehicle shall operate, or permit the operation of, any sound amplification system which can be heard outside the vehicle from 50 or more feet when the vehicle is being operated upon a highway, unless that system is being operated to request assistance or warn of a hazardous situation.

(b) This section does not apply to Department of Public Safety vehicles, authorized emergency vehicles or to sound systems of vehicles used in properly permitted parades.

(c) Section 22.1150 notwithstanding, violation of this section shall be an infraction.

History: 2011, PL 32-4.

22.1150 General misdemeanor provision.

It is a class B misdemeanor 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 combination of vehicles in such unsafe condition as to endanger any person, or which does not contain those parts, or is not at all times equipped with such lamps and other equipment, in proper condition and adjustment, as is required by this chapter, or which is equipped in any manner in violation of this chapter, or for any person to do any act forbidden, or fail to perform any act required, under this chapter.

History: 1972, PL 12-65 § 1; amd 1980, PL 16-90 § 65.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

Chapter 12

INSPECTION OF VEHICLES

Sections:

- 22.1201 Duty to keep vehicles in safe and properly equipped condition.**
- 22.1202 Initial and annual inspections and upon request of Commissioner.**
- 22.1203 Inspection upon request of police officer.**

- 22.1204 Notice of deficiencies.**
- 22.1205 Remedy of deficiencies.**
- 22.1206 Minor deficiencies-Permitted operation.**
- 22.1207 Minor deficiencies-Determination.**
- 22.1208 Confiscation of registration and tags.**
- 22.1220 Reinspection of vehicles converted to commercial use.**
- 22.1230 Repealed.**
- 22.1231 Inspection fees.**

22.1201 Duty to keep vehicles in safe and properly equipped condition.

No person may drive or move on any highway any motor vehicle, trailer, semitrailer, pole trailer, or any combination thereof, unless the equipment upon every vehicle is in good working order and adjustment as required by this title and unless the vehicle is in such safe mechanical condition as not to endanger the driver or other occupants or any person or property.

History: 1972, PL 12-65 § 1.

22.1202 Initial and annual inspections and upon request of commissioner.

(a) All motor vehicles must be inspected by the Office of Public Safety or a privately owned facility as authorized by the Commissioner and an official certificate of safety inspection and approval obtained for each vehicle as follows:

- (1) upon an original application for registration;
- (2) annually, at the time designated by the Commissioner by rules;
- (3) in the interest of public safety, upon request of the Commissioner.

(b) Such inspections must determine whether the vehicle inspected meets all requirements as to equipment under this title and is in such safe mechanical condition as not to endanger the driver or any other person or property when driven or moved on any highway.

History: 1972, PL 12-65 § 1; amd 1977, PL 15-41 § 3.

Amendments: 1977 Subsection (a): substituted "Office of Public Safety" for "Department of Public Works" in opening lines, and deleted "and regulations" from the end of subdivision (2).

22.1203 Inspection upon request of police officer.

Uniform police officers may at any time, upon reasonable cause to believe that a vehicle is unsafe, is not equipped as required by law, or that its equipment is not in proper adjustment or repair, require the driver of such vehicle to stop and submit such vehicle to an inspection and such tests with reference thereto as may be appropriate.

History: 1972, PL 12-65 § 1.

22.1204 Notice of deficiencies.

In the event any vehicle is found on any inspection not to meet all requirements as to equipment under this title, or to be in an unsafe condition, a notice of such deficiencies must be given to the driver. No person may thereafter operate such vehicle, except as may be necessary to return such vehicle to the residence or place of business of the owner or driver or to a garage, until such deficiencies have been remedied. The driver may be required to make temporary repairs before being permitted to proceed with such vehicle.

History: 1972, PL 12-65 § 1.

22.1205 Remedy of deficiencies.

Every owner or driver, upon receiving a notice of deficiencies, shall remedy those deficiencies and within 10 days shall submit the vehicle for further inspection by the Office of Public Safety or a privately owned facility authorized by the Commissioner to make inspections.

History: 1972, PL 12-65 § 1; amd 1977, PL 15-41 § 4.

Amendments: 1977 Substituted “Office of Public Safety” for “Department of Public Works”.

22.1206 Minor deficiencies-Permitted operation.

If the deficiency cited is minor, that is, the vehicle can be operated on the highways of American Samoa without substantially endangering public safety and repair of the deficiency is unobtainable in American Samoa, then the registered owner of the deficient vehicle may apply to the Commissioner for a temporary permit to operate the vehicle with such deficiency.

History: 1972, PL 12-65 § 1.

22.1207 Minor deficiencies-Determination.

The commissioner is directed to determine which deficiencies shall be considered minor within the meaning of this chapter. Permission to operate a vehicle may not be granted by virtue of this chapter if the Commissioner determines that the operation of such vehicle will substantially endanger public safety.

History: 1972, PL 12-65 § 1.

22.1208 Confiscation of registration and tags.

(a) The Commissioner shall confiscate the registration and license tags of any motor vehicle:

- (1) which does not have a current certificate of safety inspection and approval;
- (2) which is not submitted for further inspection within 10 days after a notice of deficiencies is given pursuant to an inspection;
- (3) for which a temporary deficiency permit has been issued, such permit having expired and the deficiency not having been corrected.

(b) The Commissioner may not issue new registration for the confiscated registration nor release the confiscated registration until the owner of the vehicle procures a valid inspection certificate showing the deficiencies for which the registration was confiscated have been remedied.

History: 1972, PL 12-65 § 1, amd 1977, PL 15-41 § 5.

Amendments: 1977 Subsection (b), substituted “The Commissioner shall not issue new registration for the confiscated registration nor” for “The Commissioner shall notify the Treasurer of any confiscation and no new registration shall be issued by the Treasurer nor shall the Commissioner” at the beginning of subsection.

22.1220 Reinspection of vehicles converted to commercial use.

Before any private vehicle may be used for commercial transportation, it must be inspected as provided in 22.1202 and the inspection fee must be paid.

History: 1972, PL 12-65 § 1.

22.1230 Inspection tag.

Repealed by PL 18-23 § 1.

22.1231 Inspection fees.

Fees for the inspection of motor vehicles by the Office of Public Safety shall be \$8.00. A total of \$7.00 of the fee paid for each inspection shall be placed in a revenue fund for the Department of Public Safety for law enforcement costs and maintenance and supplies for production of driver licenses and vehicle registrations.

History: 1972, PL 12-65 § 1; amd 1977, PL 15-41 § 6; 2005, PL 29-13.

Amendments: 1977 Substituted “Office of Public Safety” for “Department of Public Works”, and “Commissioner” for “Treasurer”.

Chapter 13

LITTER CONTROL

Sections:

- 22.1301 Definitions.**
- 22.1302 Prohibition of littering.**
- 22.1303 Prohibition of tampering with or removing a litter container.**
- 22.1304 Responsibility of owners or lessees of real property.**
- 22.1305 Responsibility of government.**
- 22.1306 Responsibility of businesses.**
- 22.1307 Penalties.**
- 22.1308 Enforcement powers.**
- 22.1309 Preservation of authority.**

22.1301 Definitions.

(a) For purposes of this chapter, the following definitions shall apply:

- (1) “ASEPA” means the American Samoa Environmental Protection Agency.
- (2) “Litter” means rubbish, refuse, waste materials, garbage, trash, offal, any dead animal, or any debris of any kind or description whether or not it is of value, including improperly discarded paper, metal, plastic, glass, cloth, and any liquid or solid wastes.
- (3) “Solid waste agency” means the government agency designated by the Governor or by other law as responsible for the management of solid waste issues in American Samoa, including the pickup, transportation and disposal of solid wastes, as defined in 25.0101 (25) A.S.C.A.
- (4) “Solid waste official” means the official appointed by the Governor to oversee solid waste collection and disposal issues in the Territory. Such official shall be responsible for the collection, transportation and disposal of solid waste.

History: 2001, PL 27-8.

22.1302 Prohibition of littering.

(a) A person shall not discard, throw, or place, or caused to be placed, without the permission of this Territory or the Federal Government, any litter of any kind on the right-of-way of any public road, highway, or other public place, or on land or water, owned, operated, or leased by the Territory or the Federal government, or on any communal or private real property

owned by another, unless such placement is made in a manner approved by the solid waste official for the purpose of collection by the solid waste agency.

(b) Any person who drops, or permits to be dropped or thrown upon any highway, any destructive or injurious material including that likely to harm a person, animal, or vehicle upon such highway shall immediately remove the same or cause it to be removed.

(c) A person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

In the case of litter discarded from a vehicle on the highway, or in any public place, the driver of the vehicle may be cited for any litter discarded or deposited from such vehicle, if the person who discarded the litter is unknown.

History: 1991, PL 22-16; 2001, PL 27-8.

22.1303 Prohibition of tampering with or removing a litter container.

(a) A person shall not in any way tamper with or damage any litter receptacle so as to interfere with its designated purpose or to detrimentally affect its appearance.

(b) A person shall not remove from its place any litter receptacle which the person does not own or for which the person does not have responsibility.

History: 1991, PL 22-16; 2001, PL 27-8.

22.1304 Responsibility of government.

Litter receptacles shall be suitably located along the public highways of the Territory, village access roads, residential areas, in other public places, beaches, and park and recreation areas. The solid waste official, in consultation with the Director of Parks and Recreation shall be responsible for continuous implementation of this provision.

History: 1991, PL 22-16; 2001, PL 27-8.

22.1305 Responsibility of businesses.

Notwithstanding any other provision of law, every owner or operator of a commercial establishment in the Territory shall be responsible for providing and maintaining sufficient and suitable litter receptacles on his business premises.

History: 1991, PL 22-16; 2001, PL 27-8.

22.1306 Penalties.

(a) Littering, or violation of any provision of this chapter, is an infraction punishable under the following schedule of fines, at the discretion of the district court:

	NO LESS THAN and NO MORE THAN	
First Offense...	\$50.00	\$100.00
Second Offense..	\$100.00	\$200.00
Third Offense....	\$400.00	\$500.00
Fourth Offense...	\$500.00	\$1,000.00

(b) Additionally, or in lieu of fines, any person convicted under this chapter may be ordered to pick up and remove litter from public places, including streams and the seashores, under the

direction of the Department of Public Safety.

(c) All fines collected shall be deposited into the general fund and subject to legislative appropriation.

History: 1991, PL 22-16; amd 1994, PL 23-10; 2001, PL 27-8.

22.1307 Enforcement powers.

(a) This chapter shall be enforced by issuance of written traffic citations and according to the rules of the violations bureau and the district court, in accordance with chapter 8 of this title.

(b) The following individuals may issue and serve citations for violations of this chapter:

(1) all law enforcement officers of the department of public safety;

History: 1991, PL 22-16; 2001, PL 27-8.

22.1308 Preservation authority.

The provisions of this chapter shall not in any way preempt or diminish the present powers and duties of the solid waste official and the Directors of ASEPA and health with regard to enforcement of public health laws dealing with solid and industrial waste under chapter 20, title 25 A.S.C.A.

History: 1991, PL 22-16; 2001, PL 27-8.

22.1309 Severability.

If any provisions of this chapter or its application to particular persons or circumstances is held invalid by a court of law, the application of such provision to other persons or circumstances shall not be affected, nor shall the remainder of the provisions of this chapter be affected thereby.

History: 2001, PL 27-8.

Chapter 14

JUNKED VEHICLES

Sections:

22.1401 Definitions.

22.1402 Possession of junked vehicle unlawful-Penalty.

22.1403 Notice of violation-Prosecution.

22.1404 Liability of corporate and partnership personnel.

22.1405 Exemption.

22.1401 Definitions.

For the purposes of this chapter:

(a) “Junked” means incapable of being licensed for operation on the roads and highways in the Territory of American Samoa according to law.

(b) “Person” means any natural person, corporation, partnership or joint venture, or any combination or group thereof.

(c) “Possessor” means either the person claiming the title to a junked vehicle, or the person on whose land the junked vehicle lies, or the person to whom the vehicle is or was last registered.

(d) “Vehicle” means any private automobile, commercial automobile, private or commercial

bus or truck, powered by a reciprocating engine.

History: 1972, PL 12-65 § 1.

22.1402 Possession of junked vehicle unlawful-Penalty.

(a) In order to keep American Samoa clean and thereby promote tourism, it is unlawful for any person to have in his or her possession any junked vehicle.

(b) Any person who violates this section shall be fined from \$10 to \$500.

(c) After notice of violation has been filed in court pursuant to 22.1403, and in the event of conviction, each day that the violation continues shall constitute a separate and distinct violation, for which the court shall assess a fine of not less than the minimum of \$10.

History: 1972, PL 12-65 § 1.

22.1403 Notice of violation-Prosecution.

Prior to any prosecution under this chapter, the Attorney General of American Samoa must, by his personal affidavit filed with the district court, certify that the person against whom the criminal action has been filed has been given 10 days written notice of the violation and has failed to remove the junked vehicle. If the junked vehicle is removed within the 10-day period, there may be no prosecution under this chapter.

History: 1972, PL 12-65 § 1, amd 1979, PL 16-53 § 65.

Amendments: 1979 Substituted reference to district court for reference to High Court.

22.1404 Liability of corporate and partnership personnel.

The Chairman of a corporation's Board of Directors, the President of the corporation, any officer of the corporation, a local resident manager, or a local person in control of the corporation's interests are subject to prosecution and liable for all fines in the event of a conviction under this chapter. Any partner or joint venturer is subject to prosecution and liable for all fines in the event of a conviction.

History: 1972, PL 12-65 § 1.

22.1405 Exemption.

Licensed garage operators are exempt from the operation of this section, providing their junked vehicles are stored in such a manner that they cannot be seen from the highway.

History: 1972, PL 12-65 § 1.

Chapter 15

REPLACEMENT PARTS FOR VEHICLES

Sections:

22.1501 Definitions.

22.1502 Delegation of Director's powers.

22.1503 Duty to maintain vehicle replacement parts.

22.1504 Complaints-Investigation-Hearing-Violation and penalty.

22.1501 Definitions.

As used in this chapter unless the context clearly requires otherwise, the following meanings apply:

(a) “Director” means the head of the Bureau of Consumer Protection, in the Department of Legal Affairs.

(b) “Retailer” means any individual, partnership, corporation, firm, society, association or company engaged in the sale of vehicles directly to the consumer.

(c) “Samoan” or “Samoan descent” includes American Samoans of at least one-half Samoan blood and persons born on other islands of the Pacific Ocean who are of at least one-half Polynesian, Melanesian or Micronesian blood and reside in American Samoa.

(d) “Vehicle” means a device by which any person or property may be propelled or moved upon a highway or water, including devices moved by human power.

(e) “Vehicle parts” means replacement parts essential for the normal operation of a vehicle.

History: 1962, PL 7-23; 1968, PL 10-66; 1970, PL 11-112; amd 1983, PL 18-15 § 1.

Amendments: 1983 Subsection (a) amended to refer to the head of the Bureau of Consumer Protection.

22.1502 Delegation of Director’s powers.

The Director may delegate the responsibility for carrying out any of the duties assigned him by this chapter to another person within the Bureau of Consumer Protection.

History: 1970, PL 11-112; amd 1983, PL 18-15 § 2.

Amendments: 1983 Amended to specify the person delegated to must be within the Bureau of Consumer Protection.

22.1503 Duty to maintain vehicle replacement parts.

(a) A retailer who sells any new vehicle shall maintain a supply of vehicle parts sufficient to insure the normal operation of the vehicle.

(b) The retailer shall maintain the supply of vehicle parts for at least 5 years after the year in which he sells any such new vehicle.

History: 1970, PL 11-112.

22.1504 Complaints-Investigation-Hearing-Violation and penalty.

(a) A person who is not able to purchase a vehicle part from a retailer may certify that fact in writing to the Director.

(b) If the certificate specifies the name of the prospective purchaser, the name of the retailer and the part not in stock, the Director shall order an investigation of the allegations contained in the certificate.

(c) If the Director finds there is probable cause to believe that a provision of 22.1503 has been violated, he shall initiate a civil suit under subsection (d) and seek additional relief for the complainant under chapter 04, Title 27, Consumer Protection.

(d) A retailer who violates 22.1503 commits a civil infraction punishable by a fine of not less than \$100 nor more than \$1,000 for each unlawful act or practice, to be collected in a civil suit initiated by the Bureau of Consumer Protection.

History: 1970, PL 11-112; amd 1983, PL 18-15 § 3.

Amendments: 1983 Penalty provisions amended.

Chapter 16

MOTOR VEHICLES-SHIPMENT OUT OF TERRITORY-REGULATE

Sections:

22.1601 Motor vehicles-Shipment out of Territory-Regulate-Penalty.

22.1601 Motor vehicles-Shipment out of Territory-Regulate-Penalty.

(a) A motor vehicle may not be boarded for shipment on any vessel or aircraft leaving the Territory unless the person in possession of the motor vehicle produces legal ownership documents and a written authorization for shipment from the Commissioner of Public Safety. Such documents shall be then presented to the Director of Port Administration for clearance.

(b) The person responsible on each vessel or aircraft for the shipment of motor vehicles shall keep a record, on forms approved by the Commissioner, of each motor vehicle and person in possession of the motor vehicle being shipped out of the Territory. A copy of this record must be transmitted to the Commissioner or his designated agent prior to departure of the vessel or aircraft.

(c) It is a class B misdemeanor for a person, his representative or agent to ship or cause to have shipped a motor vehicle out of the Territory in violation of this section.

(d) A legal or equitable owner of a vehicle shipped out of the Territory in violation of this section may recover damages for losses caused by such violation from the person, representative, agent, governmental entity, or business entity responsible for such violation.

History: 1985, PL 19-24 § 1.

Chapter 17

AUTOMOBILE REPAIR SHOPS

Sections:

- 22.1701 Definitions.**
- 22.1702 Repair order.**
- 22.1703 Repair price and completion date information.**
- 22.1704 Notice to customer.**
- 22.1705 Charges.**
- 22.1706 Authorization to proceed with repairs.**
- 22.1707 Return of parts.**
- 22.1708 Invoice.**
- 22.1709 Prohibited acts.**
- 22.1710 Disclosure of regulation.**
- 22.1711 Records.**

22.1701 Definitions.

As used in this chapter, unless the context clearly requires otherwise:

- (1) "Customer" means any natural person or persons, corporation, trust, partnership,

incorporated or unincorporated association, and any other legal entity, and includes a person authorized by the customer to act on the customer's behalf.

(2) "Director" means the Director of the Consumer Protection Bureau.

(3) "Motor vehicle" and "vehicle" means a motor vehicle as defined in 22.0101(14) and 22.0101(33) which is required to be registered under 22.1001 et seq., or with a governmental agency of another jurisdiction performing a similar function.

(4) "Motor vehicle repair shop" or "shop" means an individual, corporation, partnership, or other form of business organization engaged in the motor vehicle repair business and includes owners, officers, directors, agents, employees, and representatives but excludes the following:

(A) a shop engaged solely in the business of repairing the motor vehicles of a single commercial, industrial or governmental establishment, or of 2 or more of these establishments which are related by common ownership or corporation affiliation; and

(B) a person repairing his own or a family member's motor vehicle.

(5) "Repair" or "repairs" means the painting, improvement, adjustment, replacement, examination, diagnosis, maintenance, servicing, removal or installation of any component or part of a motor vehicle, but does not include towing or the supply of motor fuel to a motor vehicle.

History: 1986, PL 19-54 § 1.

22.1702 Repair order.

Upon request of the customer and before the commencement of repairs, the shop shall provide the customer with a copy of a dated repair order legibly describing the repairs to be performed. The shop shall record the odometer reading of the customer's motor vehicle on the repair order, and shall sign the customer's copy.

History: 1986, PL 19-54 § 1.

22.1703 Repair price and competition date information.

Before the commencement of repairs, the shop shall provide the customer with a price estimate for the repairs and an estimate of when the repairs will be completed. The repair price and completion date estimates shall be made in good faith by the shop and may not be exceeded except for good cause and no additional charges may be incurred over the price estimate without approval of the customer. The completion date estimate may not be exceeded without approval of the customer and a new completion date estimate shall be made in good faith by the shop. Nothing in this section may be construed as requiring a shop to provide a price or completion date estimate if the shop does not agree to perform the requested repairs.

History: 1986, PL 19-54 § 1.

22.1704 Notice to customer.

The shop shall post a conspicuously located and readable sign which states in English and Samoan:

"You are entitled to a price and completion date estimate for the repairs you authorize before the repairs are begun. This price and completion date estimate will not be exceeded if the motor vehicle is delivered to the shop within five (5) days. After the motor vehicle is delivered to the shop the repair price and completion date may be less than the estimate but will not exceed the estimates without your approval. Your signature on the repair order will indicate your authorization of repairs at the price estimated."

“You are entitled to the return of any or all replaced parts, except parts which must be returned to a manufacturer because of either a warranty or exchange agreement, if you request the parts at the time your order is taken. Those parts which must be returned to the manufacturer will be made available for inspection by you when you pick up your vehicle if you request the parts at the time your repair order is taken.”

History: 1986, PL 19-54 § 1.

22.1705 Charges.

No shop may charge for making a repair price estimate unless, before making the estimate, the shop discloses to the customer the amount of the charge, or, if the amount cannot be determined, the basis on which the charge will be calculated. No shop may impose, or threatened to impose, a charge which is clearly excessive in relation to the work involved in making the price estimate. This section does not affect deposits for parts or labor.

History: 1986, PL 19-54 § 1.

22.1706 Authorization to proceed with repairs.

(a) If the shop has given the customer a price and completion date estimate for the repairs and either the price or completion date or both of them will exceed the estimate, the shop shall call or contact the customer before continuing with the repairs and shall provide the customer with a new good faith estimate of either the repair price or completion date or both of them. The shop may not continue with the repairs until it receives written or oral authorization from the customer.

(b) Before undertaking repairs other than those previously authorized by the customer, the shop shall call or contact the customer and provide him with a description of the proposed additional repairs together with a good faith estimate of the price and completion date or either of them. The shop may not undertake the additional repairs until it receives written or oral authorization from the customer.

(c) If the shop does not receive authorization from the customer to proceed with the repairs under (a) or (b) of this section, the shop shall either agree to perform the repairs at either the original estimated price or completion date or both of them, or provide for the customer to retake possession of the vehicle in at least as good condition as it was delivered to the shop, and notify the customer accordingly.

(d) A written authorization under (a) or (b) of this section shall be made on the repair order or on the invoice when a repair order is not requested and shall specify newly authorized repairs, as well as the newly authorized repair price and completion date estimate, or either of them. If authorization under (a) or (b) of this section is received orally, the shop shall specify on the repair order or invoice newly authorized repairs, as well as the newly authorized repair price and completion date estimate, or either of them. It shall also specify the date and time of authorization, the name of the person granting the authorization, and the telephone number called.

(e) Nothing in this section shall prevent the customer from supplying the parts, except a delay by the customer in supplying parts shall relieve the shop from meeting its good faith completion date. If the customer is to supply the parts, this shall be noted on the repair order or invoice stating either the name or number of the parts or both of them.

History: 1986, PL 19-54 § 1.

22.1707 Return of parts.

Parts from a customer's motor vehicle which are replaced by the shop shall be returned to the customer if they are requested by the customer at the time the repair order is taken. Parts which must be returned to the manufacturer because of a warranty or exchange agreement need not be returned to the customer upon request but shall instead be made available for the customer's inspection when the customer retakes possession of the motor vehicle.

History: 1986, PL 19-54 § 1.

22.1708 Invoice.

The shop shall provide every customer, at the time the customer retakes possession of the motor vehicle, with a copy of a dated invoice detailing the costs of all parts and labor involved in the repair and any warranty or guarantee on the repairs, and identifying all parts replaced as being new, used, rebuilt or reconditioned.

History: 1986, PL 19-54 § 1.

22.1709 Prohibited acts.

(a) In addition to acts prohibited above, no shop implication may misrepresent directly or by implication:

- (1) the cost of repairs authorized by the customer;
- (2) the terms or conditions of a warranty or service agreement;
- (3) that repairs are necessary;
- (4) that repairs have been made; or
- (5) that the motor vehicle is in a dangerous condition, or that the use of the motor vehicle by the customer will be hazardous to persons or harmful to the motor vehicle.

(b) No shop may collect or attempt to collect for:

- (1) repairs not authorized either orally or in writing by the customer;
- (2) repairs which the shop knew or ought to have known to be unnecessary; or
- (3) repairs which have not been made.

(c) No shop which is a warrantor, a party to a service agreement or required by law to repair the vehicle may refuse to repair a motor vehicle in accordance with the terms and conditions of the warranty, service agreement or law.

(d) No shop shall exceed the good faith completion date by more than 3 working days. Failure to complete the work within that time or as provided in 22.1706 above shall result in a refund by the shop to the customer of \$25.00 per day upon payment of the bill.

(e) No shop may fail to return a customer's motor vehicle because the customer has refused to pay for unauthorized repairs or because the customer has refused to pay above, or by repair charges in excess of the price authorized under 22.1702 and 22.1703 of this chapter, if the customer pays the authorized price for the authorized repairs.

(f) No shop may alter a customer's motor vehicle with intent to create a condition requiring repairs.

(g) The commission of prohibited practices or a violation of a section of this chapter by a shop shall be an unfair or deceptive act or practice in the conduct of a trade or commerce pursuant to 27.0801 et seq. A.S.C.A. The Director is empowered to represent a customer protected by this chapter and may seek injunctive relief and penalties under 27.0801 et seq. A.S.C.A in addition to other remedies in this chapter and any other law.

History: 1986, PL 19-54 § 1.

22.1710 Disclosure of regulation.

The following statement shall be conspicuously printed in English and Samoan, either on the invoice or on another form given to every customer for whom the shop performs repairs:

“Motor vehicle repair trade practices are regulated by American Samoa Code Annotated 22.1701 et seq. and administered by the Consumer Protection Bureau.”

History: 1986, PL 19-54 § 1.

22.1711 Records.

A shop shall maintain repair records and invoices for parts purchased by the shop. The records shall be available for reasonable inspection by the Director or designee and shall be retained for at least 2 years.

History: 1986, PL 19-54 § 1.

Chapters 18-19

(Reserved)

Chapter 20

COMPULSORY INSURANCE

Sections:

- 22.2001 Definitions.**
- 22.2002 Certificate of insurance.**
- 22.2003 Owner's liability policy.**
- 22.2004 Operator's liability policy.**
- 22.2005 Required statements in policies.**
- 22.2006 Liability toward employees need not be insured.**
- 22.2007 Provisions incorporated in policies.**
- 22.2008 Coverage additional to that required.**
- 22.2009 Reimbursement provision permitted.**
- 22.2010 Probation permitted.**
- 22.2011 Fulfillment of requirements by multiple policies.**
- 22.2012 Binders.**
- 22.2013 Canceled policies.**
- 22.2014 Transfer or registration to defeat purpose of chapter.**
- 22.2015 Surrender of license and registration upon suspension of either or termination of insurance.**
- 22.2016 Bond in lieu of insurance.**
- 22.2017 Violation-Penalty.**
- 22.2018 Right of direct action.**
- 22.2019 Violation-Penalty.**

- 22.2001 Definitions.**

As used in this chapter:

(a) “Certificate of insurance” means a written certificate of any insurance carrier duly authorized to do business in American Samoa, certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof thereof.

(b) “Motor vehicle liability policy” means an “owner’s policy” or an “operator’s policy” of liability insurance, certified as provided in this chapter and issued by an insurance carrier duly authorized to transact business in the Territory of American Samoa to or for the benefit of the person named therein as insured.

History: 1972, PL 12-65 § 1.

Case Notes:

“Operator’s policy” insures only named driver. *Mamea v. Tavesi*, ASR (1978).

Legislature designed the compulsory insurance statute to facilitate compensation of, and afford a realistic remedy for, victims of negligence. A.S.C.A. § 22.2001 et seq. *Pu’u v. Lepule*, 8 A.S.R.2d 68 (1988).

Compulsory Insurance Act requires auto insurance omnibus clause to insure the named insured and persons using the vehicle with his express or implied permission. A.S.C.A. § 22.2001. *Mauga v. National Pacific Insurance*, 15 A.S.R.2d 35 (1990).

22.2002 Certificate of insurance.

In order to control and regulate travel on the public highways and to provide for the public safety, effective 1 July 1967, no vehicle may be or continue to be registered in the name of any person unless that person files with the Director of Administrative Services a certificate of insurance consistent with the requirements of 22.1001 et seq., or, in lieu thereof, a bond as provided by 22.2016. The certificate shall give the effective date of the motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all vehicles covered thereby.

History: 1972, PL 12-65 § 1.

Case Notes:

Safety purposes of this statute is at best obscure. *Sam v. Jennings*, ASR (1979).

Section is part of statutory scheme intended to ensure recovery in tort for victims injured by drivers who could not afford to pay damages. Amount to be recovered against defendants not to exceed amount that would have been covered by insurance had defendant not breached its statutory duty to provide insurance. *Foma’i v. Samana*, 4 A.S.R.2d 102 (1987).

Rental company that allowed its automobile to be operated on the highway without insurance required by law was liable for damages suffered by person injured by negligent driver of company’s automobile, up to the amount that would have been covered by insurance if the rental company had not breached its statutory duty to provide insurance. A.S.C.A. §§ 22.1001, 22.1002-03. *Foma’i v. Samana*, 4 A.S.R.2d 102 (1987).

Statute requiring the owner of a vehicle to purchase and maintain liability insurance for losses inflicted by any person using his vehicle, and related statutes forbidding the operation of uninsured vehicles on the public highway and giving an insured person the right to bring direct action against the insurer, were intended by drivers who could not afford to pay damages. A.S.C.A. §§22.1001, 22.2002-03. *Foma’i v. Samana*, 4 A.S.R.2d 102 (1987).

22.2003 Owner’s liability policy.

An owner’s policy of liability insurance:

(1) shall designate by explicit description or appropriate reference all vehicles with respect to which coverage is thereby to be granted;

(2) shall insure the person named therein and any other person who uses the vehicle or vehicles with the express or implied permission of the named insured against loss from liability imposed by law for damages arising out of the ownership, maintenance or use of the vehicle or vehicles, subject to limits exclusive of interest and costs, with respect to each such vehicle, as

follows:

- (A) \$10,000 for bodily injury to or death of one person in any one accident;
- (B) subject to said limit for one person, \$20,000 for bodily injury to or death of 2 or more persons in any one accident;
- (C) \$5,000 for injury to or destruction of property of others in any one accident;
- (3) shall, if the vehicle is being used in the transportation of passengers for hire, including taxicabs, insure the driver and all fare-paying passengers therein against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of the vehicle or vehicles, subject to limits exclusive of interest and costs, with respect to each vehicle as follows:
 - (A) \$10,000 for bodily injury to or death of 1 person;
 - (B) \$50,000 for bodily injury to or death of 2 or more persons in any one accident;
 - (C) \$10,000 for injury to or destruction of property of others in any one accident.

History: 1972, PL 12-65 § 1; amd 1979, PL 16-3 § 3.

Amendments: 1979 Paragraph (3) (A): lowered dollar amount from \$25,000 to \$10,000.

Case Notes:

One who has been granted permission to use automobile has no right to recover from owner's insurer under policy complying with this section. *Toilolo v. Hartford Fire Ins. Co.*, ASR (1976).

Section is part of statutory scheme intended to ensure recovery in tort for victims injured by drivers who could not afford to pay damages. Amount to be recovered against defendants not to exceed amount that would have been covered by insurance had defendant not breached its statutory duty to provide insurance. *Foma'i v. Samana*, 4 A.S.R.2d 102 (1987).

Where underage driver (of parent's vehicle) snuck keys, no express or implied permission of named insured is present. *Minute v. Hartford Fire Ins. Co.*, ASR (1976).

Defendant insurer is liable under compulsory motor vehicle liability insurance statute for intentional unauthorized battery by insured's employee, despite policy language to contrary. *RCAS 25.2003(b)(3.) Tung v. Ah Sam*, 4 ASR 764 (1971).

Statute requiring liability insurance for taxis is for protection of public and should be liberally construed. *RCAS 25.20. Tung v. Ah Sam*, 4 ASR 764 (1971).

Rental company that allowed its automobile to be operated on the highway without insurance required by law was liable for damages suffered by person injured by negligent driver of company's automobile, up to the amount that would have been covered by insurance if the rental company had not breached its statutory duty to provide insurance. A.S.C.A. §§ 22.1001, 22.2002-03. *Foma'i v. Samana*, 4 A.S.R.2d 102 (1987).

When a vehicle's owner did not insure his car as required by law and the driver as using the care with his permission, the owner is liable to compensate the plaintiff for any losses up to the \$10,000 insurance amount he had a duty to provide. A.S.C.A. § 22.2003. *Vaiti v. So'oso'o*, 19 A.S.R.2d 71 (1991).

Statute requiring the owner of a vehicle to purchase and maintain liability insurance for losses inflicted by any person using his vehicle, and related statutes forbidding the operation of uninsured vehicles on the public highway and giving an insured person the right to bring direct action against the insurer, were intended to ensure recovery in tort for victims injured by drivers who could not afford to pay damages. A.S.C.A. §§ 22.1001, 22.2002-03. *Foma'i v. Samana*, 4 A.S.R.2d 102 (1987).

Owner's implied permission to use his vehicle, which extends compulsory liability insurance coverage to a non-owner driver, may be inferred from a course of conduct or relationship between the vehicle owner and driver in which there is mutual acquiescence or lack of objection under circumstances signifying consent. A.S.C.A. § 22.2003(2). *Maulupe v. American International Underwriters*, 12 A.S.R.2d 1 (1989).

Evidence must show owner's permission, express or implied, in order for non-owner driver to be covered by owner's compulsory vehicle liability insurance policy. A.S.C.A. § 22.2003(2). *Maulupe v. American International Underwriters*, 12 A.S.R.2d 1 (1989).

Compulsory Insurance Act limits recovery to victims who prove actionable fault on the part of a named insured or persons driving the insured vehicle with his express or implied permission. A.S.C.A. § 22.2003(2). *Mauga v. National Pacific Insurance*, 15 A.S.R.2d 35 (1990).

Compulsory vehicle insurance covers the named insured, as well as any other person who uses the insured's vehicle with his express or implied permission. A.S.C.A. § 22.2003(2). *Leilua v. Ali'itaeao*, 23 A.S.R.2d 97

(1993).

A vehicle owner cannot restrict his consent to a particular manner of driving in order to escape liability under automobile consent statutes. A.S.C.A. § 22.2003. *Sataua v. Himphill*, 5 A.S.R.2d 61 (1987).

A vehicle owner may limit the time, place, and purpose of the use of his vehicle to which he consents and thereby assume liability only for negligence that occurs within the scope of his consent. A.S.C.A. § 22.2003. *Sataua v. Himphill*, 5 A.S.R.2d 61 (1987).

22.2004 Operator's liability policy.

An operator's policy of liability insurance must insure the person named as insured therein against loss from the liability imposed upon him by law for damages arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth in 22.2003 with respect to an owner's policy of liability insurance.

History: 1972, PL 12-65 § 1.

22.2005 Required statements in policies.

- (a) Motor vehicle liability policies must state:
- (1) the name and address of the named insured;
 - (2) the coverage afforded
 - (3) the premium charged;
 - (4) the policy period;
 - (5) the limits of liability.

(b) The policy must contain an agreement or endorsement that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and death, or property damage, or both, and is subject to all the provisions of this chapter.

History: 1972, PL 12-65 § 1.

22.2006 Liability toward employees need not be insured.

A motor vehicle liability policy need not insure any liability under any Workmen's Compensation Law, nor any liability on account of bodily injury to or death of an employee of the insured while in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance, or repair of any covered vehicle, nor any liability for damage to property owned by, rented to, in charge of or transported by the insured.

History: 1972, PL 12-65 § 1.

22.2007 Provisions incorporated in policies.

Every motor vehicle liability policy shall be subject to the following provisions, which need not be contained therein:

(a) The liability of the insurance carrier with respect to the insurance required by this chapter becomes absolute whenever injury or damage covered by the policy occurs.

(b) The policy may not be canceled or annulled, as to the liability of the insurance carrier regarding insurance required by this chapter, by any agreement between the insurance carrier and the insured, or on the insured's behalf.

(c) No violation of a policy may defeat or void the policy.

(d) The satisfaction, by the insured, of a judgment for injury or damage, may not be a condition precedent to the right or duty of the insurance carrier to make payment on account of

such injury or damage.

(e) The insurance carrier has the right to settle any claim covered by the policy, and if such settlement is made in good faith, the amount thereof is deductible from the limits of liability specified in paragraphs (2) and (3) of 22.2003.

(f) The policy, the written application there-for, if any, and any rider or endorsement which does not conflict with the provisions of this chapter, constitute the entire contract between the parties.

History: 1972, PL 12-65 § 1.

22.2008 Coverage additional to that required.

Any policy which grants the coverage required by this chapter may also grant additional coverage, which is not subject to the provisions of this chapter. With respect to a policy which grants additional coverage, the term “motor vehicle liability policy” applies only to that part of the coverage which is required by this chapter.

History: 1972, PL 12-65 § 1.

22.2009 Reimbursement provision permitted.

A motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter.

History: 1972, PL 12-65 § 1.

22.2010 Proration permitted.

A motor vehicle liability policy may provide for the prorating of the insurance thereunder with other valid and collectible insurance.

History: 1972, PL 12-65 § 1.

22.2011 Fulfillment of requirements by multiple policies.

The requirements for a motor vehicle liability policy may be fulfilled by the combined policies of one or more insurance carriers.

History: 1972, PL 12-65 § 1.

22.2012 Binders.

Any binder issued pending the issuance of a motor vehicle liability policy shall be deemed to fulfill the requirements for such a policy.

History: 1972, PL 12-65 § 1.

22.2013 Canceled policies.

(a) The Director of Administrative Services shall be notified by the insurance carrier of the cancellation of any motor vehicle liability policy of insurance at least 10 days before the effective date of such cancellation.

(b) In the absence of such notice of cancellation, the policy of insurance shall remain in full force and effect, except that any policy subsequently procured and certified shall on the effective

date of its certification terminate the insurance previously certified with respect to any vehicle designated in both certificates.

(c) Upon receipt of the notice of cancellation, the license and all of the registration certificates of the person whose insurance has been canceled shall be suspended by the Director of Administrative Services and shall remain so suspended until that person files a certificate of insurance.

History: 1972, PL 12-65 § 1.

Case Notes:

As adequate safeguards exist to inform the Director of Administrative Services of the natural “termination” of insurance policies by expiration of the policy period, the legislature did not intend the statute requiring an insurer to notify the Director at least ten days prior to “cancellation” of a policy to apply to “terminations.” A.S.C.A. § of a policy to apply to “terminations.” A.S.C.A. § 22.2013. Pu’u v. Lepule, 8 A.S.R.2d 68(1988).

“Cancellation” of an insurance policy generally refers to conclusion of a policy prior to the expiration of the policy period, while “termination” refers to expiration of the policy by lapse of the policy period. A.S.C.A. § 22.2013. Pu’u v. Lepule, 8 A.S.R. 2d 68 (1988).

Statute requiring insurance carrier to notify the director of administrative services of the “cancellation” of a policy did not require such notice when the policy expired because the term of coverage ran out and the policy was not renewed. A.S.C.A. § 22.2013/ Pu’u v. Leupule, 12 A.S.R.2d 59 (1989).

“Cancellation” as used in insurance law usually refers to termination of a policy prior to the expiration of the policy period, while “termination” refers to the expiration of a policy by lapse of the policy period. A.S.C.A. § 22.2013. Pu’u v. Leupule, 12 A.S.R.2d 59 (1989).

22.2014 Transfer or registration to defeat purpose of chapter.

(a) If an owner’s registration has been suspended, such registration shall not be transferred, nor the vehicle in respect to which the registration was issued registered in any other name, until the Director of Administrative Services is satisfied that such transfer of the owner’s registration, or registration of the vehicle in another name, is proposed in good faith and not for the purpose, and with the effect, of defeating the purposes of this chapter.

(b) Nothing in this section may in any way affect the rights of any conditional vendor, chattel mortgage, or lessor of a vehicle registered in the name of another as owner who becomes subject to the provisions of this chapter.

(c) The Director of Administrative Services shall suspend the registration of any vehicle transferred in violation of the provisions of this section.

History: 1972, PL 12-65 § 1.

22.2015 Surrender of license and registration upon suspension of either or termination of insurance.

Any person whose vehicle license or registration has been suspended under any provision of this chapter. or whose policy of insurance or bond has been canceled or terminated, shall immediately return his license and registration to the Director of Administrative Services. If any person fails to return to the Director of Administrative Services the license or registration as provided herein, the Director of Administrative Services shall forthwith direct any police officer to secure possession thereof and to return the same to the director of administrative services.

History: 1972, PL 12-65 § 1.

22.2016 Bond in lieu of insurance.

(a) In lieu of filing with the Director of Administrative Services a certificate of insurance, an owner of a vehicle may file a bond of a surety company duly authorized to transact business in American Samoa, which shall provide for payment of the amounts specified in paragraphs (2) and (3) of 22.2003.

(b) The bond shall not be cancelable except after 10 days written notice to the Director of Administrative Services.

History: 1972, PL 12-65 § 1.

22.2017 Exceptions.

This chapter shall not apply with respect to any motor vehicle owned or leased by or under the direction of, the government of the United States or the Government of American Samoa.

History: 1972, PL 12-65 § 1.

22.2018 Right of direct action.

Notwithstanding any provision in a policy to the contrary, an injured person or his heirs or representatives has a right of direct action against the insurer within the terms and limits of the policy, whether or not the policy of insurance sued upon was written or delivered in American Samoa, and whether or not such policy contains a provision forbidding such direct action, provided that the cause of action arose in American Samoa. Such action may be brought against the insurer alone, or against both the insured and insurer.

History: 1972, PL 12-65 § 1.

Case Notes:

Does not provide substantive right for estate of decedent. *Lamisa v. Continental Ins. Co.*, ASR (1978). American Samoa Government is an injured party entitled to bring direct action against insurer of tortfeasor when it paid insured's medical expenses as required by statute. *American International Underwriters v. A.S.G.*, 3 A.S.R.2d 115 (1986).

Territorial government which was required by law to pay for an accident victim's medical expenses, and which had paid these expenses, was an "injured person" within the meaning of a statute allowing injured person to bring direct action against the insurer of a person alleged to have caused the accident. A.S.C.A. § 22.2018. *American International Underwriters v. American Samoa Government*, 3 A.S.R.2d 115 (1986).

Insurance Company may be sued directly for the wrongful acts of its insured. A.S.C.A. § 22.2018 *Sataua v. Himphill*, 5 A.S.R.2d 61 (1987), 22-43

22.2019 Violation-Penalty.

Any person who violates any provision of this chapter is guilty of a class B misdemeanor and upon conviction, shall be sentenced accordingly.

History: 1972, PL 12-65 § 1; amd 1980, PL 16-90 § 67.

Amendments: 1980 Amended to conform with penalties provided for in Title 46, Criminal Justice.

Chapter 51

PUBLIC ROADS

Sections:

22.5101 Definitions.

22.5101 Definitions.

The following words and phrases shall, for the purposes of this title, have the following meanings, except when the context otherwise requires:

(1) "Road maintenance" means the government's responsibility to upkeep or enhance existing public roadway conditions to meet acceptable standards that assist and promote safe vehicular travel in the Territory by performing necessary maintenance and repair work to highways as that term is defined in 22.0101(10), sidewalk, guardrails, road striping, road shoulders, road drainage, culverts, bridges, road signs and authorized road barriers.

History: 1996, PL 24-13.