(S.B. 1369)

(No. 301)

(Approved September 2, 1999)

AN ACT

To amend Section 2 of Act No. 259 of April 3, 1946, as amended, known as the Suspended Sentences Act, to exclude from the benefit of suspended sentences those people who have been convicted of crass or wanton negligence while driving a motor vehicle, pursuant to Article 87 of Act No. 115 of July 22, 1974, as amended, known as the Penal Code of the Commonwealth of Puerto Rico, while intoxicated.

STATEMENT OF MOTIVES

Act No. 50 of August 9, 1989 amended Act No. 259 of April 3, 1946, as amended, known as the Suspended Sentences Act. Section 2 of Act No. 50, supra, provided for the exclusion from the benefit of suspended sentences of any person convicted of crass or gross negligence while driving a motor vehicle while intoxicated. Nonetheless, Act No. 8 of September 30, 1989 tacitly repealed the amendment that had been made to the previously mentioned Section 2.

The statement of motives of Act No. 50, supra, demonstrates that the legislative intention was to adopt measures which allowed to get drunk drivers out of the streets, and to adopt measures that discouraged those habits. The main purpose was to reduce the number of deaths produced by drivers of vehicles under the effects of alcohol. As a matter of fact, the positive effects that this Act promotes are significant. It reduces the alcohol percentage needed for the presumption of drunkenness, and it increases the penalties for driving while intoxicated in the Vehicles and Traffic Law.

Also, in its Section 4 it amends Section 2 of Act No. 259, supra, to add in the exclusions to the benefit of suspended sentences, the conviction for crass and wanton negligence while driving a motor vehicle while intoxicated.

The Supreme Court of Puerto Rico, in *Pueblo v. Nazario Hernández*, 95 J.T.S. 90, analyzed the legislative history of Act No. 259, supra, in relation to the exclusion from the benefits of a suspended sentence in cases of conviction for crass and wanton negligence while driving a motor vehicle while intoxicated. In the opinion issued, the Court interpreted that when Act No. 8, supra, was approved to exclude persons convicted of certain infractions to the Weapons Law of Puerto Rico from the benefits of suspended sentences, there was an omission in the language of the measure's text in the legislative process. It consisted of inadvertently suppressing the probation exclusion that Act No. 50, supra, proposed. In reference to this, our highest forum, through the voice of Associate Judge Negrón García, expressed the following:

> "This is a legislative error, as it is inferred from Act No. 8 of September 30, 1989: "to amend Section 2 of Act No. 259 of April 3, 1946, as amended, to exclude from the reach of persons convicted of certain infractions to Act No. 17 of January 19, 1951" (Weapons Law). It would be absurd to interpret that the purpose was to eliminate barely three (3) months after its approval the amendment introduced by Act No. 50 of August 9, 1989".

It is this Legislature's intention to correct the omission that inadvertently caused the effective state of law to not contemplate the exclusion of the benefit of suspended sentences in situations in which the person is convicted of violating Article 87 of the Penal Code of Puerto Rico, and drives a motor vehicle while intoxicated.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- Section 2 of Act No. 259 of April 3, 1946, as amended, is hereby amended to read as follows:

"Section 2.-

The Court of First Instance may suspend the effects of the sentencing in every case of felony that does not consist of murder, theft, incest, extortion, rape, sodomy, lascivious or indecent acts when the victim is younger than 14 years old, kidnapping, burglary, arson, sabotage of essential public services, crass or wanton negligence when driving a motor vehicle while intoxicated, infractions to Sections 5, 6A in its aggravated modality, 8, and 10 of the "Puerto Rico Weapons Law," or any violation to the Puerto Rico Explosives Act which constitutes a felony that arises as a consequence of the illegal possession or use of explosives or substances that may be used to produce explosives or detonators, artifacts or mechanisms banned by the aforementioned Puerto Rico Explosives Act, or when a person uses or attempts to use a firearm during the commission of a felony or its attempt, and may in that same manner suspend the effects of the sentencing in any case of misdemeanor that arises from the same facts or from the same transaction that, also, gave way to a sentence for felony that was not one of those excluded by the benefits of this law, including the cases in which the person has been declared not guilty of said felony, or said felony is reduced to misdemeanor and is thus convicted, and shall order that the person sentenced remain free in probation, given that at the time of imposing said sentence, all the requirements herein set forth concur:

(1) ...

(2) ...

(3) ...

(4) ...”

Section 2.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 301 (S.B. 1369) of the 5th Session of the 13th Legislature of Puerto Rico:

AN ACT to amend Section 2 of Act No. 259 of April 3, 1946, as amended, known as the Suspended Sentences Act, to exclude from the benefit of suspended sentences those people who have been convicted of crass or wanton negligence while driving a motor vehicle, pursuant to Article 87 of Act No. 115 of July 22, 1974, as amended, known as the Penal Code of the Commonwealth of Puerto Rico, while intoxicated,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 4th of February of 2003.

Elba Rosa Rodríguez-Fuentes
Director