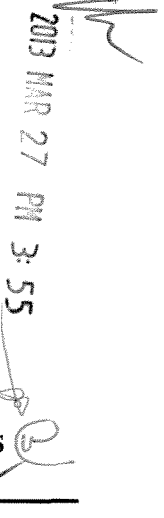


I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

2013 MAR 27 PM 3:55


Bill No. 75-32(LS)

Introduced by:

T.R. Muña Barnes
M.F.Q. San Nicolas
B.T. McCreadie

**AN ACT TO A NEW ARTICLE 8 TO CHAPTER 3 OF TITLE 16
GUAM CODE ANNOTATED, RELATIVE TO PROHIBITING
AGGRESSIVE PANHANDLING AND PANHANDLING AT
SPECIFIED LOCATIONS IN GUAM TO BE KNOWN AS THE
“AGGRESSIVE PANHANDLING ACT OF 2013”.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. A New Article 8 is hereby added to Chapter 3 of Title 16**
3 **Guam Code Annotated to read:**

4 **“Article 8**

5 **Aggressive Panhandling Act of 2013.**

6 **§3800. Legislative Intent.** Recognizing the public safety
7 hazards posed to both pedestrians and occupants and operators of motor
8 vehicles alike by aggressive forms of panhandling, *I Liheslaturan Guåhan*
9 by this Act intends to prohibit such panhandling in and along the public
10 roadways of Guam. *I Liheslaturan Guåhan* finds that this Act is a
11 reasonable time, place, and manner regulation designed to address a specific
12 problem, namely, that individuals seeking handouts from occupants of motor
13 vehicles on public roadways and other places are increasing the likelihood of
14 accidents potentially injurious to both pedestrians and motor vehicle
15 occupants, as well as creating traffic congestion and other similar public

1 safety hazards. This Act properly balances constitutionally protected forms
2 of speech and other communicative acts of individuals and groups on the
3 one hand, and the legitimate content-neutral interests of the Government of
4 Guam on the other hand, particularly in view of public safety concerns and
5 the availability of ample alternative methods of non-aggressive forms of
6 panhandling in other more suitable public fora. There are substantial
7 differences in nature between public streets, kept open to and pulsing with
8 vehicular traffic, and other public fora including, but not limited to, most
9 areas of sidewalks and public parks. This Act does not affect other forms of
10 non-aggressive solicitation of funds such as door-to-door, telephone, and
11 mail solicitations, and does not restrict other types of speech such as oral
12 advocacy, distribution of literature, petitioning, picketing, and other similar
13 communicative acts that do not pose public safety hazards in the same
14 manner as panhandling in the form of active solicitation of funds from motor
15 vehicle occupants by persons in and along public roadways.

16 *I Liheslaturan Guåhan* further finds that certain other types of face-to-
17 face solicitation of funds, namely solicitation calling for an immediate
18 donation at specified places, pose a separate and distinct public safety hazard
19 likewise within the ambit of the legislative power to regulate. Recognizing
20 that in-person solicitation of funds, when combined with immediate
21 exchanges of money, creates a risk of fraud and duress, this Act makes it
22 unlawful for persons to panhandle with the purpose of obtaining an
23 immediate donation of money or other thing of value in locales that are
24 particularly threatening or intrusive such as within close proximity to a bank
25 or automated teller machine (“ATM”) or other public places if the
26 solicitation is done in an aggressive manner. Additionally, to the extent that
27 panhandling may in certain circumstances constitute a form of

1 constitutionally protected speech, this Act expressly prohibits only specific
2 actions when they occur in the context of panhandling, and in no way the
3 content of that speech.

4 **§3801. Definitions.** For purposes of this Article, the following
5 words and phrases have been defined to mean:

6 (a) “*After dark*” means any time from one-half hour after
7 sunset to one-half hour before sunrise.

8 (b) “*Aggressive manner*” means any of the following:

9 (1) Approaching or speaking to a person, or following
10 a person before, during or after panhandling, if that conduct is
11 intended or is likely to cause a reasonable person to (i) fear
12 bodily harm to oneself or to another, damage to or loss of
13 property, or (ii) otherwise be intimidated into giving money or
14 other thing of value;

15 (2) Intentionally touching or causing physical contact
16 with another person or an occupied vehicle without that
17 person’s consent in the course of panhandling;

18 (3) Intentionally blocking or interfering with the safe
19 or free passage of a pedestrian or vehicle by any means,
20 including unreasonably causing a pedestrian or vehicle operator
21 to take evasive action to avoid physical contact;

22 (4) Using violent or threatening gestures toward a
23 person solicited either before, during, or after panhandling;

24 (5) Persisting in closely following or approaching a
25 person after the person solicited has been solicited and
26 informed the solicitor by words or conduct that such person
27 does not want to be solicited or does not want to give money or

1 any other thing of value to the solicitor; or

2 (6) Using profane, offensive or abusive language that
3 is inherently likely to provoke an immediate reaction, either
4 before or after solicitation.

5 (c) “*Automated teller machine*” shall mean any electronic
6 information processing device that accepts or dispenses cash in
7 connection with a credit, deposit, or convenience account.

8 (d) “*Automated teller machine facility*” shall mean the area
9 comprised of one or more automated teller machines, and any
10 adjacent space that is made available to banking customers after
11 regular banking hours.

12 (e) “*Bank*” means any member bank of the Federal Reserve
13 System, and any bank, banking association, trust company, savings
14 bank, or other banking institution organized or operated under the
15 laws of the United States, and any bank the deposits of which are
16 insured by the Federal Deposit Insurance Corporation.

17 (f) “*Credit union*” means any federal credit union and any
18 Guam-chartered credit union the accounts of which are insured by the
19 Administrator of the National Credit Union Administration.

20 (g) “*Check cashing business*” means any person duly
21 licensed as a check seller, bill payer, or prorater pursuant to Guam
22 law.

23 (h) “*Panhandling*” means using the spoken, written, or
24 printed word, or bodily gestures, signs or other means with the
25 purpose of obtaining an immediate donation of money or other thing
26 of value.

1 (i) “*Public place*” means a place to which the public or a
2 substantial group of persons has access, and includes, but is not
3 limited to, any street, highway, sidewalk, parking lot, plaza,
4 transportation facility, school, place of amusement, park, playground,
5 and any doorway, entrance, hallway, lobby and other portion of any
6 business establishment, an apartment house or hotel not constituting a
7 room or apartment designed for actual residence.

8 (j) “*Savings and loan association*” means any federal
9 savings and loan association and any “insured institution” as defined
10 in Section 401 of the National Housing Act, as amended, and any
11 federal credit union as defined in Section 2 of the Federal Credit
12 Union Act.

13 **§3802. Aggressive Panhandling and Panhandling at Specified**
14 **Locations, Prohibited.**

15 (a) No person shall engage in panhandling in an aggressive
16 manner in any public place.

17 (b) Banks and ATMs.

18 (1) No person shall panhandle within fifteen (15) feet
19 of any entrance or exit of any bank, savings and loan
20 association, or credit union, during its business hours, or within
21 fifteen (15) feet of any automated teller machine during the
22 time it is available for customers’ use. Provided, however, that
23 when an automated teller machine is located within an
24 automated teller machine facility, such distance shall be
25 measured from the entrance or exit of the automated teller
26 machine facility. Provided further that no person shall engage
27 in panhandling within an automated teller machine facility

1 where a reasonable person would or should know that he or she
2 does not have the permission to do so from the owner or other
3 person lawfully in possession of such facility. Nothing in this
4 paragraph shall be construed to prohibit the lawful vending of
5 goods and services within such areas.

6 (2) Exemptions. Section 3802(b)(1) shall not apply to
7 any unenclosed automated teller machine located within any
8 building, structure or space whose primary purpose or function
9 is unrelated to banking activities, including but not limited to
10 supermarkets, airports and school buildings, provided that such
11 automated teller machine shall be available for use only during
12 the regular hours of operation of the building, structure or space
13 in which such machine is located.

14 (c) Motor vehicles; Parking lots.

15 (1) Motor Vehicles.

16 (i) No person shall approach an operator or
17 occupant of a motor vehicle, at any time of day or night,
18 for the purpose of panhandling, while such vehicle is in
19 traffic on a public roadway;

20 (ii) No person shall engage in panhandling in
21 the medians of public roadways.

22 (2) Parking lots. No person shall engage in
23 panhandling in any public parking lot or structure any time after
24 dark.

25 (3) Exemptions. Section 3802(c)(2) shall not apply to
26 any of the following:

27 (i) Solicitations related to business that is being

1 conducted on the subject premises by the owner or lawful
2 tenants;

3 (ii) Solicitations related to the lawful towing of
4 a vehicle; or

5 (iii) Solicitations related to emergency repairs
6 requested by the operator or other occupant of a vehicle.

7 (d) Restaurants. Any person who panhandles in any outdoor
8 or indoor dining area of a restaurant or other establishment serving
9 food for immediate consumption is guilty of a violation of this section
10 if:

11 (1) He or she remains there after being asked to leave
12 by the owner, manager or supervisor of the restaurant or other
13 food establishment; the agent of the owner, manager or
14 supervisor of the restaurant; or a member of a security force
15 employed by the restaurant; or

16 (2) Within the immediately preceding thirty (30) days,
17 he or she engaged in solicitation at that location and had been
18 asked to leave by a person specified in Section 3802(d)(1).

19 (3) Exemption. Section 3802(d)(2) is not violated if a
20 person who has been requested to leave enters the property
21 within the designated period and engages in panhandling with
22 the express authorization of a person specified in Section
23 3802(d)(1).

24 **§3803. Enforcement; Penalty.** Any person engaging in
25 panhandling in violation of any provision of this Article shall be subject to a
26 fine of Two Hundred Dollars (\$200.00) for the first offense and Five
27 Hundred Dollars (\$500.00) for any subsequent offense.”

1 **Section 2. §3341. of Chapter 3, Title 16 Guam Code Annotated is**
2 **hereby repealed.**

3 **Section 3. Effective Date.** The provisions outlined in this Act shall
4 become effective sixty (60) days after enactment into public law.

5 **Section 4. Severability.** The provisions outlined in this Act are declared
6 to be separate and severable. The invalidity of any clause, sentence, paragraph,
7 subdivision, section or portion of this statute, or the invalidity of the application
8 thereof to any person or circumstance shall not affect the validity of the remainder
9 of this statute or the validity of its application to other persons or circumstances.