



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932

TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Felix Perez Camacho  
Governor

Kaleo Scott Moylan  
Lieutenant Governor

13 MAY 2005

The Honorable Mark Forbes  
Speaker  
Mina' Bente Ocho Na Liheslaturan Guåhan  
155 Hessler Street  
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 32 (EC), "AN ACT TO ADD A NEW ARTICLE 7 OF CHAPTER 3 OF TITLE 16 OF THE GUAM CODE ANNOTATED, IMPLEMENTING THE 'HANDBILLING ACT' RELATIVE TO THE IMPLEMENTATION OF REGULATIONS FOR THE CONTROL OF HANDBILLING WITHIN TUMON BAY," which I signed into law on April 22, 2005, as **Public Law 28-28**.

Sinseru yan Magåhet,

**FELIX P. CAMACHO**  
I Maga'låhen Guåhan  
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Eddie Baza Calvo  
Senator and Legislative Secretary

**Office of the Speaker**  
**MARK FORBES**

Date: 5/13/05

Time: 3:45

Rec'd by: [Signature]

Print Name: E. Guithocho

28-09-0188

<b>Senator Edward J.B. Calvo</b>	
<b>SECRETARY OF THE LEGISLATURE</b>	
<b>ACKNOWLEDGEMENT RECEIPT</b>	
Rec'd by: [Signature]	[Signature]
<b>Print Name &amp; Initial</b>	
Time: 11:30	Date: 5-17-05

0189

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2005 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 32 (EC), "AN ACT TO ADD A NEW ARTICLE 7 OF CHAPTER 3 OF TITLE 16 OF THE GUAM CODE ANNOTATED, IMPLEMENTING THE 'HANDBILLING ACT' RELATIVE TO THE IMPLEMENTATION OF REGULATIONS FOR THE CONTROL OF HANDBILLING WITHIN TUMON BAY," was on the 9<sup>th</sup> day of April, 2005, duly and regularly passed.

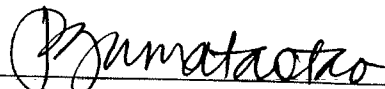
  
Mark Forbes  
Speaker

Attested:




Edward J.B. Calvo  
Senator and Secretary of the Legislature

-----  
This Act was received by *I Maga'lahaen Guåhan* this 11 day of April, 2005,  
at 4:32 o'clock P.M.

  
Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:

  
FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*

Date: 4/22/05

Public Law No. 28-28

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2005 (FIRST) Regular Session

**Bill No. 32 (EC)**

As substituted by the author and further substituted by the Committee on Criminal Justice, Public Safety, Youth & Foreign Affairs, and amended on the Floor.

Introduced by:

A. B. Palacios  
Ray Tenorio  
L. F. Kasperbauer  
F. B. Aguon, Jr.  
J. M.S. Brown  
Edward J.B. Calvo  
B. J.F. Cruz  
Mike Cruz  
Mark Forbes  
R. Klitzkie  
L. A. Leon Guerrero  
J. A. Lujan  
R. J. Respicio  
A. R. Unpingco  
J. T. Won Pat

**AN ACT TO ADD A NEW ARTICLE 7 OF CHAPTER 3 OF TITLE 16 OF THE GUAM CODE ANNOTATED, IMPLEMENTING THE "HANDBILLING ACT" RELATIVE TO THE IMPLEMENTATION OF REGULATIONS FOR THE CONTROL OF HANDBILLING WITHIN TUMON BAY.**

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

2 **Section 1.** A new Article 7 is hereby *added* to Chapter 3 of Title 16 of  
3 **the Guam Code Annotated, to read as follows:**

4 **"ARTICLE 7.**  
5 **HANDBILLING ACT**

1           **Section 3701. Definitions.** As used in this Article:

2           (A) *'Department'* means the Guam Police Department.

3           (B) *'Handbilling'* means the distribution, solicitation or providing  
4           by an individual of any written or printed material. The term  
5           *'handbilling'* shall not include: (a) the distribution of any  
6           matter by means of a *'dispensing rack'*; (b) any other structure  
7           or enclosure constructed by or under the direction of the  
8           government of Guam or the Guam Visitors Bureau for  
9           purposes of dispensing printed, written materials; (c)  
10          newsstands; and (d) any foot vendors of any printed material  
11          accepted and deemed as a daily publication of general  
12          circulation.

13          (C) *'Tumon Bay'*, for the purpose of this Act *encompasses* the  
14          following locations:

15                1. The portion of Route 14, also known as Pale San Vitores  
16                Road, stretching from Archbishop Felixberto Flores  
17                Circle to the Marine Corps Drive intersection by the old  
18                Australian Cable Facility.

19                2. The entire portion of Gun Beach Road starting from the  
20                intersection of Route 14, Pale San Vitores Road,  
21                traveling north to Gun Beach.

22          (D) *'Sidewalk'* means the area located along the outermost, distal  
23          or leading edge vicinity along either side of the centerline of a  
24          primary or secondary public utility and access easement,  
25          structurally paved by an impermeable surface for the purpose

1 of pedestrian foot traffic. In the absence of any curb or gutter,  
2 then the entire structural width of the pedestrian walk shall  
3 constitute a sidewalk.

4 **Section 3702. Short Title.** This Act shall be known as the  
5 *'Handbilling Act.'*

6 **Section 3703. Application.** The provisions of this Article shall  
7 apply to all primary and secondary public utility and access easements  
8 inclusive to all improvements thereon within areas designated as  
9 Tumon Bay pursuant to this Article and any area designated as an H  
10 (Resort-Hotel) Zone pursuant to Title 21 GCA Section 61311.

11 **Section 3704. Handbilling Restrictions.** Handbilling is  
12 permitted on all public sidewalks to which this Article applies, *except:*

13 (A) in any area where pedestrian passage on a public  
14 sidewalk is less than forty-six (46) inches;

15 (B) on the portion of a public sidewalk adjacent to any  
16 area designated as a bus stop and within thirty (30) feet of either  
17 end of the bus stop. In areas where the length of the bus stop is  
18 not clearly identified, the bus stop shall extend thirty (30) feet at  
19 either direction from the bus stop sign;

20 (C) within a mid-block crosswalk area and thirty (30) feet  
21 beyond each side of a marked mid-block crosswalk including the  
22 sidewalk and perpendicular to the curb;

23 (D) on the portion of a public sidewalk crossed by a public  
24 or private driveway and within thirty (30) feet of either side of the  
25 driveway; or

1 (E) within any street corner area defined as that area at  
2 street corners and at the intersection of two (2) streets,  
3 circumscribed by the curbs, the property lines abutting the  
4 sidewalk area, and the following lines:

5 (1) the line, including the point along the curb, of one street  
6 either thirty (30) feet beyond the far side of a marked corner  
7 crosswalk and perpendicular to the curb; or, where there is  
8 no marked corner crosswalk, thirty (30) feet from the curb  
9 line of the intersecting street and parallel to the curb line;  
10 and

11 (2) the line, including the point along the curb, of the  
12 intersecting street either: thirty (30) feet beyond the far side  
13 of a marked corner crosswalk and perpendicular to the curb;  
14 or, where there is no marked crosswalk, thirty (30) feet from  
15 the curb line of the first street and parallel to the curb line.

16 **Section 3704.1. Posting and Markings of Restricted Areas.** The  
17 Department of Public Works, with oversight by the Guam Visitors  
18 Bureau, shall post distinguishable signs and affix defined markings on  
19 all restricted public areas enumerated and identified in §3704 A, B, C, D,  
20 and E of this Act. The Department of Public Works may receive  
21 donations for the signs and markings required by this Section.

22 **Section 3704.2. Time Duration.** The provisions indicated in §3704  
23 of this Act shall be effective every day between the hours of 10:00 a.m.  
24 to 2:00 a.m.

25 **Section 3705. Penalty, Summons, and Citation, Prohibition.**

1 (A) **Prohibited Activity.** No person may engage in any  
2 handbilling activity between the hours of 10:00 a.m. to 2:00  
3 a.m. within the marked restricted areas as described in Section  
4 3704.

5 (B) **Summons or Citation.** A peace officer shall use the 'Guam  
6 Uniform Complaint and Citation' form for citing any violation  
7 of this Article.

8 (C) **Penalty.** Any person conducting handbilling in violation of  
9 any provision of this Article shall be subject to a fine of Two  
10 Hundred Dollars (\$200.00) for the first offense and Five  
11 Hundred Dollars (\$500.00) for any subsequent offense.

12 **Section 3706. Effective Date.** The provisions outlined in this  
13 Act shall become effective sixty (60) days after enactment into public  
14 law.

15 **Section 3707. Creation of the Handbilling Enforcement Fund.**

16 (A) There is hereby created the 'Handbilling Enforcement Fund.'  
17 This Fund shall be used exclusively for the support of enforcement,  
18 maintenance and education efforts relative to this Act. The Guam  
19 Visitors Bureau shall administer expenditures from the Fund and  
20 maintain said Fund separately and apart from all other accounts.

21 (B) **Fines and Fees Collected.** All fines collected by the Superior  
22 Court of Guam for any violation of this Act shall be placed in the  
23 'Handbilling Enforcement Fund'.

24 (C) **Expenditure Report.** No later than January 2<sup>nd</sup> of each year,  
25 the Guam Visitors Bureau shall submit an annual report to *I Maga'lahren*

1        *Guåhan* and to the Speaker of *I Liheslaturan Guåhan*, detailing all  
2        expenditures from the Fund. The first report shall be due one hundred  
3        eighty (180) days after the enactment of this Act and annually  
4        thereafter.”

5        **Section 2.**    Section 3328 of Title 16 GCA, is hereby *amended* to read:

6                “§3328. **Pedestrian’s Right of Way of Sidewalk.** The operator of  
7        any motor vehicle, prior to driving over or upon any sidewalk or  
8        pedestrian path, shall yield the right of way to any pedestrian  
9        approaching thereon. Any person soliciting or handbilling on a  
10       sidewalk shall *not* interfere with the free right of passage of any  
11       pedestrian thereon.”

12       **Section 3.**    Section 3341 of Title 16 GCA is hereby *amended* to read:

13                “§3341. **Peddling on Highways and Sidewalks.**

14                (A) No person or persons shall stand on any public highway or  
15       sidewalk in a manner for the purpose of soliciting contributions for any  
16       cause or any commercial purpose whatsoever, except that solicitations  
17       and handbilling as defined by Section 3701 Title 16 GCA meeting all of  
18       the following restrictions shall not be prohibited by this Section:

19                (1) which take place between thirty (30) minutes prior to sunrise  
20                and thirty (30) minutes prior to sunset;

21                (2) are made only at intersections with traffic control signals or  
22                stop signs in place;

23                (3) are conducted by individuals no younger than eighteen (18)  
24                years of age;

25                (4) no device to alter or impede the traffic flow is used, except



1 that traffic cones may be placed on a sidewalk or adjacent to a  
2 roadway to indicate or signal the presence of solicitors in the  
3 vicinity;

4 (5) are conducted only while the flow of traffic on the side of the  
5 roadway that the solicitation takes place is stopped;

6 (6) once the traffic recommences after a stop of traffic, the  
7 individual solicitor does not remain in the roadway, but  
8 instead returns to the sidewalk or other off-street facility;

9 (7) individual solicitors wear an orange vest with reflective  
10 material both front and back; and

11 (8) the solicitor's personal belongings or products/goods may  
12 not be stored on roadways or sidewalks such that it would  
13 interfere with vehicular or pedestrian traffic.

14 Any person meeting the above requirements for solicitation shall  
15 place warning signs within one hundred feet (100') of oncoming traffic  
16 warning drivers of the person's activity, and shall notify the Chief of the  
17 Guam Police Department in writing when and for how long the  
18 solicitation shall be occurring at least twenty-four (24) hours prior to the  
19 solicitation.

20 The only question of law and fact in determining guilt for  
21 unlawful solicitation under this Subsection shall be whether goods,  
22 merchandise or tickets were tendered or offered for sale, or whether a  
23 contribution was solicited, in violation of the restrictions set forth above.

24 (B) No person shall stand on or in proximity of any highway for  
25 the purpose of soliciting the washing, watching or guarding of any

1 vehicle while parked, or about to be parked, on a highway. The only  
2 question of law or fact in determining guilt for unlawful solicitation of  
3 washing, watching or guarding of any vehicle under this Subsection  
4 shall be whether such service was offered or implied.

5 (C) For purposes of this Section, the government of Guam does  
6 not waive its right to sovereign immunity and shall not be liable for any  
7 monetary damages which may arise out of this Section.

8 (D) This Section does *not* apply to handbilling regulated by Title  
9 16 GCA Chapter 3."

10 **Section 4. Section 61.35 of Title 9 GCA is hereby *amended* to read:**

11 **"§61.35. Obstructing the Public Ways; Defined & Punished.**

12 (A) A person commits a petty misdemeanor if he or she  
13 unreasonably obstructs the free passage of foot or vehicular traffic on  
14 any public way, and refuses to cease or remove the obstruction upon a  
15 lawful order to do so given him by a law enforcement officer.

16 (B) A person commits a petty misdemeanor if he unreasonably  
17 obstructs the free passage of foot or vehicular traffic on any public way  
18 for the purpose of handbilling as defined by Title 16 GCA Section 3701  
19 or for soliciting as defined by Title 16 GCA Section 3341.

20 (C) As used in this Section, public way means any public  
21 highway or sidewalk, private way laid out under authority of statute,  
22 way dedicated to public use, or way upon which the public has a right  
23 of access or has access as invitees or licensees."

2nd  
4-7-05

3rd  
4/7/05

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN  
2005 (FIRST) Regular Session

Bill No. 32 (EC)

Introduced by:

As substituted by the author and further  
Substituted by the Committee on Criminal  
Justice, Public Safety, Youth & Foreign Affairs

Adolpho B. Palacios

abp  
AK  
R

rayt  
lyk

AN ACT TO ADD A NEW ARTICLE 7 OF CHAPTER 3 OF  
TITLE 16 OF THE GUAM CODE ANNOTATED  
IMPLEMENTING THE "HANDBILLING ACT" RELATIVE  
TO THE IMPLEMENTATION OF REGULATIONS FOR  
THE CONTROL OF HANDBILLING WITHIN TUMON  
BAY.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 Section 1. Article 7 is hereby *added* to Chapter 3 of Title 16 of the Guam  
2 Code Annotated to read as follows:

3 "ARTICLE 7  
4 HANDBILLING ACT

5  
6 Section 3701. **Definitions.** As used in this Article:

7 (A) "*Department*" means the Guam Police Department.

8 (B) "*Handbilling*" means the distribution, solicitation or providing by an  
9 individual of any written or printed material. The term "handbilling" shall  
10 not include: (a) The distribution of any matter by means of a "dispensing  
11 rack"; (b) any other structure or enclosure constructed by or under the

11

**I MINA'BENTE OCHO NA LIHESLATURAN GUÁHAN**

**FLOOR AMENDMENTS/CHANGES**

S Bill No. 32

AB Palacios

**Senator Proposing Amendment**

*(Below for Senator to complete)*

Please describe proposed amendment, including where change to occur:

10 Add Sen. Ray Tenorio, L.F. Kasperbauer as  
# 2 and #3 Sponsors to SBill 32

*(Below only for Clerk of Legislature's use and processing)*

Date 4/7, 2005

Floor Amendment No. 1 of a total of \_\_\_\_\_ changes on above Bill.

Votes For Amendment: \_\_\_\_\_ Votes Against Amendment: \_\_\_\_\_

**AMENDMENT PASSED:**

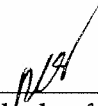
Amendment Failed: \_\_\_\_\_

Amendment Withdrawn: \_\_\_\_\_

**APPROVED AS TO FORM PASSED**

  
AUTHOR OF AMENDMENT

Concur *(initial)*

  
Clerk of Legislature

\_\_\_\_\_  
Speaker

Ass't. Amend. Clerk  
Engrossment Staff

1 direction of the government of Guam or the Guam Visitor's Bureau for  
2 purposes of dispensing printed, written materials; and (c) newsstands; (d)  
3 and any foot vendors of any printed material accepted and deemed as a  
4 daily publication of general circulation.

5 (C) *Tumon Bay* for the purpose of this Act encompasses the following  
6 locations:

- 7 1. The portion of Route 14, also known as Pale San Vitores  
8 Road, stretching from Archbishop Felixberto Flores Circle  
9 to Marine Corps Drive intersection by the old Australian  
10 Cable Facility.
- 11 2. Entire portion of Gun Beach Road starting from the  
12 intersection of Route 14, Pale San Vitores Road, traveling  
13 North to Gun Beach.

14 (D) "*Sidewalk*" means the area located along the outermost, distal or  
15 leading edge vicinity along either side of the centerline of a primary or  
16 secondary public utility and access easement, structurally paved by an  
17 impermeable surface for the purpose of pedestrian foot traffic. In the  
18 absence of any curb or gutter, then the entire structural width of the  
19 pedestrian walk shall constitute a sidewalk.

20 **Section 3702. Short Title.** This Act shall be known as the "*Handbilling*

1        *Act."*

2                **Section 3703. Application.** The provisions of this article shall apply to  
3 all primary and secondary public utility and access easements inclusive to all  
4 improvements thereon within areas designated as Tumon Bay pursuant to this  
5 Article and any area designated as an H Resort-Hotel Zone pursuant to Title 21  
6 G.C.A. Section 61311.

7                **Section 3704. Handbilling Restrictions.** Handbilling is permitted on all  
8 public sidewalks to which this article applies, except:

9                (A) In any area where pedestrian passage on a public sidewalk is less  
10 than forty-six (46) inches;

11                (B) On the portion of a public sidewalk adjacent to any area designated  
12 as a bus stop and within thirty (30) feet of either end of the bus stop. In  
13 areas where the length of the bus stop is not clearly identified, the bus stop  
14 shall extend thirty (30) feet at either direction from the bus stop sign;

15                (C) Within a mid-block crosswalk area and thirty (30) feet beyond each  
16 side of a marked mid-block crosswalk including the sidewalk and  
17 perpendicular to the curb;

18                (D) On the portion of a public sidewalk crossed by a public or private  
19 driveway and within thirty (30) feet of either side of the driveway; or

20                (E) Within any street corner area defined as that area at street corners

1 and at the intersection of two streets, circumscribed by the curbs, the  
2 property lines abutting the sidewalk area, and the following lines:

3 (1) The line, including the point along the curb, of one  
4 street either: thirty (30) feet beyond the far side of a marked corner  
5 crosswalk and perpendicular to the curb; or, where there is no  
6 marked corner crosswalk, thirty (30) feet from the curb line of the  
7 intersecting street and parallel to the curb line; and

8 (2) The line, including the point along the curb, of the  
9 intersecting street either: thirty (30) feet beyond the far side of a  
10 marked corner crosswalk and perpendicular to the curb; or, where  
11 there is no marked crosswalk, thirty (30) feet from the curb line of  
12 the first street and parallel to the curb line.

13 **Section 3704.1 Posting and Markings of Restricted Areas.** The  
14 Department of Public Works, with oversight by the Guam Visitors Bureau,  
15 shall post distinguishable signs and affix defined markings on all restricted  
16 public areas enumerated and identified in §3704 A, B, C, D, and E of this  
17 Act. The Department of Public Works may receive donations for the signs  
18 and markings required by this Section.

19 **Section 3704.2 Time Duration.** The provisions indicated in §3704 of this  
20 Act shall be effective every day between the hours of 10:00 a.m. to 2:00

Passed FA No. 2  
Date: 4/7 Time: \_\_\_\_\_

**I MINA'BENTE OCHO NA LIHESLATURAN GUÁHAN**

**FLOOR AMENDMENTS/CHANGES**

Bill No. 32

JMSB  
**Senator Proposing Amendment**

*(Below for Senator to complete)*

Please describe proposed amendment, including where change to occur:

p. 5. line 11, increase \$100.00 to read \$200.00;  
increase \$250.00 to read \$500.00

*(Below only for Clerk of Legislature's use and processing)*

Date 4/7, 2005

Floor Amendment No. 2 of a total of \_\_\_\_\_ changes on above Bill.

Votes For Amendment: \_\_\_\_\_ Votes Against Amendment: \_\_\_\_\_

**AMENDMENT PASSED:** \_\_\_\_\_

Amendment Failed: \_\_\_\_\_

Amendment Withdrawn: \_\_\_\_\_

**APPROVED AS TO FORM PASSED**

[Signature]  
**AUTHOR OF AMENDMENT**

**Concur (initial)**

[Signature]  
Clerk of Legislature

\_\_\_\_\_  
Speaker

\_\_\_\_ Ass't. Amend. Clerk

\_\_\_\_ Engrossment Staff



1 a.m.

2 **Section 3705. Penalty, Summons, and Citation, Prohibition**

3 (A) **Prohibited Activity.** No person may engage in any handbilling  
4 activity between the hours of 10:00 A.M. to 2:00 A.M. within the  
5 marked restricted areas as described in sections 3704.

6 (B) **Summons or Citation.** A peace officer shall use the “Guam  
7 Uniform Complaint and Citation” form for citing any violation of this  
8 article.

9 (C) **Penalty.** Any person conducting handbilling in violation of any  
10 provision of this article shall be subject to a fine of one hundred dollars  
11 <sup>200.00</sup> (~~\$100.00~~) for the first offense and two hundred fifty dollars <sup>\$500.00</sup> (~~\$250.00~~) for  
12 any subsequent offense.

13 **Section 3706 Effective Date.** The provisions outlined in this Act shall  
14 become effective 60 days after enactment into public law.

15 **Section 3707 Creation of the Handbilling Enforcement Fund.** (a) There  
16 is hereby created the Handbilling Enforcement Fund. This Fund shall be  
17 used exclusively for the support of enforcement, maintenance and  
18 education efforts relative to this Act. The Guam Visitors Bureau shall  
19 administer expenditures from the Fund and maintain said Fund separately  
20 and apart from all other accounts.

*just FA 2*

1 (B) **Fines and Fees Collected.** All fines collected by the Superior Court  
2 of Guam for any violation of this Act shall be placed in the “Handbilling  
3 Enforcement Fund”.

4 (C) **Expenditure Report.** No later than January 2<sup>nd</sup> of each year,  
5 Guam Visitors Bureau shall submit an annual report to *I Maga’lahen Guåhan* and to  
6 the Speaker of *I Liheslaturan Guåhan*, detailing all expenditures from the Fund. The  
7 first report shall be due 180 days after the enactment of this Act and annually  
8 thereafter.

9 **Section 2.** Title 16 Section 3328 is hereby amended to read:

10 **§3328. Pedestrian’s Right of Way of Sidewalk.**

11 The operator of the any motor vehicle, prior to driving over or upon any  
12 sidewalk or pedestrian path, shall yield the right of way to any pedestrian approaching  
13 thereon. Any person soliciting or handbilling on a sidewalk shall not interfere with  
14 the free right of passage of any pedestrian thereon.

15 **Section 3.** Title 16 Section 3341 is hereby amended to read:

16 **§3341. Peddling on Highways and Sidewalks.**

17 (A) No person or persons shall stand on any public highway or sidewalk  
18 in a manner for the purpose of soliciting contributions for any cause or commercial  
19 purpose whatsoever, except that solicitations and handbilling as defined by Title 16  
20 Section 3601 meeting all of the following restrictions shall not be prohibited by this

1 Section:

2 (1) which take place between thirty (30) minutes prior to sunrise and  
3 thirty (30) minutes prior to sunset;

4 (2) are made only at intersections with traffic control signals or stop  
5 signs in place;

6 (3) are conducted by individuals no younger than eighteen (18) years of  
7 age;

8 (4) no device to alter or impede the traffic flow is used, except that  
9 traffic cones may be placed on a sidewalk or adjacent to a roadway to indicate or  
10 signal the presence of solicitors in the vicinity;

11 (5) are conducted only while the flow of traffic on the side of the  
12 roadway that the solicitation takes place is stopped;

13 (6) once the traffic recommences after a stop of traffic, the individual  
14 solicitor does not remain in the roadway, but instead returns to the sidewalk or other  
15 off-street facility;

16 (7) individual solicitors wear orange vest with reflective material both  
17 front and back; and

18 (8) the solicitor's personal belongings or products/goods may not be  
19 stored on roadways or sidewalks such that it would interfere with vehicular or  
20 pedestrian traffic.

1 Any person meeting the above requirements for solicitation shall place  
2 warning signs within one hundred feet (100') of oncoming traffic warning drivers of  
3 the person's activity, and shall notify the Chief of the Guam Police Department in  
4 writing when and for how long the solicitation shall be occurring at least twenty-four  
5 hours prior to the solicitation.

6 The only question of law and fact in determining guilt for unlawful  
7 solicitation under this Subsection shall be whether goods, merchandise or tickets were  
8 tendered or offered for sale, or whether a contribution was solicited, in violation of the  
9 restrictions set forth above.

10 (B) No person shall stand on or in proximity of any highway for the  
11 purpose of soliciting the washing, watching or guarding of any vehicle while parked,  
12 or about to be parked, on a highway. The only question of law or fact in determining  
13 guilt for unlawful solicitation of washing, watching or guarding of any vehicle under  
14 this Subsection shall be whether such service was offered or implied.

15 (C) For purposes of this Section, the government of Guam does not  
16 waive its right to sovereign immunity and shall not be liable for any monetary  
17 damages which may arise out of this Section.

18 (D) This section does not apply to handbilling regulated by Title 16  
19 G.C.A. Chapter 3.

20 **Section 4.** Title 9 Section 61.35 is hereby amended to read:

1 **§61.35. Obstructing the Public Ways; Defined & Punished.**

2 (A) A person commits a petty misdemeanor if he unreasonably obstructs  
3 the free passage of foot or vehicular traffic on any public way, and refuses to cease or  
4 remove the obstruction upon a lawful order to do so given him by a law enforcement  
5 office.

6 (B) A person commits a petty misdemeanor if he unreasonably obstructs  
7 the free passage of foot or vehicular traffic on any public way for the purpose of  
8 handbilling as defined by Title 16 G.C.A. Section 3601 or for soliciting as defined by  
9 Title 16 Section 3341.

10 (C) As used in this Section, public way means any public highway or  
11 sidewalk, private way laid out under authority of statute, way dedicated to public use,  
12 or way upon which the public has a right of access or has access as invitees or  
13 licensees.



*Office of*  
**SENATOR RAY TENORIO**  
**MAJORITY LEADER**  
**CHAIRMAN**  
 COMMITTEE ON CRIMINAL JUSTICE,  
 PUBLIC SAFETY, YOUTH & FOREIGN AFFAIRS

Suite 104, De La Corte Building  
 167 East Marine Corps Drive  
 Hagåtña, Guam 96910  
 671.479.GUAM  
 671.479.1FAX  
 raytenorio.com

April 1, 2005

The Honorable Mark Forbes  
 Speaker  
*I Mina' Bente Ocho na Liheslaturan Guåhan*  
 155 Hesler Street  
 Hagåtña, Guam 96910

Dear Speaker Forbes:

The Committee on Criminal Justice, Public Safety, Youth and Foreign Affairs, to which was referred, **Bill No. 32(EC)**, as substituted by the Author: **“An act to add a new Article 7 of Chapter 3 of Title 16 of the Guam Code Annotated implementing the “Handbilling Act” relative to the implementation of regulations for the control of handbilling within Tumon Bay”** now wishes to report back the same with the recommendation **TO PASS**.

The voting record is as follows:

TO PASS	<u>8</u>
NOT TO PASS	<u>0</u>
TO REPORT OUT ONLY	<u>0</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

A copy of the Committee report and other pertinent documents are attached for your information and file.

  
 Ray Tenorio





*Office of*  
**SENATOR RAY TENORIO**  
**MAJORITY LEADER**  
**CHAIRMAN**  
COMMITTEE ON CRIMINAL JUSTICE,  
PUBLIC SAFETY, YOUTH & FOREIGN AFFAIRS

Suite 104, De La Corte Building  
167 East Marine Corps Drive  
Hagåtña, Guam 96910  
671.479.GUAM  
671.479.1FAX  
raytenorio.com

March 18, 2005

**MEMORANDUM**

TO: Committee Members

FROM: Chairman

SUBJECT: Committee Report – BILL NO. 32(EC), as substituted by the author: “An act to add a new Article 7 of Chapter 3 of Title 16 of the Guam Code Annotated implementing the “*Handbilling Act*” relative to the implementation of regulations for the control of handbilling within Tumon Bay.”

Transmitted herewith, for your information and action, is the report on BILL NO. 32(EC), as substituted by the author, from the Committee on Criminal Justice, Public Safety, Youth & Foreign Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 32(EC), as substituted by the author
4. Written Testimony
5. Public Hearing Sign-in Sheet
6. Notice of Public Hearing
7. Bill No. 32(EC)

Please take appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated. Should you have any questions regarding this report or accompanying documents, please do not hesitate to contact me at 479-4825/26.

  
RAY TENORIO





*Office of*  
**SENATOR RAY TENORIO**  
**MAJORITY LEADER**  
**CHAIRMAN**  
 COMMITTEE ON CRIMINAL JUSTICE,  
 PUBLIC SAFETY, YOUTH & FOREIGN AFFAIRS

Suite 104, De La Corte Building  
 167 East Marine Corps Drive  
 Hagåtña, Guam 96910  
 671.479.GUAM  
 671.479.1FAX  
 raytenorio.com

VOTING RECORD

**BILL NO. 32(EC), as substituted by the author: "An Act To Add A New Article 7 Of Chapter 3 Of Title 16 Of The Guam Code Annotated Implementing The "Handbilling Act" Relative To The Implementation Of Regulations For The Control Of Handbilling Within Tumon Bay."**

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO REPORT OUT ONLY</u>	<u>ABSTAIN</u>	<u>TO PLACE IN INACTIVE FILE</u>
 RAY TENORIO, Chairman	✓				
 LAWRENCE F. KASPERBAUER Vice Chair	X				
 JOANNE BROWN, Member	✓				
ROBERT KLITZKIE, Member					
JESSE A. LUJAN, Member					
ANTONIO R. UNPINGCO, Member	✓				
FRANK B. AGUON, Member					
BENJAMIN J. CRUZ, Member					
 ADOLPHO PALACIOS, Member	✓				
 JUDI WON PAT, Member	✓				
 RORY J. RESPEGIO, Member	✓				
 MARK FORBES, Ex-Officio	✓				





## I. OVERVIEW

The Committee on Criminal Justice, Public Safety, Youth & Foreign Affairs conducted a public hearing on February 10, 2005 in the Legislative Public Hearing Room, *Liheslaturan Guåhan*. Included in the public hearing was Bill No. 32(EC). Public notice was printed in the Pacific Daily News on February 3 and February 8, 2005.

Senators present:

1. Senator Ray Tenorio, Chairman
2. Senator Lawrence Kasperbauer, Vice-Chairman
3. Senator Joanne Brown
4. Senator Robert Klitzkie, Member
5. Senator Antonio Unpingco, Member
6. Senator Frank Aguon, Jr., Member
7. Senator Adolpho Palacios, Member
8. Senator Rory Respicio

## II. SUMMARY OF TESTIMONY

**Bruce Kloppenburg, Vice President, Japan Guam Travel Association (JGTA)**, presented oral and written (see attached) testimony on behalf of Mr. Isao Mamada, President, Japan Guam Travel Association. Mr. Kloppenburg stated that the JGTA fully supports the need for regulating the methods of handbill distribution. Mr. Kloppenburg further stated that much of the material is pornographic in nature and is designed to solicit prostitution. Another problem is the manner in which the handbillers approach the tourists. Mr. Kloppenburg described that handbillers thrust the material(s) at the tourists forcing them out on the streets to avoid the handbillers.

**Douglas Moylan, Attorney General of Guam**, submitted oral and written (see attached) testimony in support of Bill No. 32(EC). Mr. Moylan suggested that notices be posted around fixed locations indicating handbill-restricted zones or paintings on sidewalks indicating the restricted area.

**David B. Tydingco, President, Guam Hotel & Restaurant Association (GHRA)**, provided oral and written (see attached) testimony in support of the passage of Bill No. 32(EC). Mr. Tydingco stated that the safety of the tourists is jeopardized when street hawkers push their services on the tourists. Mr. Tydingco proposed that the current practice of handbilling be eliminated and that information kiosks be established in major pedestrian areas.

**Alberto C. Lamorena, General Manager, Guam Visitors Bureau**, provided oral and written (see attached) testimony in support of the intent of Bill No. 32(EC). Mr.

Lamorena expressed some concerns with the Bill as it is currently written. Mr. Lamorena stated that the handbill restrictions would be difficult to enforce since it will require constant physical presence by GPD. Another issue is the contents of what is prohibited on the "informative material". Mr. Lamorena further stated that the penalty currently proposed is not a sufficient deterrent and suggested that all businesses require their employees, who are engaged in handbilling activity, to register with a regulatory agency and undergo training/familiarization course about the Handbilling Act.

**Hong Soon Im, President, Taxi Associations of Guam**, provided oral and written (see attached) testimony giving 100% support and passage of Bill No. 32(EC). Mr. Im stated that the Bill would ensure the safety of the tourists as they walk the streets of Tumon. He further stated that the tourists would step out onto or illegally cross the street to avoid the handbillers. Mr. Im also asserted that the handbillers are ruining the island's image as a resort family destination by promoting massage parlors and prostitution.

**Jae S. Ro, private citizen**, provided oral testimony describing his experience with handbillers. Mr. Ro stated that he collected about ten (10) fliers while walking from Outrigger Hotel to Westin Resort. He further stated that he did not appreciate that the handbillers shoved the material on him and feels it should be banned.

**Timothy C. Santos, Lieutenant, Guam Police Department**, provided oral testimony in support of Bill No. 32(EC), but cited some concerns. One concern in particular is the penalty fine. Lt. Santos feels that the \$25.00 fine is not sufficient and that a more serious offense be included. Another concern is the enforcement issue. Lt. Santos proposed that markings be made to identify the sections that are restricted to handbilling activity.

**Senator Robert Klitzkie** asked Mr. Lamorena, which was the more serious problem, the content of the handbills or the conduct of the handbillers? Mr. Lamorena responded that the problem is twofold and is just as equal. Senator Klitzkie stated that anytime a government attempts to regulate speech that is one of the most sensitive things governments could do. Senator Klitzkie then asked Mr. Im to repeat some of the things he had previously testified to. Senator Klitzkie pointed his next question to Lt. Santos and asked whether solicitation for prostitution is a crime. Lt. Santos responded with a yes. Senator Klitzkie further expressed the possible violation of the First Amendment rights when regulating the content of material that is distributed.

**Senator Kasperbauer** expressed his concerns over the difficulty the last three legislatures have had in getting this particular measure passed. He pointed out that

the safety issue is paramount and the freedom of speech aspect must also be addressed.

**Senator Palacios** clarified that the law recently passed in the Commonwealth of the Northern Marianas prohibited loitering and that Bill No. 32 is not as restrictive in comparison to the CNMI law. Senator Palacios posed the question to Lt. Santos, if the Bill were to pass into law how will it affect public safety? Lt. Santos responded that the benefit would be safe walkways for the tourists and local population.

**Senator Frank Aguon, Jr.** questioned the panel, if they were aware, if any rulings were rendered regarding the challenges made against Hawaii's handbilling legislation. Mr. Lamorena offered to research the information and make available to the Committee. Senator Aguon further conveyed that public safety is a big impetus in seeing this legislation thru and that the content of the material is also a factor to consider. Senator Aguon commended Senator Palacios for introducing the legislation and trying to get it enacted into law.

**Vice Speaker Joanne Brown** reiterated the sentiments of Senator Kasperbauer regarding the number of times this particular legislation has come before the Legislature. Vice Speaker Brown commented that there is a fine line when regulating the activity of handbillers and not infringing on their right of free speech. Vice Speaker Brown further commented that the challenge to overcome is the legal and constitutional issue of right to free speech.

### III. FINDINGS

The Committee on Criminal Justice, Public Safety, Youth & Foreign Affairs finds that the Guam Visitors Bureau and others in the hospitality industry have spent many resources in promoting and developing Guam as a safe, satisfying and family-oriented destination. Although the issue of handbilling is not new, there is a growing concern by officials in the hospitality trade and the community, in general, that the conduct of the handbillers and the content of the material in which they distribute is causing a negative effect on the island's image. More importantly, the practice of forcing handbills upon pedestrians, especially, tourists endangers the safety of the pedestrians and tourists in attempting to avoid the handbillers. Therefore, the Committee further finds that there is a compelling and reasonable need to regulate handbilling activities upon certain public streets, sidewalks and other public places within Tumon Bay to ensure the safety and interest of motorists and pedestrians in the area.

The Committee also finds that a challenge exists when trying to balance the constitutional right of free speech of the handbillers and the right of pedestrians to

walk down a public sidewalk without being harassed by the handbillers. Bill No. 32(EC), as substituted by the author, addresses the concerns and recommendations that were made to the Committee. Bill No. 32(EC), as substituted, provides reasonable opportunity for persons desiring to engage in handbilling activity. Bill No. 32(EC), as substituted, also defines specific areas in which handbilling is restricted to ensure the safety and interests of the pedestrians and motorists.

#### IV. RECOMMENDATION

The Committee on Criminal Justice, Public Safety, Youth & Foreign Affairs hereby reports out Bill No. 32(EC), as substituted: "An act to add a new article 7 of Chapter 3 of Title 16 of the Guam Code Annotated implementing the "Handbilling Act" relative to the implementation of regulations for the control of handbilling within Tumon Bay" to *I Mina Bente Ocho Na Liheslaturan Guåhan* with the recommendation **TO PASS**.

##### Attachments

1. Bill No. 32(EC), as substituted
2. Written Testimony
  - a. Isao Mamada
  - b. Douglas Moylan
  - c. David Tydingco
  - d. Alberto Lamorena, V
  - e. Hong Im
3. Witness Sign-in Sheet
4. Paid Advertisement
5. Bill No. 32(EC)

**I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN**  
**2005 (FIRST) Regular Session**

**Bill No. 32 (EC)**

Introduced by:  
As substituted by the author

Adolpho B. Palacios

---

**AN ACT TO ADD A NEW ARTICLE 7 OF CHAPTER 3 OF  
TITLE 16 OF THE GUAM CODE ANNOTATED  
IMPLEMENTING THE "HANDBILLING ACT" RELATIVE  
TO THE IMPLEMENTATION OF REGULATIONS FOR  
THE CONTROL OF HANDBILLING WITHIN TUMON  
BAY.**

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

1       **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that  
2 reasonable regulation of handbilling activities upon certain public streets, sidewalks,  
3 alleys and other public places within Tumon Bay, Guam are necessary. Tumon Bay  
4 is the heart of the island's tourist industry; a major business, entertainment, and  
5 recreation area for visitors and residents that generate a high concentration of motorist  
6 and pedestrian traffic.

7       Handbilling activity conducted at or close to sidewalks, intersections, crosswalks,  
8 bus stops and driveways impedes the flow of pedestrian and vehicular traffic, leading  
9 to erratic and evasive maneuvers, posing a hazard through diverting the attention of  
10 and endangering drivers, pedestrians and those alighting from buses. Further,  
11 handbillers who obstruct the paths of pedestrians or who, without the consent of the

1 pedestrian, thrust handbills in their faces or touch their persons or property, create  
2 reprehensible and hazardous situations, such as pedestrians stepping into busy streets  
3 or colliding with other pedestrians to avoid unwanted contacts with handbillers. This  
4 danger is minimized when persons are limited from engaging in handbilling along or  
5 in close proximity to such safety sensitive areas as sidewalks, driveways, crosswalks,  
6 bus stops and intersections during the hours cited in this Act. Accordingly, this Act is  
7 designed to protect the safety of the public and to restrict handbilling activity in only  
8 those areas within Tumon Bay presenting the greatest hazards to pedestrian's and  
9 motorist's safety.

10 *I Liheslaturan Guåhan* finds a compelling need to ensure the safety and welfare  
11 of the motorists and pedestrians who frequent Tumon Bay by providing for open,  
12 unobstructed and accessible sidewalks within Tumon Bay. The provisions of this Act  
13 are declared to be necessary for the accomplishment of the following purposes:

14 (1) To ensure the safe, free and orderly flow of vehicular and pedestrian traffic  
15 on the most hazardous portions of sidewalks, intersections, crosswalks, bus stops and  
16 driveways along Tumon Bay; and

17 (2) To ensure that persons desiring to engage in handbilling activities within  
18 Tumon Bay are given a reasonable opportunity to do so.

19 The provisions of this Act are intended to preserve the right of free speech and to  
20 regulate handbilling activities for the safety and welfare of pedestrians and the people

1 of Guam.

2 **Section 2.** Article 7 is hereby *added* to Chapter 3 of Title 16 of the Guam Code  
3 Annotated to read as follows:

4 **“ARTICLE 7**  
5 **HANDBILLING ACT**  
6

7 **Section 3701. Definitions.** As used in this Article:

8 (A) *“Department”* means the Guam Police Department.

9 (B) *“Handbilling”* means the distribution by an individual of any written  
10 or printed material containing informative matter. The term “handbilling”  
11 shall not include: (a) The distribution of any printed or written matter by  
12 means of a “dispensing rack”; (b) any other structure or enclosure  
13 constructed by or under the direction of the government of Guam or the  
14 Guam Visitor’s Bureau for purposes of dispensing printed or written  
15 matter or; (c) newsstands; (d) and any foot vendors of any printed material  
16 accepted and deemed as a daily publication of general circulation.

17 (C) *“Informative material”* means any photograph, map, diagram,  
18 rendering, drawing, painting, graph, photocopy, print, relief, engraving,  
19 embossed material, punch card, audio, video, and/or computer tape, record  
20 compact or laser disc, computer diskette or any other material intended to  
21 convey information audibly, visually, or by touch, in any language, code or

1 pictorial representation, which has no purpose but for the conveyance of  
2 information not requiring the exchange of money or other form of  
3 consideration.

4 (D) *Tumon Bay* for the purpose of this Act encompasses the following  
5 locations:

6 1. The portion of Route 14, also known as Pale San Vitores  
7 Road, stretching from Archbishop Felixberto Flores Circle  
8 to Marine Corps Drive intersection by the old Australian  
9 Cable Facility.

10 2. Entire portion of Gun Beach Road starting from the  
11 intersection of Route 14, Pale San Vitores Road, traveling  
12 North to Gun Beach.

13 (E) "*Sidewalk*" means the area located along the outermost, distal or  
14 leading edge vicinity along either side of the centerline of a primary or  
15 secondary public utility and access easement, structurally paved by an  
16 impermeable surface for the purpose of pedestrian foot traffic. In the  
17 absence of any curb or gutter, then the entire structural width of the  
18 pedestrian walk shall constitute a sidewalk.

19 **Section 3702. Short Title.** This Act shall be known as the "*Handbilling*

20 *Act.*"



1           **Section 3703. Application.** The provisions of this article shall apply to  
2 all primary and secondary public utility and access easements inclusive to all  
3 improvements thereon within areas designated as Tumon Bay pursuant to this  
4 Article.

5           **Section 3704. Handbilling Restrictions.** Handbilling is permitted on all  
6 public sidewalks to which this article applies, except:

7           (A) In any area where pedestrian passage on a public sidewalk is less  
8 than forty-six (46) inches;

9           (B) On the portion of a public sidewalk adjacent to any area designated  
10 as a bus stop and within thirty (30) feet of either end of the bus stop. In  
11 areas where the length of the bus stop is not clearly identified, the bus stop  
12 shall extend thirty (30) feet at either direction from the bus stop sign;

13           (C) Within a mid-block crosswalk area and thirty (30) feet beyond each  
14 side of a marked mid-block crosswalk including the sidewalk and  
15 perpendicular to the curb;

16           (D) On the portion of a public sidewalk crossed by a public or private  
17 driveway and within thirty (30) feet of either side of the driveway; or

18           (E) Within any street corner area defined as that area at street corners  
19 and at the intersection of two streets, circumscribed by the curbs, the  
20 property lines abutting the sidewalk area, and the following lines:

1           (1) The line, including the point along the curb, of one  
2 street either: thirty (30) feet beyond the far side of a marked corner  
3 crosswalk and perpendicular to the curb; or, where there is no  
4 marked corner crosswalk, thirty (30) feet from the curb line of the  
5 intersecting street and parallel to the curb line; and

6           (2) The line, including the point along the curb, of the  
7 intersecting street either: thirty (30) feet beyond the far side of a  
8 marked corner crosswalk and perpendicular to the curb; or, where  
9 there is no marked crosswalk, thirty (30) feet from the curb line of  
10 the first street and parallel to the curb line.

11       **Section 3704.1 Posting and Markings of Restricted Areas.** The  
12 Department of Public Works, with oversight by the Guam Visitors Bureau,  
13 shall post distinguishable signs and affix defined markings on all restricted  
14 public areas enumerated and identified in §3704 A, B, C, D, and E of this  
15 Act. Nothing herein or in other provision of law shall be construed to limit  
16 the Department of Public Works from receiving donations for the signs and  
17 markings required by this Section.

18       **Section 3704.2 Time Duration.** The provisions indicated in §3704 of this  
19 Act shall be effective between the hours of 10:00 a.m. to 2:00 a.m.,  
20 Monday through Sunday.

1                   **Section 3705. Penalty, Summons, and Citation, Prohibition**

2           **(A) Prohibited Activity.** No person may engage in any handbilling  
3                   activity between the hours of 10:00 A.M. to 2:00 A.M. Monday  
4                   through Sunday, within the marked restricted areas as described in  
5                   sections 3704.

6           **(B) Summons or Citation.** Police officers, or authorized deputized  
7                   peace officers, shall use the “Guam Uniform Complaint and Citation” form  
8                   for citing any violation of this article.

9           **(C) Penalty.** Any person conducting handbilling in violation of any  
10                   provision of this article shall be subject to a fine of one hundred dollars  
11                   (\$100.00) for the first offense and two hundred fifty dollars (\$250.00) for  
12                   any subsequent offense.

13           **Section 3706 Effective Date.** The provisions outlined in this Act shall  
14                   become effective 60 days after enactment into public law.

15           **Section 3707 Creation of the Handbilling Enforcement Fund.** There is  
16                   hereby created the Handbilling Enforcement Fund. This Fund shall be  
17                   used exclusively for the support of enforcement, maintenance and  
18                   education efforts relative to this Act. The Guam Visitors Bureau shall  
19                   administer expenditures from the Fund and maintain said Fund separately  
20                   and apart from all other accounts.

1           **Section 3708 Fines and Fees Collected.** All fines collected by the  
2           Superior Court of Guam for any violation of this Act shall be placed in the  
3           “Handbilling Enforcement Fund”.

4           **Section 3. Expenditure Report.** Guam Visitors Bureau shall submit an  
5           annual report to *I Maga’lahen Guåhan* and to the Speaker of *I Liheslaturan Guåhan*,  
6           detailing all expenditures from the Fund. The first report shall be due 180 days after  
7           the enactment of this Act and annually thereafter.

8           **Section 4. Severability.** If any provision of this Law or its application to any  
9           person or circumstance is found to be invalid or contrary to law, such invalidity shall  
10          not affect other provisions or applications of this Law which can be given effect  
11          without the invalid provisions or application, and to this end the provisions of this  
12          Law are severable.

1 a.m.

2 **Section 3705. Penalty, Summons, and Citation, Prohibition**

3 (A) **Prohibited Activity.** No person may engage in any handbilling  
4 activity between the hours of 10:00 A.M. to 2:00 A.M. within the  
5 marked restricted areas as described in sections 3704.

6 (B) **Summons or Citation.** A peace officer shall use the “Guam  
7 Uniform Complaint and Citation” form for citing any violation of this  
8 article.

9 (C) **Penalty.** Any person conducting handbilling in violation of any  
10 provision of this article shall be subject to a fine of one hundred dollars  
11 <sup>200.00</sup> (~~\$100.00~~) for the first offense and two hundred fifty dollars <sup>\$500.00</sup> (~~\$250.00~~) for  
12 any subsequent offense.

13 **Section 3706 Effective Date.** The provisions outlined in this Act shall  
14 become effective 60 days after enactment into public law.

15 **Section 3707 Creation of the Handbilling Enforcement Fund.** (a) There  
16 is hereby created the Handbilling Enforcement Fund. This Fund shall be  
17 used exclusively for the support of enforcement, maintenance and  
18 education efforts relative to this Act. The Guam Visitors Bureau shall  
19 administer expenditures from the Fund and maintain said Fund separately  
20 and apart from all other accounts.

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

Bill No. 32

JMSB  
\_\_\_\_\_  
**Senator Proposing Amendment**

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

p. 5. line 11, increase \$100.00 to read \$200.00;  
increase \$250.00 to read \$500.00

(Below only for Clerk of Legislature's use and processing))

Date 4/7, 2005

Floor Amendment No. 2 of a total of \_\_\_\_\_ changes on above Bill.

Votes For Amendment: \_\_\_\_\_ Votes Against Amendment: \_\_\_\_\_

**AMENDMENT PASSED:** \_\_\_\_\_

Amendment Failed: \_\_\_\_\_

Amendment Withdrawn: \_\_\_\_\_

**APPROVED AS TO FORM PASSED**

[Signature]  
\_\_\_\_\_  
AUTHOR OF AMENDMENT

Concur (initial)

[Signature]  
\_\_\_\_\_  
Clerk of Legislature

\_\_\_\_\_  
Speaker

\_\_\_\_\_  
Ass't. Amend. Clerk  
Engrossment Staff



Twenty-Eighth  
Guam  
Legislature

Office of Senator  
Adolpho B. Palacios, Sr.

*I Mina' Bente Ocho Na Li Heslaturan Guahan*

March 8, 2005

Honorable Senator Ray Tenorio  
Chairperson,  
Committee on Criminal Justice, Public Safety, Youth and Foreign Affairs  
155 Hesler Place, Hagåtña, GU 96910

MEMBERSHIP:

- Committee on Calendar
- Executive Committee
- Committee on Finance, Taxation and Commerce
- Committee on Criminal Justice, Public Safety, Youth and Foreign Affairs
- Committee on Judiciary, Governmental Operations and Reorganization
- Committee on Aviation, Immigration, Labor & Housing

Mr. Chairman,

I am writing this letter transmitting Substitute Bill 32 to be reported out of your committee.

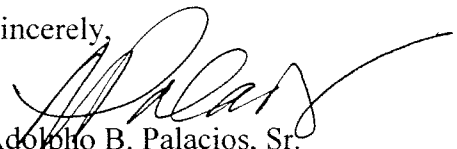
Substitute Bill 32 includes revisions that incorporate most concerns raised during the public hearing held on February 10, 2005. In addition, the revised version meets the 4-Part test as described in *Central Hudson Gas v. Public Service Commission*, 447 U.S. 557, 100 S. Ct. 2343, 65 L.Ed.2d 341 (1980).

Substitute Bill 32 attempts to regulate commercial speech in pursuit of the safety and welfare of pedestrians and motorists, a substantial government interest, within Tumon Bay and it is not more extensive than necessary to serve the interest. Substitute Bill 32 is content-neutral, narrowly defined, allows for alternatives and is time specific.

The bill does not infringe on the freedom of speech; it just regulates commercial speech. All other types of speech are permissible at all times. It is the conduct and behavior of handbillers that pose a safety hazard in which we are concerned with.

In this spirit I transmit this bill for further processing to be placed on the next session agenda.

Sincerely,

  
Adolpho B. Palacios, Sr.  
Senator, 28<sup>th</sup> Guam Legislature



# JAPAN GUAM TRAVEL ASSOCIATION

February 9, 2005

Senator Ray Tenorio  
Chairman, Committee on Criminal Justice, Public Safety, Youth & Foreign Affairs  
28th Guam Legislature  
155 Hesler St.  
Hagatna, Guam 96910

Subject: HANDBILL ORDINANCE

Dear Senator,

Thank you very much for holding a public hearing on this issue. The Japan Guam Travel Association (JGTA) fully supports the need for regulating the methods of handbill distribution anywhere on Guam.

Currently the system allows uncontrolled distribution of materials that are designed to mislead Guam's visitors. Much of the material is pornographic in nature and is designed to solicit prostitution. Often the same individuals distributing handbills attempt to sell drugs to Guam's visitors. This situation, if left unchecked will eventually lead to a potentially more serious problem.

At a previous hearing held on March 21, 2002 we submitted into the record, a copy of a current handbill being distributed on the streets of Tumon, which has written within it, the names and phone numbers of all the members of JGTA. It is designed to infer that we endorse this product. The wording is such, that when a tourist reads the handbill they assume it is safe and protected. This particular handbill is designed to solicit prostitution. Unfortunately, due to time constraints we were unable to attach a current copy of the same type handbill.

Another by-product of the current situation is the harassment aspect of constantly having handbills thrust at you. This is an unsightly problem that many tourist destinations worldwide have to deal with. Japanese tourists dislike this sales approach and would prefer not to be harassed in this manner. If left unchecked, Guam's image could be affected. An additional negative aspect is the loitering of "gangs" at street corners. Someday a tourist, trying to avoid these groups will inadvertently venture into the street and become a casualty to a vehicle accident.

In closing, it is imperative that some regulations be created and enforced to protect Guam's visitors from illegal handbill distribution activities. Handbills are an intricate part of the visitor industry and are needed to inform tourists of what services are available, but the distribution of this material must be done in a safe and controlled