

*I Mina'Trentai Kuáttro Na Liheslaturan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
380-34 (LS)	Dennis G. Rodriguez, Jr. Louise B. Muña	AN ACT TO AMEND §§ 122504 AND 122505 OF CHAPTER 25, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO EXEMPTING FROM CRIMINAL AND CIVIL PENALTIES THOSE ENGAGED IN THE HOME CULTIVATION OF MEDICAL CANNABIS AND EXTENDING PROHIBITION, RESTRICTIONS, AND LIMITATIONS OVER THE SAME.	11/28/18 10:13 a.m.						

**I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN**  
**2018 (SECOND) Regular Session**

Bill No. 300<sup>LS</sup>-34 (~~COB~~)

Introduced by:

**Dennis G. Rodriguez, Jr.**  
**Louise Borja Muna** 

**AN ACT TO AMEND §§ 122504 AND 122505 OF  
CHAPTER 25, TITLE 10, GUAM CODE ANNOTATED,  
RELATIVE TO EXEMPTING FROM CRIMINAL AND CIVIL  
PENALTIES THOSE ENGAGED IN THE HOME  
CULTIVATION OF MEDICAL CANNABIS AND EXTENDING  
PROHIBITION, RESTRICTIONS, AND LIMITATIONS OVER  
THE SAME.**

2018 NOV 28 AM 10:13 

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

2 **Section 1.** § 122504 of Chapter 25, Title 10, Guam Code Annotated, is  
3 *amended* to read:

4 **“§ 122504. Exemption from Criminal and Civil Penalties for the**  
5 **Medical Use of Cannabis.**

6 (a) A qualified patient is presumed to be engaged in the medical use  
7 of cannabis and shall not be subject to arrest, prosecution or penalty in any  
8 manner for the possession of or the medical use of cannabis if the qualified  
9 patient possesses a quantity of cannabis that does not exceed the allowable  
10 amount, possesses a quantity of cannabis that does not exceed the amount  
11 authorized for home cultivation under § 122530(d) of this Article, is acting  
12 in accordance with all of the requirements of this Act, and is in possession of  
13 a written certification and a cannabis home cultivation permit where

1 applicable. For purposes of this Section, the allowable amount and the  
2 amounts allowed under § 122530(d) of this Article shall be quantified  
3 separately to ensure that a qualified patient may possess both up to the  
4 allowable amount pursuant to § 122503(a) and the amount of cultivated  
5 plants authorized by § 122530(d) of this Article.

6 (b) A qualified patient's primary caregiver, patient's designated  
7 caregiver, or multiple patients' designated caregiver is presumed to be  
8 engaged in the medical use of cannabis and shall not be subject to arrest,  
9 prosecution or penalty in any manner for the possession of cannabis for  
10 medical use by the qualified patient if the ~~primary~~ caregiver possesses a  
11 quantity of cannabis that does not exceed the allowable amount or possesses  
12 the quantity that does not exceed the quantity of cannabis authorized for  
13 home cultivation under § 122530(d) of this Article where applicable;  
14 provided, that the ~~primary~~ caregiver is assisting in the registered qualified  
15 patient's medical use of cannabis pursuant to this Act, and is acting in  
16 accordance with all of the requirements of this Act. For purposes of this  
17 Section, the allowable amount and the amounts allowed under § 122530(d)  
18 of this Article shall be quantified separately to ensure that a qualified patient  
19 and/or a caregiver identified in this Subsection may possess both up to the  
20 allowable amount pursuant to § 122503(a) and the amount of cultivated  
21 plants authorized by § 122530(d) of this Article.

22 (c) Subsection (a) of this Section shall not apply to a qualified patient  
23 under the age of eighteen (18) years, unless: (1) the qualified patient's  
24 practitioner has explained the potential risks and benefits of the medical use  
25 of cannabis to the qualified patient, and to a parent, guardian or person  
26 having legal custody of the qualified patient; and (2) a parent, guardian or

1 person having legal custody consents in writing to: (A) allow the qualified  
2 patient's medical use of cannabis; (B) serve as the qualified patient's  
3 primary caregiver and/or patient's designated caregiver; and (C) control the  
4 dosage and the frequency of the medical use of cannabis by the qualified  
5 patient.

6 (d) A qualified patient, ~~or a primary caregiver, patient's designated~~  
7 caregiver, or multiple patients' designated caregiver shall be granted the full  
8 legal protections provided in this Section if ~~the qualified patient or primary~~  
9 ~~caregiver~~ such person is in possession of a written certification and/or  
10 cannabis home cultivation permit where applicable.

11 (e) A practitioner shall not be subject to arrest or prosecution,  
12 penalized in any manner or denied any right or privilege for recommending  
13 the medical use of cannabis or providing written certification for the medical  
14 use of cannabis pursuant to this Act.

15 (f) A licensed possessor or employee of a licensed medical cannabis  
16 business shall not be subject to arrest, prosecution or penalty, in any manner,  
17 for the production, possession, distribution, dispensing, acquisition,  
18 cultivation, processing, transferring, transporting, selling, or laboratory  
19 testing of cannabis or medical cannabis paraphernalia in compliance with  
20 this Act, provided, that they are registered and certified or authorized by the  
21 DPHSS and are acting in accordance with this Act.

22 (g) (1) Any property interest that is possessed, owned or used in  
23 connection with the medical use of cannabis or home cultivation of medical  
24 cannabis pursuant to § 122530 of this Article, or acts incidental to such use,

1 shall not be harmed, injured or destroyed while in the possession of state or  
2 local law enforcement officials.

3 (2) Any such property interest shall not be forfeited under any  
4 local law providing for the forfeiture of property except as provided in  
5 the Special Assets Forfeiture Fund, 10 GCA §§ 79101 - 79105.

6 (3) Cannabis, paraphernalia or other property seized from a  
7 qualified patient or primary caregiver in connection with the claimed  
8 medical use of cannabis shall be returned immediately upon the  
9 determination by a court or prosecutor that the qualified patient or  
10 primary caregiver is entitled to the protections of the provisions of this  
11 Act, as may be evidenced by a failure to actively investigate the case,  
12 a decision not to prosecute, the dismissal of charges or acquittal.

13 (h) A person shall not be subject to arrest or prosecution for a  
14 cannabis-related offense for simply being in the presence of the medical use  
15 of cannabis as permitted under the provisions of this Act.

16 (i) An operator or worker of a facility approved by the DPHSS to  
17 conduct laboratory testing shall not be subject to arrest, prosecution or  
18 penalty, in any manner, or denied any right or privilege for possession,  
19 acquisition, transferring, transporting, selling, or laboratory testing of  
20 cannabis, prepared medical cannabis, or medical cannabis product for  
21 medical use pursuant to this Act.

22 (j) The DPHSS shall be authorized to acquire, possess, store, and  
23 laboratory test cannabis for medical use pursuant to this Act; and the  
24 employees of the DPHSS shall not be subject to arrest or prosecution for  
25 acquiring, possessing, storing, and/or conducting laboratory tests of cannabis  
26 for medical use pursuant to this Act.

1 (k) A person may raise an affirmative defense if the person is found to  
2 be in possession of medical cannabis but can show legitimate need for  
3 medical cannabis or if the person has a qualifying debilitating medical  
4 condition under the provisions set forth by this Act.

5 (l) No qualifying patient, ~~or primary caregiver,~~ patient's designated  
6 caregiver, or multiple patients' designated caregiver under this Act shall be  
7 denied custody of, visitation with, or parenting time with a minor, and there  
8 shall be no presumption of neglect or child endangerment, for conduct  
9 allowed under this Act; provided, that this Subsection shall not apply if the  
10 qualifying patient's or ~~primary caregiver's~~ conduct created a danger to the  
11 safety of the minor, as established by a preponderance of the evidence.”

12 **Section 2.** § 122505 of Chapter 25, Title 10, Guam Code Annotated, is  
13 *amended* to read:

14 **“§ 122505. Prohibitions, Restrictions, and Limitations on the Medical**  
15 **Use of Cannabis - Criminal Penalties.**

16 (a) Participation in the medical use of cannabis by a qualified patient,  
17 ~~or primary caregiver,~~ patient's designated caregiver, or multiple patients'  
18 designated caregiver does not relieve the qualified patient or ~~primary~~  
19 caregiver from: (1) criminal prosecution or civil penalties for activities not  
20 permitted by this Act; (2) liability for damages or criminal prosecution  
21 arising out of the operation of a vehicle while under the influence of  
22 cannabis; or (3) criminal prosecution or civil penalty for possession or use of  
23 cannabis: (A) in a school bus or public vehicle; (B) on school grounds or  
24 property; (C) in the workplace of the qualified patient's or primary  
25 caregiver's employment; or (D) at a public park, recreation center, youth  
26 center or other public place.

1           (b) A person who makes a fraudulent representation to a law  
2 enforcement officer about the person’s participation in a medical use of  
3 cannabis program to avoid arrest or prosecution for a cannabis-related  
4 offense is guilty of a petty misdemeanor.

5           (c) If a licensed possessor or employee of a licensed medical cannabis  
6 business sells, distributes, dispenses or transfers cannabis to a person not  
7 permitted to participate in the medical use of cannabis under this Act, or  
8 obtains or transports cannabis outside Guam in violation of federal law, the  
9 licensed possessor or employee of a licensed medical cannabis business shall  
10 be subject to arrest, prosecution and civil or criminal penalties in accordance  
11 with Guam law.”

12       **Section 3. Severability.** If any provision of this Act or its application to  
13 any person or circumstance is held invalid, the invalidity *shall not* affect other  
14 provisions or applications of this Act that can be given effect without the invalid  
15 provision or application, and to this end the provisions of this Act are severable.