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<td>C.E. Ridgell, Tina Rose Muña Barnes, Joe S. San Agustin, Régine Biscoe Lee, Telo T. Taitague, Jose &quot;PEDO&quot; Terlaje</td>
<td>AN ACT TO ADD A NEW CHAPTER 8 TO TITLE 11 GUAM CODE ANNOTATED KNOWN AS THE &quot;GUAM CANNABIS INDUSTRY ACT OF 2019,&quot; RELATIVE TO REGULATING THE USE, PRODUCTION, SALE, AND TAXATION OF MARIJUANA; ADDING A NEW CHAPTER 9 TO DIVISION 1, TITLE 11 GCA, RELATIVE TO CREATING THE CANNABIS CONTROL BOARD; DECLASSIFYING MARIJUANA AS A SCHEDULE I CONTROLLED SUBSTANCE AND REDEFINING REFERENCES TO IT IN THE GUAM UNIFORM CONTROLLED SUBSTANCES ACT.</td>
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AN ACT TO ADD A NEW CHAPTER 8 TO TITLE 11 GUAM CODE ANNOTATED KNOWN AS THE "GUAM CANNABIS INDUSTRY ACT OF 2019," RELATIVE TO REGULATING THE USE, PRODUCTION, SALE, AND TAXATION OF MARIJUANA; ADDING A NEW CHAPTER 9 TO DIVISION 1, TITLE 11 GCA, RELATIVE TO CREATING THE CANNABIS CONTROL BOARD; DECLASSIFYING MARIJUANA AS A SCHEDULE I CONTROLLED SUBSTANCE AND REDEFINING REFERENCES TO IT IN THE GUAM UNIFORM CONTROLLED SUBSTANCES ACT.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. I Lihesluran Guåhan finds that in the interest of enhancing revenue for public purposes with the creation of a new industry, enhancing individual freedom, and promoting the efficient use of law enforcement resources the use of cannabis should be legal for persons twenty-one (21) years of age or older and the production and sale of cannabis should be regulated for public health, welfare, safety, and taxation purposes.

It is the intent of I Lihesluran Guåhan that the use, sale, and production of cannabis should be regulated so that:
(a) Individuals will have to show proof of age before purchasing cannabis;
(b) Selling, distributing, or transferring marijuana to individuals under twenty-one (21) years of age remains illegal except that nothing in this Act is intended to or shall be construed as prohibiting or restricting the possession or medical use of cannabis by qualified patients as permitted by Public Law 32-237;
(c) Driving under the influence of cannabis remains illegal;
(d) Legitimate, taxpaying business people will conduct sales of cannabis;
(e) Cannabis produced and sold by regulated businesses will be tested, packaged, labeled, and tracked, subject to additional regulations to prevent access by individuals under the age of twenty-one (21) to ensure that consumers are informed and protected and so that cannabis is not diverted outside of Guam to states or jurisdictions where it is illegal.

Section 2. A new Chapter 8 is hereby added to Title 11 GCA to read:

"CHAPTER 8
GUAM CANNABIS INDUSTRY ACT

§ 8101. Title.
§ 8102. Definitions.
§ 8103. Personal use of cannabis.
§ 8104. Restrictions on personal cultivation, penalty.
§ 8105. Public consumption banned, penalty.
§ 8106. False Identification, penalty.
§ 8107. Cannabis accessories authorized.
§ 8108. Lawful operation of cannabis-related facilities.
§ 8109. Cannabis Control Board.
§ 8110. Rulemaking.
§ 8111. Cannabis establishment registrations.
§ 8112. Employers, driving, minors, and control of property."
§ 8113. Excise Tax on Cannabis.

§ 8114. Monthly Statements and Payments.

§ 8115. Federal Law, applicability.

§ 8116. Prior Duties, Penalties and Proceedings.

§ 8117. Contracts.

§ 8101. Title. This Chapter shall be known and may be cited as “The Guam Cannabis Industry Act of 2019.”

§ 8102. Definitions. As used in this Chapter:

(a) Board means the Cannabis Control Board referenced by § 8109 of this Act.

(b) Cannabis means all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including cannabis or marijuana concentrate. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

(c) Cannabis accessories means any equipment, products, or materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana into the human body.
(d) **Cannabis concentrate** means any cannabis product or subset of cannabis produced by extracting cannabinoids from cannabis.

(e) **Cannabis cultivation facility** means an entity licensed to cultivate, prepare, and package cannabis and sell cannabis to retail cannabis stores, to cannabis product manufacturing facilities, and to other licensed cannabis cultivation facilities but not to consumers.

(f) **Cannabis establishment** means a cannabis cultivation facility, cannabis testing facility, a cannabis product manufacturing facility, or a retail cannabis store.

(g) **Cannabis flower or flower** means the inflorescence(s) of the mature pistillate (female) cannabis plant.

(h) **Cannabis-infused product** means any product that is comprised of cannabis concentrate or cannabis plant material and other ingredients and is intended for use or consumption other than by smoking or vaporizing, including ingestible cannabis-infused products, topical cannabis-infused products, transdermal cannabis-infused products, and transmucosal cannabis-infused products.

(i) **Cannabis product** means a finished product intended for human consumption or use that is comprised partially or completely of cannabis. This term is used generally to refer to one or more of the following: cannabis flower, cannabis concentrates, and cannabis-infused products.

(j) **Cannabis product category** means a defined group of cannabis products that are in the same form. Cannabis flower, cannabis concentrates, and cannabis-infused products are all cannabis product categories, though the latter category may be further broken down into sub-categories such as ingestible cannabis-infused products and non-ingestible cannabis-infused products.
(k) Cannabis product manufacturing facility means an entity licensed to purchase cannabis from licensed cannabis cultivation facilities; to manufacture, prepare, and package cannabis products; and to sell cannabis and cannabis products to other cannabis product manufacturing facilities and to retail cannabis stores but not to consumers. Nothing herein shall be construed to prohibit a cannabis product manufacturing facility from purchasing cannabis or cannabis products from other cannabis product manufacturing facilities.

(l) Cannabis testing facility means an entity licensed to analyze and certify the safety and potency of cannabis. Only a licensed cannabis testing facility may collect and transport cannabis or cannabis samples to and from a cannabis testing facility.

(m) Consumer means a person twenty-one (21) years of age or older who purchases cannabis or marijuana products for personal use only but not for resale to others.

(n) Consumption means the act of ingesting, inhaling, or otherwise introducing cannabis or marijuana into the human body including through the use of topicals, ointments, or tinctures.

(o) Department means the Guam Department of Revenue and Taxation.

(p) Ingestible cannabis-infused product or ingestible means a product that contains cannabis and at least one other ingredient, is intended for use or consumption other than by inhalation, is intended to be taken into the body, and is one of the following:

(1) edible cannabis-infused product or edible which is an ingestible cannabis-infused product that is intended to be taken by mouth, swallowed, and is primarily absorbed through the
gastrointestinal tract. Edible cannabis-infused products may be psychoactive when used as intended. Without limitation, edible cannabis-infused products may be in the form of a food, beverage, capsule, or tablet; or

(2) transmucosal cannabis-infused product or transmucosal which is an ingestible cannabis-infused product that is intended to be placed in a body cavity and absorbed through the mucosal lining of that cavity and may be psychoactive when used as intended. Transmucosal cannabis-infused products include but are not limited to cannabis-infused tinctures, anal suppositories, lozenges, and nasal sprays.

(q) Non-ingestible cannabis-infused product or non-ingestible means a product that contains cannabis and at least one (1) other ingredient, is intended for use or consumption other than by inhalation, is intended for external use only, and is one of the following:

(1) topical cannabis-infused product or topical which is a non-ingestible cannabis-infused product that produces a non-psychoactive effect when used as intended. Topical cannabis-infused products include but are not limited to cannabis-infused creams, salves, bath soaks, and lotions; or

(2) transdermal cannabis-infused product or transdermal which is a non-ingestible cannabis-infused product that contains at least one (1) skin-permeation-enhancing ingredient to facilitate absorption through the skin into the bloodstream and may be psychoactive when used as intended. Transdermal cannabis-infused products include but are not limited to cannabis-infused adhesive patches that are applied to the skin surface.
(r) *Retail cannabis store* means an entity licensed to purchase cannabis and to sell cannabis and cannabis products to consumers. Nothing herein shall be construed to prohibit a licensed retail cannabis store to purchase, sell, or transfer cannabis and cannabis products to another licensed retail cannabis store.

(s) *Unreasonably impracticable* means that the measures necessary to comply with this part require such a high investment of risk, money, time, or any other resource or asset that the operation of a cannabis establishment is not worthy of being carried out in practice by a reasonably prudent businessperson.

(t) *Marijuana* means *cannabis* as defined in subsection (b) above. For purposes of this Act, the terms marijuana and cannabis shall carry the same meaning and shall be used interchangeably.

§8103. **Personal use of cannabis.** Notwithstanding any other provision of law except as provided in this chapter, the following acts by persons twenty-one (21) years of age or older are lawful and shall not be a criminal or civil offense under Guam law or be a basis for seizure or forfeiture of assets under Guam law.

(a) Possessing, using, displaying, purchasing, or transporting cannabis accessories; one (1) ounce or less of cannabis; eight (8) grams or less of cannabis concentrate; or any cannabis-infused products containing eight hundred (800) mg or less of tetrahydrocannabinol;

(b) Possessing, growing, processing, or transporting no more than six (6) cannabis plants, with three (3) or fewer being mature, flowering plants and possession of the cannabis produced by the plants on the premises where the plants were grown, provided that the growing takes place in an enclosed,
locked place, is not conducted openly or publicly, and is not made available for sale.

(c) Transferring one (1) ounce or less of cannabis and immature cannabis plants; eight (8) grams or less of cannabis concentrate; or any cannabis-infused products containing eight hundred (800) mg or less of tetrahydrocannabinol to a person who is twenty-one (21) years of age or older without remuneration;

(d) Consumption of cannabis except that absent regulations otherwise promulgated by the Cannabis Control Board, nothing in this Chapter shall permit the consumption of marijuana in public; and

(e) Assisting another person who is twenty-one (21) years of age or older in any of the acts described in paragraphs (a) through (d) of this section if such assistance is provided for a non-commercial purpose.

(f) The provisions of § 8103 of this Chapter do not apply to cannabis establishments as defined in this Chapter.

§ 8104. Restrictions on personal cultivation, penalty. The personal cultivation of cannabis described in § 8103(b) of this Chapter is subject to the following terms:

(a) Cannabis cultivation for personal use may only occur inside a private residence, inside an accessory structure to a private residence located upon the grounds of a private residence, or within a fully enclosed, locked outdoor space on the grounds of a private residence, provided that:

(1) cultivation takes place within a closet, room, greenhouse, or other fully enclosed area that is equipped with a lock or other security device that allows access only to persons authorized to access the area; and
(2) no more than six (6) plants are possessed, cultivated, or processed at a single residence or upon the grounds of that residence, at one time;

(b) Cannabis cultivation for personal use may only occur on property lawfully possessed by the cultivator or with the consent of the person in lawful possession of the property;

(c) Cannabis plants shall be cultivated in a location where the plants are not visible from any public location;

(d) A person who cultivates cannabis shall take reasonable precautions to ensure the plants are secure from unauthorized access; and

(e) A person who violates this section while otherwise acting in compliance with § 8103(b) of this Chapter is guilty of a violation punishable by a fine of up to Five Hundred Dollars ($500).

§ 8105. Public consumption banned, penalty. It is unlawful to consume cannabis openly and in public, unless otherwise permitted by regulations duly promulgated and enacted by the Cannabis Control Board. A person who violates this section is guilty of a violation punishable by a fine of up to One Hundred Dollars ($100).

§ 8106. False Identification, penalty.

(a) A person who is under twenty-one years (21) of age may not present or offer to a licensed cannabis establishment or the cannabis establishment’s agent or employee any written or oral evidence of age that is false, fraudulent, or not actually the person’s own, for the purpose of:

(1) Purchasing, attempting to purchase, or otherwise procuring or attempting to procure cannabis or cannabis products; or

(2) Gaining access or attempting to gain access to a cannabis establishment.
(3) A person who violates this Section is guilty of a violation punishable by a fine of up to Five Hundred Dollars ($500).

(b) A licensee, his agent or employee shall not sell, give, nor permit to be sold, given, or served any cannabis or cannabis products to any person under twenty-one (21) years of age. For the purpose of preventing any violation of this Section, any licensee or her/his agent or employee may refuse to sell or serve cannabis or cannabis products to any person who is unable to produce adequate written evidence that she or he has reached the age of twenty-one (21) years. In any criminal prosecution or proceeding for the suspension or revocation of any license and based upon a violation of this Section, proof that the defendant licensee or her/his agent or employee demanded and was shown, before furnishing any cannabis or cannabis product to a minor, an identification card or other bona fide documentary evidence of majority of such person shall be a defense to such prosecution or proceeding for the suspension or revocation of any license, unless it is demonstrated that a reasonable person would have determined that the identification exhibited was altered or did not accurately describe the person to whom the cannabis or cannabis product was sold or served. Every person who violates this Section shall be guilty of a petty misdemeanor.

§ 8107. Cannabis accessories authorized. Notwithstanding any other provision of law, it is lawful and shall not be an offense under Guam law or be a basis for seizure or forfeiture of assets for persons twenty-one (21) years of age or older to manufacture, possess, or purchase cannabis accessories or to distribute or sell cannabis accessories to a person who is twenty-one (21) years of age or older.

§ 8108. Lawful operation of cannabis-related facilities.
(a) Notwithstanding any other provision of law the following acts when performed by a retail cannabis store with a current, valid registration or a person twenty-one (21) years of age or older who is acting in her or his capacity as an owner, employee, or agent of a retail cannabis store, are lawful and shall not be an offense under Guam law or be a basis for seizure or forfeiture of assets under Guam law:

(1) Possessing, displaying, storing, or transporting cannabis, cannabis products, or cannabis accessories, except that such items may not be displayed in a manner that is visible to the general public from a public right-of-way;

(2) Delivering or transferring cannabis or cannabis products to a cannabis testing facility;

(3) Receiving cannabis or cannabis products from a cannabis cultivation facility or cannabis product manufacturing facility;

(4) Purchasing cannabis from a cannabis cultivation facility;

(5) Purchasing cannabis or cannabis products from a cannabis product manufacturing facility; and

(6) Delivering, distributing, or selling cannabis, cannabis products, or cannabis accessories to consumers.

(b) Notwithstanding any other provision of law, the following acts, when performed by a cannabis cultivation facility with a current, valid registration or a person twenty-one (21) years of age or older who is acting in her or his capacity as an owner, employee, or agent of a cannabis cultivation facility, are lawful and shall not be an offense under Guam law or be a basis for seizure or forfeiture of assets under Guam law:

(1) Cultivating, harvesting, processing, packaging, transporting, displaying, storing, or possessing cannabis:
(2) Delivering or transferring cannabis to a cannabis testing facility;

(3) Delivering, distributing, or selling cannabis to a cannabis cultivation facility, a cannabis product manufacturing facility, or a retail cannabis store;

(4) Receiving or purchasing cannabis from a cannabis cultivation facility;

(5) Receiving cannabis seeds or immature cannabis plants from a person twenty-one (21) years of age or older.

(c) Notwithstanding any other provision of law, the following acts, when performed by cannabis product manufacturing facility with a current, valid registration or a person twenty-one (21) years of age or older who is acting in her or his capacity as an owner, employee, or agent of a cannabis product manufacturing facility, are lawful and shall not be an offense under Guam law:

(1) Packaging, processing, transporting, manufacturing, displaying, or possessing cannabis or cannabis products;

(2) Delivering or transferring cannabis or cannabis products to a cannabis testing facility;

(3) Delivering or selling cannabis or cannabis products to a person or establishment authorized to possess, use, display, purchase, or transport cannabis or cannabis products.

(d) Notwithstanding any other provision of law, possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring, or delivering cannabis when performed by a cannabis testing facility with a current, valid registration or a person twenty-one (21) years of age or older who is acting in her or his capacity as an owner, employee or
agent of a cannabis testing facility, are lawful and shall not be an offense under Guam law or be a basis for seizure or forfeiture of assets under Guam law.

(e) Notwithstanding any other provision of law, it is lawful and shall not be an offense under Guam law or be a basis for seizure or forfeiture of assets under Guam law to lease or otherwise allow the use of property owned, occupied, or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with paragraphs (a) through (d) of this section.

(f) Nothing in this Section prevents the imposition of penalties upon cannabis establishments for violating this Chapter or rules adopted by the Board referenced by § 8109 of this Chapter.

§ 8109. Cannabis Control Board. I Liho\wh sad u h sad create a Cannabis Control Board which shall assume the power, duties, and authority to promulgate rules and regulations necessary to enforce this Act.

§ 8110. Rulemaking.

(a) Not later than one (1) year after the effective date of this Act, the Board shall prescribe forms and adopt such rules and regulations necessary for implementation of this chapter. Such regulations shall not prohibit the operation of cannabis establishments either expressly or through regulations that make their operation unreasonably impracticable. Such regulations shall include:

(1) Procedures and grounds for the issuance, renewal, suspension, denial, and/or revocation of a registration to operate a cannabis establishment;

(2) A schedule of application, registration, and renewal fees provided that application fees shall not exceed Five Thousand Dollars.
($5,000) with this upper limit adjusted annually for inflation, unless the Board determines a greater fee is necessary to carry out its responsibilities under this Chapter;

(3) Qualifications for registration that are directly and demonstrably related to the operation of a cannabis establishment or security requirements for cannabis establishments including for the transportation and storage of cannabis by cannabis establishments;

(4) Requirements to prevent the sale or diversion of cannabis and cannabis products to persons under the age of twenty-one (21);

(5) Labeling and packaging requirements for cannabis and cannabis products sold or distributed by a cannabis establishment;

(6) Health and safety regulations and standards for the manufacture of cannabis products and the cultivation of cannabis;

(7) Reasonable restrictions on the advertising and display of cannabis and cannabis products;

(8) Reasonable restrictions on the quantity of cannabis and cannabis products purchased at any one time by a consumer so as to effectually prevent the resale of cannabis items;

(9) Implementation of a “seed to sale” tracking system;

(10) Civil penalties for the failure to comply with regulations made pursuant to this Chapter; and

(11) Any other rules the Board considers necessary for the administration of the Guam Cannabis Industry Act and implementation and enforcement of this Chapter.

(b) In order to ensure that individual privacy is protected, the Board shall not require a consumer to provide a retail cannabis store with personal information other than government-issued identification to determine the
consumer's age, and a retail cannabis store shall not be required to acquire or record personal information about consumers.

§ 8111. Cannabis establishment registrations.

(a) Each application or renewal application for a registration to operate a cannabis establishment shall be submitted to the Board. A renewal application may be submitted up to ninety (90) days prior to the expiration of the cannabis establishment's registration.

(b) The Board shall begin accepting and processing applications to operate cannabis establishments no later than ninety (90) days after the regulations prescribed in § 8110 of this Act become effective. Upon receipt of an application for licensure, the Board shall not unreasonably delay the processing, approval, or rejection of the application, or if the application is approved, the issuance of the license.

(c) The Board shall issue an annual registration to the applicant within sixty (60) days after receiving an application or thirty (30) days after receiving a renewal application, unless the Board finds the applicant is not in compliance with regulations enacted pursuant to § 8110 of this Act.

(d) Upon denial of an application, the Board shall notify the applicant in writing of the specific reason for its denial and of the applicant's right to seek administrative and judicial review as provided for under the Guam Administrative Adjudication Law.

(e) Every cannabis establishment registration shall specify the location where the cannabis establishment will operate and shall have defined boundaries. A separate registration is required for each location at which a cannabis establishment operates. The Board may require reasonable restrictions for the operation of a licensed cannabis establishment.
(f) Cannabis establishments and books and records maintained and
created by cannabis establishments are subject to inspection by the Board with
reasonable notice to the owner or agent of the business.

§ 8112. Employers, driving, minors, and control of property.

(a) Nothing in this Chapter shall be construed or interpreted to
amend, repeal, affect, restrict, or preempt the rights and obligations of public
and private employers to maintain a drug and alcohol free workplace; require
an employer to permit or accommodate the use, consumption, possession,
transfer, display, transportation, sale, or growth of cannabis in the workplace;
or affect the ability of employers to have policies prohibiting the use of
marijuana by employees and prospective employees in the workplace.

(b) Nothing in this Chapter is intended to affect the ability of
employers to enact and enforce workplace policies restricting the use or
consumption of cannabis by employees in the workplace.

(c) Nothing in this Chapter is intended to impair, restrict, or diminish
the ability of a government agency to prohibit or restrict any of the actions or
conduct otherwise permitted under this Chapter within a building owned,
leased, or occupied by the government agency.

(d) Nothing in this Chapter is intended to allow driving under the
influence of cannabis or to supersede laws related to driving under the
influence of cannabis.

(e) Nothing in this Chapter is intended to permit the transfer of
cannabis, with or without remuneration, to a person under the age of twenty-
one (21) years.

(f) Nothing in this Chapter shall prohibit a person, employer, school,
hospital, recreation, or youth center, correction facility, corporation, or any
other entity who occupies, owns, or controls private property from prohibiting
or otherwise regulating the possession, consumption, use, display, transfer, distribution, sale, transportation, or growing of cannabis on or in that property.

§ 8113. Excise Tax on Cannabis.

(a) A Guam excise tax is imposed on the sale or transfer of cannabis from a cannabis cultivation facility to a retail cannabis store or cannabis product manufacturing facility. Every cannabis cultivation facility shall pay a Guam excise tax at the rate of fifteen percent (15%) on the dollar value of cannabis that is sold or transferred from a cannabis cultivation facility to a retail cannabis store or cannabis product manufacturing facility. Provided further, no such excise tax shall be levied upon cannabis intended for sale as medicinal cannabis.

(b) The Department of Revenue and Taxation shall establish procedures for the collection of all excise taxes levied.

(c) The Board may exempt certain parts of the cannabis plant from the excise tax described in subsection (a) or may establish an alternate rate or tax structure in accordance with the rules and regulations promulgated in accordance with this Act.

§ 8114. Monthly Statements and Payments.

(a) Each cannabis cultivation facility shall send a statement by mail or electronically to the Department on or before the last day of each calendar month. The statement must contain an account of the amount of cannabis sold or transferred to retail cannabis stores and cannabis product manufacturing facilities in Guam during the preceding month, setting out:

   (1) The total number of ounces, including fractional ounces sold or transferred;

   (2) The names and addresses of each buyer and transferee; and
(3) The weight of cannabis sold or transferred to the respective buyers or transferees.

§ 8115. Federal Law, applicability. Nothing in this Act proposes or intends to require any individual or entity to engage in any conduct that violates federal law, exempt any individual or entity from any requirement of federal law, or pose any obstacle to federal enforcement of federal law.

§ 8116. Prior Duties, Penalties, and Proceedings. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

§ 8117. Contracts. No contract shall be void or unenforceable on the basis that manufacturing, distributing, dispensing, possessing, or using cannabis or marijuana products is prohibited by federal law.”

Section 3. A new Chapter 9 is added to Division 1 of Title 11 GCA to read:

“Chapter 9
Division 1
Cannabis Control Board

§ 9101. Short Title.
§ 9102. Cannabis Control Board, established.
§ 9103. Appointment of Members; term.
§ 9104. Qualifications of Members.
§ 9105. Meetings of Board; quorum; chairperson, vice chairperson.
§ 9106. Staff Support.
§ 9107. Duties of Board.
§ 9108. Limitations on Board Jurisdiction.
§ 9109. Cannabis Control Fund, created.
§ 9101. **Short Title.** This Act shall be known as the "Cannabis Control Board Act of 2019".

§ 9102. **Cannabis Control Board, established.** There is hereby established a "Cannabis Control Board" (hereinafter the 'Board') within the Department of Revenue and Taxation.

§ 9103. **Members; term.** The Board shall have a membership of five (5) members who are appointed by and serve at the pleasure of i Maga'hågan Guåhan.

(a) One (1) member shall be the Director of the Department of Revenue and Taxation, or his designee;

(b) one (1) member shall be the Director of the Department of Agriculture, or his designee;

(c) one (1) member shall represent the Guam Business Community;

(d) and two (2) members shall represent the General Public. At least one (1) member from the General Public shall possess a medical cannabis card.

Each member shall serve a term of four (4) years.

§ 9104. **Qualifications of Members.** Each member shall be a citizen of the United States of America or a permanent resident of Guam for at least one (1) year immediately preceding the appointment; be at least twenty-one (21) years of age; not have been convicted of a crime, other than traffic offenses, that involves moral turpitude; and, must not be an applicant for, or hold a license to conduct any activities under the Board's supervision and regulation.

§ 9105. **Meetings of Board; quorum; chairperson, vice chairperson.**

The Board shall meet at least monthly, and may meet more frequently as its duties require. A quorum shall consist of at least three (3) members being present for the conduct of all official business. At its initial meeting, a quorum being present, the members shall select their chairperson and vice chairperson.
§ 9106. **Staff Support.** The Department of Revenue and Taxation shall provide staff support for the Board.

§ 9107. **Duties of Board.** The Board shall have all of the powers and duties specified in this Act, and also the powers necessary or proper to enable it to carry out the purposes of this Act and the purposes of the “Guam Cannabis Industry Act of 2019.” The jurisdiction, supervision, powers and duties of the Board shall extend to any person who buys, sells, produces, possesses, transports, or delivers any cannabis items within Guam. The Board shall be responsible for:

(a) Conducting hearings pertaining to the violation of this Chapter or regulations promulgated hereby; including hearings for the purpose of approving cannabis licenses and other business allowed under this Chapter;

(b) Promulgating such rules and regulations as may be necessary to fulfill the intent, policies and purposes of this Chapter;

(c) Levying fines and penalties for the violation of provisions of this Chapter and the regulations promulgated by the Board;

(d) Requiring and demanding access to, for the purposes of inspecting, examining, photocopying, and/or auditing, all papers, books, and records of a licensed cannabis business on its premises or elsewhere as practical, including inspecting the gross income produced by a cannabis establishment and verification of their income, and all other matters affecting the enforcement of the Board’s policy or as required pursuant to this Chapter;

(e) The types of licenses or permits to be covered by the cannabis license and its structure, including onsite ingestion, application of topicals, and smoking or vaping in a manner consistent with Chapter 90 of Title 10 GCA;

(f) Regulating the testing, purchase, sale, production, processing, transportation, and delivery of cannabis and cannabis products to be sold to
consumers by a retail cannabis store in accordance with the provisions of this Act and the provisions of Chapter 8, Title 11 GCA.

(g) Granting, refusing, suspending or canceling licenses for the sale, processing, or production of cannabis items, or other licenses in regard to cannabis items, and to permit, in its discretion, the transfer of a license of any person;

(h) Investigating and aiding in the prosecution of every violation of Guam statutes relating to cannabis items, and cooperating in the prosecution of offenders before the Superior Court for Guam;

(i) Adopting such regulations as are necessary and feasible for carrying out the intent and provisions of this Act and to amend or repeal such regulations;

(j) Exercising all powers incidental, convenient or necessary to enable it to administer or carry out the provisions of this Act and the provisions of Chapter 8, Title 11 GCA;

(k) Regulating and prohibiting any advertising by manufacturers, processors, wholesalers or retailers of cannabis items by newspapers, letters, billboards, radio, television or otherwise;

(l) Regulating the use of cannabis items for scientific, pharmaceutical, manufacturing, mechanical, industrial and other purposes;

(m) Adopting separate regulations as are necessary and feasible for the public display and use of cannabis items at exhibitions promoting cannabis as an alternative to pharmaceuticals;

(n) Adopting separate regulations as are necessary and feasible for the development of a hemp program for strains of cannabis that exceed three tenths percent (0.3%) on a dry weight basis of any part of the cannabis plant, or per volume or weight of cannabis product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the cannabis plant regardless of moisture content;
(o) Conducting an annual summit with the Department of Revenue and Taxation, the Department of Agriculture, the Department of Public Health and Social Services, the Guam Police Department, the Department of Land Management and other stakeholders in the government and private sectors to discuss the regulation of cannabis in Guam;

(p) Prescribing forms and adopting such rules and regulations as the Board deems necessary for the implementation and administration of this Act no later than one (1) calendar year following the Board’s initial meeting:

§ 9108. Limitations on Board Jurisdiction. The Board shall not regulate personal cultivation of cannabis as may be allowed by Guam statute. The Board has no power to purchase, own, sell, or possess any cannabis items.

§ 9109. Cannabis Control Fund, created. There is hereby created, separate and apart from all other funds, the ‘Cannabis Control Fund.’ All fees, fines, penalties and other charges resulting from the licensing and enforcement of adult cannabis use on Guam shall be deposited into this Fund. Expenditures of the Fund shall be by appropriation from i Liheisluran Guåhan. The Director of the Department of Revenue and Taxation shall report on a quarterly basis to the Speaker of i Liheisluran Guåhan the revenues collected and expended from this Fund and post the same on the Department’s website.”

Section 4. Item (23) of §§ (c) of Appendix “A” of Chapter 67, Title 9 GCA is repealed and thereby declassifies marijuana as a Schedule 1 Controlled Substance. Any reference by the Guam Controlled Substances Act to marijuana, such as “marihuana,” “tetrahydrocannabinol,” “cannabis,” and derivatives thereof shall be deemed repealed, null, and void upon passage of this Act.

“(23)marijuana]”

Section 5. § 67.401.2, Chapter 67, Title 9 GCA is amended to read:
“§ 67.401.2. Illegal Possession; Defined and Punishment. (a) It is unlawful for any person knowingly or intentionally to possess a controlled substance, unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Act.

(b) Any person who violates Subsection (a) with respect to: (1) any controlled substance except marijuana shall be guilty of a felony of the third degree. (2) any person under the age of twenty-one years possessing more than one (1) ounce of marijuana shall be guilty of a petty misdemeanor. (3) any person under the age of twenty-one years possessing one (1) ounce or less of marijuana shall be guilty of a violation and punished by a fine of One Hundred Dollars ($100.00).

(c) A person who commits a crime under Title 9 GCA §§ 67.401.2(b)(2) or (3) within the Drug-Free School Zone shall be guilty of a misdemeanor.

(d) A person who commits a crime under §§ 67.401.1 or 67.401.2(b)(1) within the Drug-Free School Zone shall be guilty of the same class of felony had the offense been committed outside the Drug-Free School Zone.

(e) A person who knowingly fails to report any violation of this Chapter within the Drug Free-School Zone is guilty of a misdemeanor.”

Section 6. § 67.401.4(f), Article 4, Title 9 GCA is amended to read.

“(f) If he is guilty of an offense involving a controlled substance listed in Schedule I or II of this Act which is not a narcotic drug or a controlled substance in Schedule III of this Act and if he has been convicted of one (1) or more prior offenses punishable under the provisions of Subsection (e) of this Section, a felony under any provision of this Act, any law of the United States, a state or foreign jurisdiction relating to narcotic drugs, [marijuana, or] depressant or stimulant substances and one (1) or more of the convictions are final, he shall be sentenced to a term of imprisonment of not more than ten (10) years and, in addition, may be fined not
more than Thirty Thousand Dollars ($30,000.00). The sentence shall include a special parole term of at least two (2) years in addition to such term of imprisonment.”

Section 6. § 67.401.4(h), Article 4, Title 9 GCA is amended to read.

“(h) If he is guilty of an offense involving a controlled substance listed in Schedule IV of this Act and if he has been convicted of a felony under a provision of this Act; or a law of the United States, a state or foreign jurisdiction relating to narcotic drugs, [marijuana, or] depressant or stimulant substances, and such convictions are final, then he shall he sentenced to a term of imprisonment of not more than six (6) years and, in addition, may be fined not more than Twenty Thousand Dollars ($20,000.00). The sentence shall include a special parole term of at least two (2) years in addition to such term of imprisonment. Imposition or execution of such sentence shall not be suspended and probation shall not be granted.”

Section 7. § 67.401.4(j), Article 4, Title 9 GCA is amended to read.

“(j) If he is guilty of an offense involving a controlled substance listed in Schedule V of this Act and if he has been convicted of a felony under a provision of this Act, or a law of the United States, a state or foreign jurisdiction relating to narcotic drugs, [marijuana, or] depressant or stimulant substances, and such convictions are final, then he shall be sentenced to a term of imprisonment of not more than two (2) years or a fine of not more than Ten Thousand Dollars ($10,000.00), or both. Imposition or execution of such sentence shall not be suspended and probation shall not be granted.

Section 8. § 67.401.4(k), Article 4, Title 9 GCA is repealed in its entirety.

“(k)—Notwithstanding the provisions of this Section, any person who is guilty of an offense pursuant to § 67.401.1(a) of this Act by distributing less than
one (1) pound of marijuana for no remuneration shall be sentenced as provided in § 67.412 of this Act.”

Section 9. § 67.401.5, Article 4, Title 9 GCA is amended to read.

“§ 67.401.5. Any person who is guilty of an offense pursuant to § 67.402(a) of this Act may, in addition to imprisonment for felony of the third degree, be fined not more than Twenty-five Thousand Dollars ($25,000.00) except that if any person commits such offense after previously being convicted of one (1) or more prior offenses involving § 67.402(a) of this Act, or for a felony under any other provision of this Act or other law of the United States, state or foreign jurisdiction relating to narcotic drugs, [marijuana, or] depressant or stimulant substances, and one (1) or more of the convictions have become final, such person may, in addition to imprisonment for felony of the third degree, be fined not more than Fifty Thousand Dollars ($50,000.00).”

Section 10. § 67.401.6, Article 4, Title 9 GCA is amended to read.

“§ 67.401.6. Any person who is guilty of an offense pursuant to § 67.403(a) of this Act may, in addition to imprisonment for felony of the third degree, be fined not more than Thirty Thousand Dollars ($30,000.00); is except that if any person commits such offense after previously being convicted of one (1) or more offenses pursuant to § 67.403(a) of this Act or for any felony under any other provision of this Act or other law of the United States, state or foreign jurisdiction relating to narcotic drugs, [marijuana, or] depressant or stimulant substances, and one (1) or more of the convictions have become final, such person shall be sentenced to a term of imprisonment of not more than eight (8) years and, in addition, may be fined not more than Sixty Thousand Dollars ($60,000.00).”

Section 11. § 67.411(b), Article 4, Title 9 GCA is amended to read.

“(b) For purposes of this Section, a person shall be considered convicted of a second or subsequent offense if, prior to the commission of such offense, he was
convicted of one (1) or more felonies under any provision of this Act or law of the
United States, a state or foreign jurisdiction relating to narcotic drugs, [marijuana
or] depressant or stimulant drugs.”

Section 12. § 67.412(a), Article 4, Title 9 GCA is amended to read.
“(a) Whenever any person who has not previously been convicted of an
offense under this Act or under any statute of the United States or of any State
relating to narcotic drugs, [marijuana–or] stimulant, depressant or hallucinogenic
drugs, pleads guilty to or is found guilty of possession of a controlled substance
under § 67.401.2 (a), the Court, without entering a judgment of guilt and with the
consent of the accused, may defer further proceedings and place him on probation
upon terms and conditions. Upon violation of a term or condition, the Court may
enter an adjudication of guilty and proceed as otherwise provided. Upon fulfillment
of the terms and conditions, the Court shall discharge such person and dismiss the
proceedings against him. Discharge and dismissal under this Section shall be without
Court adjudication of guilt and shall not be deemed a conviction for purposes of
disqualifications or disabilities imposed by law upon conviction of a crime.
Discharge and dismissal under this Section may occur only once with respect to any
person.”

Section 13. Nothing in this Act shall be construed or interpreted to amend,
repeal, affect, restrict, or preempt laws pertaining to Guam Public Laws 32-237, 34-
125, and 34-165.

Section 14. Severability. If any provision of this Act or its application to any
person or circumstance is found to be invalid or contrary to law, such invalidity shall
not affect other provisions or applications of this Act that can be given effect without
the invalid provision or application, and to this end the provisions of this Act are
severable.
Section 15. Effective Date. This Act *shall* become effective immediately upon enactment.