

I Mina'Trentai Kuåttro 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.	12/6/18	Committee on Health, Tourism, Military Affairs and Senior Citizens	12/14/18 8:00 a.m.	12/17/18 10:40 a.m.	Fiscal Note Request 12/10/18	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	NOTES			
	12/10/18	AN ACT TO <i>AMEND</i> §§ 122504 AND 122505 OF ARTICLE 25, CHAPTER 12, 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.	12/19/18	12/19/18 6:57 p.m.	12/31/18				



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I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
Thirty-Fourth Guam Legislature

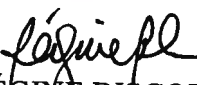
December 19, 2018

The Honorable Edward J.B. Calvo
I Maga'låhen Guåhan
Ufisinan I Maga'låhi
Hagåtña, Guam 96910


Dear *Maga'låhi* Calvo:

Transmitted herewith are Bill Nos. 357-34 (COR), 361-34 (COR), 368-34 (COR), 369-34 (COR), 370-34 (COR), 376-34 (COR), and 380-34 (LS) which were passed by *I Mina'Trentai Kuåttro Na Liheslaturan Guåhan* on December 19, 2018.

Sincerely,


RÉGINE BISCOE LEE
Legislative Secretary

Enclosure (7)


SHAWN J. MENDEZ
18.57, 12/19/18



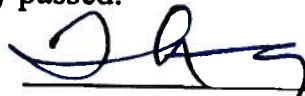
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I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

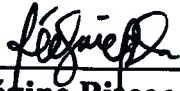
CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that **Bill No. 380-34 (LS), "AN ACT TO AMEND §§ 122504 AND 122505 OF ARTICLE 25, CHAPTER 12, 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,"** was on the 19th day of December 2018, duly and regularly passed.



Therese M. Terlaje
Acting Speaker

Attested:



Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 19th day of DEC,
2018, at 6:52 o'clock P.M.



Assistant Staff Officer
Maga'låhi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: _____

Public Law No. _____

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

Bill No. 380-34 (LS)

Introduced by:

Dennis G. Rodriguez, Jr.
Louise Borja Muña
Thomas C. Ada
FRANK B. AGUON, JR.
William M. Castro
James V. Espaldon
Fernando Barcinas Esteves
Régine Biscoe Lee
Tommy Morrison
Telena Cruz Nelson
Joe S. San Agustin
Michael F.Q. San Nicolas
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO AMEND §§ 122504 AND 122505 OF ARTICLE 25, CHAPTER 12, 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.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. § 122504 of Article 25, Chapter 12, Title 10, Guam Code Annotated, is *amended* to read:

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

(a) A qualified patient is presumed to be engaged in the medical use of cannabis and *shall not* be subject to arrest, prosecution, or penalty in any

1 manner for the possession of or the medical use of cannabis if the qualified
2 patient possesses a quantity of cannabis that does not exceed the allowable
3 amount, possesses a quantity of cannabis that does not exceed the amount
4 authorized for home cultivation under § 122530(d) of this Article, is acting in
5 accordance with all of the requirements of this Act, and is in possession of a
6 written certification and a cannabis home cultivation permit where applicable.
7 For purposes of this Section, the allowable amount and the amounts allowed
8 under § 122530(d) of this Article *shall* be quantified separately to ensure that
9 a qualified patient may possess both up to the allowable amount pursuant to §
10 122503(a) and the amount of cultivated plants authorized by § 122530(d) of
11 this Article.

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

1 (c) Subsection (a) of this Section *shall not* apply to a qualified
2 patient under the age of eighteen (18) years, unless:

3 (1) the qualified patient's practitioner has explained the potential
4 risks and benefits of the medical use of cannabis to the qualified patient,
5 and to a parent, guardian, or person having legal custody of the
6 qualified patient; and

7 (2) a parent, guardian, or person having legal custody
8 consents in writing to:

9 (A) allow the qualified patient's medical use of
10 cannabis;

11 (B) serve as the qualified patient's primary caregiver
12 and/or patient's designated caregiver; and

13 (C) control the dosage and the frequency of the medical
14 use of cannabis by the qualified patient.

15 (d) A qualified patient, primary caregiver, patient's designated
16 caregiver, or multiple patients' designated caregiver *shall* be granted the full
17 legal protections provided in this Section if such person is in possession of a
18 written certification and/or a cannabis home cultivation permit where
19 applicable.

20 (e) A practitioner *shall not* be subject to arrest or prosecution,
21 penalized in any manner or denied any right or privilege for recommending
22 the medical use of cannabis or providing written certification for the medical
23 use of cannabis pursuant to this Act.

24 (f) A licensed possessor or employee of a licensed medical cannabis
25 business *shall not* be subject to arrest, prosecution, or penalty, in any manner,
26 for the production, possession, distribution, dispensing, acquisition,
27 cultivation, processing, transferring, transporting, selling, or laboratory

1 testing of cannabis or medical cannabis paraphernalia in compliance with this
2 Act; provided, that they are registered and certified or authorized by the
3 DPHSS and are acting in accordance with this Act.

4 (g) (1) Any property interest that is possessed, owned or used in
5 connection with the medical use of cannabis or home cultivation of medical
6 cannabis pursuant to § 122530 of this Article, or acts incidental to such use,
7 *shall not* be harmed, injured, or destroyed while in the possession of state or
8 local law enforcement officials.

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

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

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

22 (i) An operator or worker of a facility approved by the DPHSS to
23 conduct laboratory testing *shall not* be subject to arrest, prosecution, or
24 penalty, in any manner, or denied any right or privilege for possession,
25 acquisition, transferring, transporting, selling, or laboratory testing of
26 cannabis, prepared medical cannabis, or medical cannabis product for medical
27 use pursuant to this Act.

1 (j) The DPHSS *shall* be authorized to acquire, possess, store, and
2 laboratory test cannabis for medical use pursuant to this Act; and, the
3 employees of the DPHSS *shall not* be subject to arrest or prosecution for
4 acquiring, possessing, storing, and/or conducting laboratory tests of cannabis
5 for medical use pursuant to this Act.

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

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

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

19 **"§ 122505. Prohibitions, Restrictions, and Limitations on the Medical**
20 **Use of Cannabis - Criminal Penalties.**

21 (a) Participation in the medical use of cannabis by a qualified
22 patient, primary caregiver, patient's designated caregiver, or multiple
23 patients' designated caregiver *does not* relieve the qualified patient or
24 caregiver from:

25 (1) criminal prosecution or civil penalties for activities not
26 permitted by this Act;

1 (2) liability for damages or criminal prosecution arising out of
2 the operation of a vehicle while under the influence of cannabis; or

3 (3) criminal prosecution or civil penalty for possession or use
4 of cannabis:

5 (A) in a school bus or public vehicle;

6 (B) on school grounds or property;

7 (C) in the workplace of the qualified patient's or
8 caregiver's employment; or

9 (D) at a public park, recreation center, youth center, or
10 other public place.

11 (b) A person who makes a fraudulent representation to a law
12 enforcement officer about the person's participation in a medical use of
13 cannabis program to avoid arrest or prosecution for a cannabis-related offense
14 is guilty of a petty misdemeanor.

15 (c) If a licensed possessor or employee of a licensed medical
16 cannabis business sells, distributes, dispenses, or transfers cannabis to a
17 person not permitted to participate in the medical use of cannabis under this
18 Act, or obtains or transports cannabis outside Guam in violation of federal
19 law, the licensed possessor or employee of a licensed medical cannabis
20 business *shall* be subject to arrest, prosecution and civil or criminal penalties
21 in accordance with Guam law."

22 **Section 3. Severability.** If any provision of this Act or its application to any
23 person or circumstance is found to be invalid or contrary to law, such invalidity *shall*
24 *not* affect other provisions or applications of this Act that can be given effect without
25 the invalid provision or application, and to this end the provisions of this Act are
26 severable.