EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam

October 17, 2018

The Honorable Therese M. Terlaje
Interim Speaker
I Mina'trentai Kuåttro Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa, Hagåtña, Guam 96910

Vice Speaker Therese M. Terlaje
34GL-18-2439
OCT 17 2018
Time: 16:02
Received by:

2018 OCT 17 PM 4:28

Håfa Adai Madame Speaker:

Attached is Bill No. 326-34 (COR) entitled, *"An act. . . Relative to Granting Waiver Authority to I Magalahen Guahan for Certain Requirements Related to Laboratories and Dispensaries as Those Requirements are set out in the Joaquin (KC). Concepcion, II Compassionate Cannabis Use Act of 2013. . . ,"* which I have **VETOED.**

I have consulted with the Attorney General, and she supports this veto because the bill is inorganic and violates the doctrine of separation of powers. The bill purports to grant the Governor of Guam the "authority" to issue an executive order which "shall contain" an explanation as to why the executive order is being issued, and then further grants the legislature the option to reject the executive order and deem it "null and void."

The Governor does not require a grant of authority from the Legislature to issue an executive order, nor can the Legislature dictate the contents of the order or reserve to itself the single-handed prerogative of nullifying it. Rather, the authority to issue an executive order is an inherent one that arises *exclusively* from Organic Act Section 1422. Under Section 1422, the Governor "shall have the power to issue executive orders and regulations not in conflict with any applicable law." *See also, Guerrero v. Santo Thomas,* 2010 Guam 11, and ¶ 41 ("The Organic Act expressly authorizes the Governor to issue executive orders, but also limits the scope of that authority, stating that the Governor "shall have the power to issue executive orders and regulations not in conflict with any applicable law."

Office of the Governor of Guam • P.O. Box 2950 • Hagåtña, Guam 96910
Tel: (671) 472-8931 • Fax: (671) 477-4826 • governor.guam.gov • calendar.guam.gov
Eddie Baza Calvo @eddiebazacalvo @governorcalvo governorofguam

To the extent that an executive order possibly conflicts with a law, only the Judiciary may nullify the order, and not the Legislature. "Construction of an executive order presents an issue akin to an issue of statutory interpretation, where it presents a question of law for [the Guam Supreme Court's] independent review on appeal." *Guerrero v. Santo Thomas*, 2010 Guam 11, ¶ 8.

Pursuant to its Organic Act authority, the Legislature enacted the *Joaquin (KC) Concepcion, II Compassionate Cannabis Use Act of 2013*, including the requirements governing the establishment of a medical cannabis laboratory or dispensary. If the Legislature now wants to waive or change any of these same requirements, then it is authorized to do so on its own without an executive order issued by the Governor.

Indeed, because the Legislature is certainly aware of its own laws and authority, the intent behind Bill 326 is not just puzzling but also reeks of legislative arrogance. On matters that deal with the administration of the Government, the Legislature must allow for the Executive branch to carry out laws without interference. So many falsities have been disseminated throughout our community painting our Administration as the obstacle. Nothing is further from the truth. I have been unwavering in my commitment to fulfilling the initiatives approved by the people, including the medical cannabis program. But when the Legislature tasks the Executive Branch with carrying out unfunded mandates, then the task is nothing less than a set up for failure.

The laboratory for the medicinal cannabis program is a critical component which experts have estimated will cost at least $1 million dollars to build. And it cannot be disputed that in order to make the program run effectively, many other critical pieces need to be in place, including a tracking system, patient database, inspectors, a program coordinator, and an expert cannabis consultant to advise on program matters.

While the Legislature continues to find ways to move forward on the medical cannabis program, the people have an interim fix through the recent enactment of P.L. 34-125 which allows them to grow cannabis at home. The Department of Public Health and Social Services (DPHSS) has already launched the permit program and has made the application available through their website, thus allowing for an easier permitting process.

Finally, I was shocked to learn that this bill was presented to me with only seven affirmative votes. When Bill 1(1-S), the Tax Revenue Anticipation Note (TRAN) passed last May *with the same exact same number of votes*, the Legislature fought the Executive

Branch on this by vehemently refusing to present the bill. As a result of the Legislature's arrogance, Guam taxpayers suffered unnecessarily because rather than receiving their tax refunds back in February, they were instead forced to endure nine (9) months of waiting.

My administration remains committed to carry out the will of the People. The Legislature needs to set the Department of Public Health up for success so that it may carry out mandates set forth by, and for, the People. This means appropriating what is necessary to properly fund the medicinal cannabis program once and for all.

Senseramente,

EDDIE BAZA CALVO
Governor of Guam

I MINA'TRENTAI KUÅTTRO 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. 326-34 (COR), "AN ACT TO *ADD* A NEW § 122530 TO ARTICLE 25 OF CHAPTER 12, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO GRANTING WAIVER AUTHORITY TO *I MAGA'LÅHEN GUÅHAN* FOR CERTAIN REQUIREMENTS RELATED TO LABORATORIES AND DISPENSARIES, AS THOSE REQUIREMENTS ARE SET OUT IN *THE JOAQUIN (KC) CONCEPCION, II COMPASSIONATE CANNABIS USE ACT OF 2013,"*** was on the 4th day of October 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 5th day of OCTOBER, 2018, at 1:09 o'clock P.M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:
VETO
EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date:_____

Public Law No._____

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

Bill No. 326-34 (COR)
As amended on the Floor.

Introduced by:

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

AN ACT TO *ADD* A NEW § 122530 TO ARTICLE 25 OF CHAPTER 12, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO GRANTING WAIVER AUTHORITY TO *I MAGA'LÅHEN GUÅHAN* FOR CERTAIN REQUIREMENTS RELATED TO LABORATORIES AND DISPENSARIES, AS THOSE REQUIREMENTS ARE SET OUT IN *THE JOAQUIN (KC) CONCEPCION, II COMPASSIONATE CANNABIS USE ACT OF 2013.*

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the successful implementation of *The Joaquin (KC) Concepcion, II Compassionate Cannabis Use Act of 2013* has stalled. *I Liheslaturan Guåhan* has diligently provided legislation as issues arise but the timeliness of the legislative

process causes significant delays to the successful fulfillment of *The Joaquin (KC) Concepcion, II Compassionate Cannabis Use Act of 2013*.

Therefore, it is the intent of *I Liheslaturan Guåhan* to authorize *I Maga'låhen Guåhan* to waive, by way of executive order, certain requirements that may arise during the course of the implementation of *The Joaquin (KC) Concepcion, II Compassionate Cannabis Use Act of 2013*.

Section 2. A new § 122530 is hereby *added* to Article 25 of Chapter 12, Title 10, Guam Code Annotated, to read:

"**§ 122530. Executive Waiver Authority.**

I Maga'låhen Guåhan is authorized to waive, by way of executive order, requirements related to laboratories and dispensaries that are engaged or will be engaged in the medical cannabis program envisaged in *The Joaquin (KC) Concepcion, II Compassionate Cannabis Use Act of 2013*. Any such waiver *shall only* take effect after ninety (90) days from the date of the filing of any such executive order with the Speaker of *I Liheslaturan Guåhan*. Any such executive order *shall* contain an explanation of the need for the waiver, which must include an explanation of why existing requirements impede or otherwise obstruct fulfillment of *The Joaquin (KC) Concepcion, II Compassionate Cannabis Use Act of 2013*. Within ninety (90) days of the filing of any such waiver with the Speaker of *I Liheslaturan Guåhan*, *I Liheslaturan Guåhan* may adopt a legislative resolution rejecting in part or in whole the Governor's waiver, and such duly adopted legislative resolution *shall* deem such executive waiver null and void."

Section 3. Effective Date. This Act *shall* be effective upon enactment.