I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN

2019 (FIRST) Regular Session

LEGISLATIVE SESSION VOTING RECORD

Bill No. 32-35 (COR) As amended by the Committee on Economic Development, Agriculture, Maritime Transportation, Power and Energy Utilities, and Emergency Response; and further amended on the Floor.	**Speaker Antonio R. Unpingco Legislative Session Hall** **Guam Congress Building** **March 27, 2019**

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator William M. CASTRO		√				
Senator Régine Biscoe LEE	√					
Senator Kelly G. MARSH (TAITANO), PhD	√					
Senator James C. MOYLAN		√				
Speaker Tina Rose MUÑA BARNES	√					
Senator Louise B. MUÑA	√					
Vice Speaker Telena Cruz NELSON		√				
Senator Sabina Flores PEREZ		√				
Senator Clynton E. RIDGELL	√					
Senator Joe S. SAN AGUSTIN	√					
Senator Amanda L. SHELTON		√				
Senator Telo T. TAITAGUE	√					
Senator Jose "Pedo" TERLAJE	√					
Senator Therese M. TERLAJE		√				
Senator Mary Camacho TORRES		III √				

TOTAL:	8	7				
	Aye	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**	**Excused**

CERTIFIED TRUE AND CORRECT:

RENNAE V. C. MENO
Clerk of the Legislature

I = Pass

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 32-35 (COR)
As amended by the Committee on Economic Development,
Agriculture, Maritime Transportation, Power
and Energy Utilities, and Emergency Response;
and further amended on the Floor.

*

Introduced by: Clynton E. Ridgell
Tina Rose Muña Barnes
Joe S. San Agustin
Régine Biscoe Lee
Telo T. Taitague
Jose "Pedo" Terlaje

AN ACT TO *ADD* A NEW CHAPTER 8 TO TITLE 11 OF GUAM CODE ANNOTATED, RELATIVE TO REGULATING THE USE, PRODUCTION, SALE, AND TAXATION OF MARIJUANA, TO BE KNOWN AS THE "*GUAM CANNABIS INDUSTRY ACT OF 2019*"; TO *ADD* A NEW CHAPTER 9 TO TITLE 11 OF GUAM CODE ANNOTATED, RELATIVE TO CREATING THE CANNABIS CONTROL BOARD; TO *REPEAL* §§ (c)(23) AND (c)(31) OF APPENDIX A, CHAPTER 67, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO DECLASSIFYING MARIJUANA AS A SCHEDULE I CONTROLLED SUBSTANCE; TO *AMEND* §§ 67.401.2(b), 67.401.4(f), (h), AND (j), 67.401.5, 67.401.6, 67.411(b) AND 67.412(a), AND *REPEAL* § 67.401.4(k), ALL OF ARTICLE 4, CHAPTER 67, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO REDEFINING REFERENCES TO MARIJUANA IN THE GUAM UNIFORM CONTROLLED SUBSTANCES ACT; AND TO *ADD* A NEW § 70.44.4 TO ARTICLE 1 OF CHAPTER 70, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO POSSESSION OF

CANNABIS BY PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan 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 Liheslaturan 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 businesses will conduct sales of cannabis; and

(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 of Guam Code Annotated, 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 in § 8109 of this Chapter.

(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 to sell cannabis to retail cannabis stores, cannabis product manufacturing facilities, and 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 (1) 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 (1) other ingredient, is intended for use or consumption other than by inhalation, is intended to be taken into the body, and is one (1) 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) *Marijuana* means *cannabis* as defined in Subsection (b) of this Section. For purposes of this Chapter, the terms marijuana and cannabis *shall* carry the same meaning and *shall* be used interchangeably.

(r) *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 (1) 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.

(s) *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.

(t) *Unreasonably impracticable* means that the measures necessary to comply with this Chapter 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.

§ 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 Subsections (a) through (d) of this Section if such assistance is provided for a non-commercial purpose.

(f) The provisions of this § 8103 *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 (1) 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 (21) years 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, or his or her 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 or 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 or 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 his or her 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 his or her 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; and

(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 his or her capacity as an owner, employee, or agent of a cannabis product manufacturing 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) packaging, processing, transporting, manufacturing, displaying, or possessing cannabis or cannabis products;

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

(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 his or her 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 Subsections (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 Cannabis Control Board referenced in § 8109 of this Chapter.

§ 8109. Cannabis Control Board.

I Liheslaturan Guåhan shall create a Cannabis Control Board which *shall* assume the power, duties, and authority to promulgate rules and regulations necessary to enforce this Chapter.

§ 8110. Rulemaking.

(a) *No later than* one (1) year after the effective date of this Act, the Cannabis Control Board *shall* prescribe forms and adopt such rules and regulations necessary for the implementation of this Chapter in accordance with Chapter 9 of Title 5, Guam Code Annotated. 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, 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 Cannabis Control 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 (1) 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 Cannabis Control Board considers necessary for the administration of the Guam Cannabis Industry Act, and the implementation and enforcement of this Chapter.

(b) In order to ensure that individual privacy is protected, the Cannabis Control 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 Cannabis Control Board. A renewal application may be submitted up to ninety (90) days prior to the expiration of the cannabis establishment's registration.

(b) The Cannabis Control 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 Chapter become effective. Upon receipt of an application for licensure, the Cannabis Control 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 Cannabis Control 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 Cannabis Control Board finds that the applicant is not in compliance with the regulations established pursuant to § 8110 of this Chapter.

(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 said location *shall* have defined boundaries. A separate registration is required for each location at which a cannabis establishment operates. The Cannabis Control 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 Cannabis Control 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, that no such excise tax shall be levied upon cannabis intended for sale as medical cannabis.

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

(c) The Cannabis Control 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 Chapter.

(d) There is hereby established a fund to be known as the *Cannabis Fund* which *shall* be maintained separate and apart from any other fund of the government of Guam and *shall* be administered by the Department of Administration. Fifty percent (50%) of the excise tax collected or received pursuant to § 8113(a) *shall* be deposited in the Cannabis Fund, and *shall* be annually allocated, and is hereby appropriated and *shall* be continued to be deemed appropriated as follows:

(1) twenty-five percent (25%) of the Fund to the Department of Public Health and Social Services; and

(2) twenty-five percent (25%) of the Fund for the following:

(A) fifteen percent (15%) to the Guam Police Department for the purposes of recruiting or maintaining police officers and purchasing equipment and detection devices;

(B) fifteen percent (15%) to the Guam Customs and Quarantine Agency for the purposes of recruiting or maintaining customs and quarantine officers and purchasing equipment and detection devices;

(C) twenty percent (20%) to the Department of Revenue and Taxation for operations consistent with the implementation of this Act;

(D) Forty percent (40%) to the Guam Behavioral Health and Wellness Center substance abuse treatment, prevention, and education; and

(E) ten percent (10%) to the Department of Agriculture's Conversation Officer Law Enforcement Section for the purposes of

recruiting or maintaining conservation officers and purchasing equipment and detection devices.

§ 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 Chapter 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.

§ 8118. Smoking of Cannabis Regulated.

Smoking of cannabis products *shall* be regulated and enforced in accordance with the requirements of Chapter 90 of Title 10, Guam Code Annotated, known as the "Natasha Protection Act of 2005."

§ 8119. Unlawful Dissemination of Cannabis Odor.

No person or business shall permit or cause the smoke or noxious odor from cannabis cultivation or consumption to emanate from its point of generation onto another real property that is not in its possession. Violations in this Section *shall* be deemed a nuisance in accordance with Part 3 of Chapter 10, Title 20, Guam Code Annotated and § 23101 of Chapter 23, Title 21, Guam Code Annotated. Violations of this Section and the resulting penalties herein are in addition to other violations and penalties of law.

§ 8120. Baseline Data Study Prior to Enactment.

Prior to enactment of the rules and regulations by the Cannabis Control Board, the Office of the Governor, in collaboration with the Bureau of Statistics and Plans, Department of Public Health and Social Services, Guam Behavioral Health and Wellness Center, Guam Police Department, the Judiciary of Guam, and other relevant government of Guam agencies, *shall* conduct a baseline study which consists of a collection of baseline data on cannabis use through population based surveys before enactment, and baseline data measuring various public safety and public health issues related to cannabis use in order to measure the impact of this Act. This study *shall* be reviewed annually by the Cannabis Control Board and used as a monitoring and comparison tool with public health and public safety data relative to cannabis use going forward.

Section 3. A new Chapter 9 is *added* to Title 11 of Guam Code Annotated, to read:

"**CHAPTER 9**

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 Chapter *shall* be known as the "*Cannabis Control Board Act of 2019.*"

§ 9102. Cannabis Control Board, Established.

There is hereby established a "Cannabis Control Board" (Board) within the Department of Revenue and Taxation.

§ 9103. Appointment of Members; Term.

The Board *shall* have a membership of nine (9) 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 or her designee;

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

(c) one (1) member *shall* be the Director of the Department of Public Health and Social Services or his or her designee;

(d) one (1) member *shall* be the Director of the Guam Behavioral Health and Wellness Center or his or her designee;

(e) one (1) member *shall* be the General Manager of the Guam Visitors Bureau or his or her designee;

(f) one (1) member *shall* be the Chief of the Guam Police Department or his or her designee;

(g) one (1) member *shall* represent the Guam business community; and

(h) two (2) members *shall* represent the general public, and *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 Chapter, and also the powers necessary or proper to enable it to carry out the purposes of this Chapter 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 any violation of this Chapter or regulations promulgated hereby, including hearings for the purpose of approving cannabis licenses and any 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, pursuant to the Administrative Adjudication Law in Chapter 9 of Title 5, Guam Code Annotated;

(c) levying fines and penalties for any 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, 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 Chapter 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 law relating to cannabis items, and cooperating in the prosecution of offenders before the Superior Court of Guam;

(i) adopting such regulations as are necessary and feasible for carrying out the intent and provisions of this Chapter and to amending or repealing such regulations;

(j) exercising all powers incidental, convenient or necessary to enable it to administer or carry out the provisions of this Chapter, 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 on Guam;

(p) developing an annual report which *shall* include, but not be limited to:

(1) incidents of impaired driving, hospitalization, and use of other health care services related to cannabis use on Guam;

(2) ownership and employment trends in Guam's cannabis industry examining participation by racial, ethnic, and socioeconomic subgroups, including identification of barriers to participation in the industry;

(3) a compilation of data on the number of incidents of discipline in schools, including suspensions or expulsions, resulting from cannabis use or possession of cannabis or cannabis products; and

(4) a compilation of data on the number of penalties, arrests, prosecutions, incarcerations, or sanctions imposed for violations under this Act.

The Board *shall* incorporate available data into its report and coordinate with the Department of Public Health and Social Services, the Guam Department of Education, the Guam Police Department, the Guam Department of Labor, and the Guam Economic Development Authority. The Board *shall* annually submit its report to the Speaker of *I Liheslaturan Guåhan* and, when appropriate, make recommendations for further research or policy changes. The annual reports *shall* be posted online on *I Liheslaturan Guåhan's* website; and

(q) prescribing forms and adopting such rules and regulations as the Board deems necessary for the implementation and administration of this Chapter *no later than* one (1) calendar year after the effective date of this Act.

§ 9108. Limitations on Board Jurisdiction.

The Board *shall not* regulate the personal cultivation of cannabis as may be allowed by Guam law. 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 of the government of Guam, the Cannabis Control Fund (Fund). All fees, fines, penalties and other charges resulting from the licensing and enforcement of adult cannabis use on Guam *shall* be deposited in this Fund. Expenditures of the Fund *shall* be by appropriation from *I Liheslaturan Guåhan*, except that sixty percent (60%) of all funds *shall* be appropriated to the Guam Behavioral Health and Wellness Center for the following purposes:

(a) twenty percent (20%) *shall* be used for cannabis prevention and education programs for those under twenty-one (21) years of age; and

(b) forty percent (40%) *shall* be used for substance abuse, treatment, prevention and education programs.

§ 9110. Licensing Prohibition for Establishments Near Schools.

The Board *shall not* issue a license for a cannabis establishment located within a distance of one thousand (1,000) feet from any public or private school and other places or facilities where youth generally congregate, which include childcare centers, public playgrounds, and parks~~.~~. The measurements *shall* be taken in a straight line from the center of the nearest entrance to the building of such school or place or facility stated herein to the center of the nearest entrance of the cannabis establishment for which a license is applied. The provisions of this Section *shall not*

prohibit the renewal of any valid license previously issued and in effect at the time of a subsequent construction or establishment of a school or place or facility stated herein within five hundred (500) feet of such licensed cannabis establishment, and provided that the premises of such licensed cannabis establishment *shall not* subsequently be added to or enlarged."

Section 4. §§ (c)(23) and (c)(31) of Appendix A, Chapter 67, Title 9, Guam Code Annotated, are *repealed* and marijuana is hereby declassified as a Schedule 1 Controlled Substance. Any reference by the Guam Uniform Controlled Substances Act to marijuana, such as "marihuana," "tetrahydrocannabinol," "cannabis," and derivatives thereof, *shall* be deemed repealed, null, and void upon the passage of this Act.

Section 5. § 67.401.2(b) of Article 4, Chapter 67, Title 9, Guam Code Annotated, is *amended* to read:

"(b) Any person who violates Subsection (a) with respect to any controlled substance *shall* be guilty of a felony of the third degree."

Section 6. § 67.401.4(f) of Article 4, Chapter 67, Title 9, Guam Code Annotated, 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 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 7. § 67.401.4(h) of Article 4, Chapter 67, Title 9, Guam Code Annotated, 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 or depressant or stimulant substances, and such convictions are final, then he *shall* be 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 8. § 67.401.4(j) of Article 4, Chapter 67, Title 9, Guam Code Annotated, 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 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 9. § 67.401.4(k) of Article 4, Chapter 67, Title 9, Guam Code Annotated, is hereby *repealed*.

Section 10. § 67.401.5 of Article 4, Chapter 67, Title 9, Guam Code Annotated, is *amended* to read:

"**§ 67.401.5. Fines for Drug Offenses.**

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 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 11. § 67.401.6 of Article 4, Chapter 67, Title 9, Guam Code Annotated, is *amended* to read:

"**§ 67.401.6. Additional Fines for Drug Offenses.**

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); 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 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 12. § 67.411(b) of Article 4, Chapter 67, Title 9, Guam Code Annotated, 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 or depressant or stimulant drugs."

Section 13. § 67.412(a) of Article 4, Chapter 67, Title 9, Guam Code Annotated, 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 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 14. A new § 70.44.4 is *added* to Article 1, Chapter 70, Title 9, Guam Code Annotated, to read:

"**§ 70.44.4. Possession of cannabis by persons under twenty-one (21) years of age.** Any person under twenty-one (21) years of age possessing cannabis *shall* be guilty of a petty misdemeanor and subject to a One Hundred Dollar ($100.00) fine and suspension of their driver's license for twelve (12) months for the first offense and a Two Hundred-Fifty Dollar ($250.00) fine and suspension of their driver's license for an additional twelve (12) months for each subsequent possession. Suspension of one's driver's license *may* be waived by the court and replaced with 100 hours of community service for each possession if the guilty individual can demonstrate financial or personal hardship resulting from the loss of his or her driving privileges. The violation of this Section and the resulting penalties prescribed herein are in addition to other violations of public law related to cannabis possession."

Section 15. § 70.53 of Article 3, Chapter 70, Title 9, Guam Code Annotated, is *amended* to read:

"**§ 70.53. Intoxication of Persons Under the Age of Twenty-One.**

(a) No person twenty-one (21) years or older *shall* knowingly give or otherwise make available any alcoholic beverage or cannabis to a person under the age of twenty-one (21) years. A person violates this Section who gives or otherwise makes available an alcoholic beverage or cannabis to a person under the age of twenty-one (21) with the knowledge that the person to whom the alcoholic beverage or cannabis is made available will violate this § 70.53.

(b) A person violates this Section who owns, occupies, or controls premises on which alcoholic beverages or cannabis are consumed by any person under twenty-one (21) years of age, and who knows of alcohol or cannabis consumption by persons under twenty-one (21) years of age on such

premises, and who reasonably could have prohibited or prevented such alcohol or cannabis consumption.

(c) Any person who violates this Section:

(1) *shall* be punished by a fine of not more than Two Thousand Dollars ($2,000) or by imprisonment for not more than one (1) year or both; and

(2) in addition to the sentence referenced in Subsection (c)(1) the court *may* require the violator to make restitution for any damages to property or a person caused by a violation of this § 70.53, and *may* require participation in volunteer service to a community service agency.

(d) The prohibitions of this Section apply only to a person who is present and in control of the location at the time the consumption occurs. The prohibitions of this Section do not apply to the owner of rental property, or the agent of an owner of rental property, unless the consumption occurs in the individual unit in which the owner or agent resides.

(e) This Section *shall not* apply to any religious practice, observance, or ceremony.

(f) The violations of this Section and the resulting penalties prescribed herein, supra, are in addition to other violations of public law related to alcoholic beverages or cannabis."

Section 16. 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, 34-165, or any other existing statute or public law relative to medical cannabis.

Section 17. Independent Economic Impact Study.

(a) Not less than ninety (90) days from the effective date of this Act, the Guam Visitors Bureau (GVB) *shall* issue a Request for Proposal for the purpose of

conducting an Independent Economic Impact Study (IEIS) relative to the legalization of cannabis for adult use in Guam. GVB is authorized to expend funds from the Tourist Attraction Fund to fund the IEIS. GVB, in collaboration with the Guam Economic Development Authority and the University of Guam, *shall* determine the study's parameters.

(b) The Independent Economic Impact Study *shall* be completed by an identified group that includes an economist who holds a Doctor of Philosophy or Master's Degree in Economics from an institution of higher learning accredited by an accreditation agency recognized by the U.S. Secretary of Education or an accrediting body that is recognized internationally. This IEIS *shall* be transmitted to the Speaker of *I Liheslaturan Guåhan* no later than one (1) year from the effective date of this Act.

Section 18. 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 19. Effective Date. This Act *shall* be effective upon enactment.