

EDDIE BAZA CALVO  
Governor

RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam.*

DEC 16 2016

33-16-2261

Office of the Speaker  
Judith T. Won Pat, Ed.D

Honorable Judith T. Won Pat, Ed.D  
Speaker  
I Mina'trentai Tres Na Liheslaturan Guåhan  
155 Hesler Street  
Hagåtña, Guam 96910

Date: 12/16/16  
Time: 4:04 pm  
Received By: [Signature]

Dear Madame Speaker:

Attached is Bill No. 344-33 (COR), entitled, " An act to add a new Subarticle 1 to Article 25 of Chapter 12, Title 10, Guam Code Annotated, Relative to Adding a Home Cultivation Provision to the "Joaquin (KC) Concepcion II Compassionate Cannabis Use Act of 2013," which I have **VETOED**.

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Bill 344-33 allows a qualified cannabis use patient to apply for a permit that would allow the limited home cultivation of medicinal plants. As part of the permitting process, the home cultivation premises are subject to regular inspection by law enforcement officials and the Department of Public Health & Social Services (DPHSS). If violations of the permit are found, then the permit is subject to revocation. After giving at least 24-hours notice, law enforcement officials can also enter the premises to seize and destroy the plants.

The issue with Bill 344-33 is that its enforcement requires meticulous regulation, which in turn creates a very expensive unfunded mandate. Requiring DPHSS and law enforcement officials to conduct regular inspections of home cultivation premises and the confiscation/destruction of medicinal cannabis plants presumes the necessity of additional manpower, training, and equipment.

Moreover under the Guam Administrative Adjudication Act (5 G.C.A. Chapt. 9, art. 2), home cultivators holding a permit and who are aggrieved by the possible revocation of their permit and the seizure of their plants have a due process right to an administrative hearing before their permit can be revoked.<sup>1</sup> The creation of

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an additional administrative dispute/permit revocation process could very well require the promulgation of new administrative rules & regulations specific to home cultivation.

Unless the means of how the regulation of home cultivation is to be funded or staffed is identified, the anticipated enforcement of Bill 344 will impose new and different duties upon our health and law enforcement agencies that will deplete their already strained resources. So although I understand and support that the intent of home cultivation is alleviate the suffering of those patients in need of compassionate care, without a clearly identified funding source, Bill 344 places a huge burden on our public health and safety which I cannot permit.

Sincerely,



**EDDIE BAZA CALVO**

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<sup>1</sup> Under Section 122508(c) of Bill 344, a qualified patient is also entitled to request an administrative hearing if his initial application for a home cultivation permit is rejected.

**I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN  
2016 (SECOND) Regular Session**

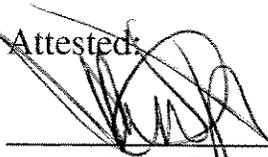
**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LÅHEN GUÅHAN**

This is to certify that **Bill No. 344-33 (COR)**, "AN ACT TO ADD A NEW SUBARTICLE 1 TO ARTICLE 25 OF CHAPTER 12, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ADDING A HOME CULTIVATION PROVISION TO THE "JOAQUIN (KC) CONCEPCION II COMPASSIONATE CANNABIS USE ACT OF 2013"," was on the 2<sup>nd</sup> day of December 2016, duly and regularly passed.



**Judith T. Won Pat, Ed.D.  
Speaker**

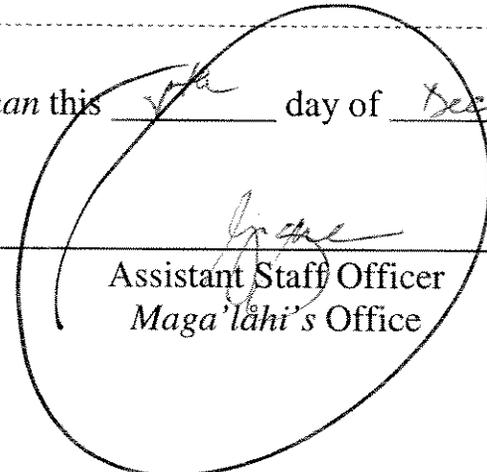
Attested:



**Tina Rose Muña Barnes  
Legislative Secretary**

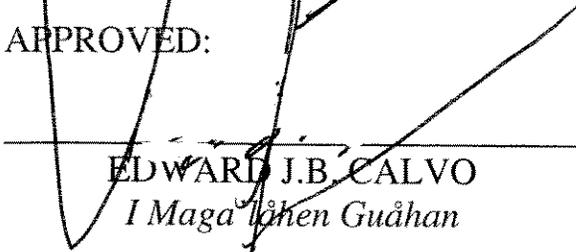
2016 DEC 16 PM 4:22

This Act was received by *I Maga'låhen Guåhan* this 2<sup>nd</sup> day of Dec,  
2016, at 4:20 o'clock P.M.



Assistant Staff Officer  
*Maga'låhi's Office*

APPROVED:



**EDWARD J.B. CALVO  
*I Maga'låhen Guåhan***

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

**OFFICE OF THE GOVERNOR  
CENTRAL FILES**

RECEIVED BY  
TIME 4:25 PM DATE 12-16-16



1 § 122509. Exemption from Criminal and Civil Penalties for the Home  
2 Cultivation of Cannabis for Medical Use.

3 § 122510. Department Responsibilities.

4 § 122511. Required Reporting for Primary Caregivers.

5 § 122512. Revocation of Home Cultivation Permit.

6 § 122513. Destruction and Disposal of Cannabis.

7 § 122514. Seizure of Cannabis Plants.

8 **§ 122508. Home Cultivation Permits.**

9 The Department *shall* register patients applying for a Home Cultivation  
10 Permit and issue a Home Cultivation Permit to a qualified patient allowing  
11 the patient or the patient's primary caregiver to cultivate six (6) mature  
12 cannabis plants and six (6) immature cannabis plants on the premises of the  
13 qualified patient's place of residence and possess all harvested cannabis.  
14 Home Cultivation Permits are non-transferrable and *shall not* be transferred  
15 between qualified patients and between residential addresses. All registration  
16 and registration information *shall* be kept in a confidential database. The  
17 Department may charge an application fee *not to exceed* Ten Dollars (\$10.00)  
18 and a permit fee *not to exceed* Five Dollars (\$5.00).

19 (a) Within thirty (30) days of the enactment of this Act, the  
20 Department *shall* accept and review applications for Home Cultivation  
21 Permits. A qualified patient's written certification made by the  
22 qualified patient's practitioner *shall* constitute a valid endorsement to  
23 receive a medical cannabis Home Cultivation Permit. The application  
24 for a medical cannabis Home Cultivation Permit *shall* include the  
25 following:

26 (1) a Department provided form that includes:

27 (A) the name of the patient;

1 (B) the address of the qualified patient's  
2 residence;

3 (C) the name of the patient's primary caregiver,  
4 if applicable; and

5 (D) the qualified patient's practitioner's:

6 (i) first name; middle name, if applicable;  
7 last name; and suffix, if applicable;

8 (ii) license number from their appropriate  
9 licensing or regulatory board, and the identification  
10 of the practitioner's license type or a physician's  
11 Guam Board of Medical Examiners license number,  
12 including an identification of the physician's license  
13 type;

14 (iii) contact phone number on file with the  
15 practitioner's licensing board;

16 (iv) office address on file with the  
17 practitioner's licensing board;

18 (v) e-mail address; and

19 (E) any other information the Department may  
20 require.

21 (2) a copy of the qualified patient's written certification  
22 that has been validated with the Department's seal;

23 (3) a Mayor's verification;

24 (4) a copy of a qualified patient's driver's license, a  
25 Guam Identification Card as approved by the Director, or any  
26 other form of identification as approved by the Director; and

27 (5) any other information the Department may require.

1           (b) The Department *shall* deny an application only if the  
2 applicant did not provide the information required in Subsection (a) of  
3 this Section, or if the Department determines that the information  
4 provided is false. The Department *shall* provide written notice to the  
5 applicant of an incomplete application within seven (7) days of the  
6 Department's determination, and specify where the application is  
7 incomplete. The applicant *shall* be given fourteen (14) days to complete  
8 and resubmit the application.

9           (c) The Department *shall* reject any application that does not  
10 comply with this Act. The Department *shall* provide the qualified  
11 patient with a written notice within seven (7) days of rejection that  
12 includes the specific reason for the rejection and the process for  
13 requesting a hearing of the Department's decision pursuant to the  
14 Department's procedures.

15           (d) The Department *shall* issue a qualified patient with a  
16 Home Cultivation Permit within ten (10) days upon receipt of the  
17 application. The Home Cultivation Permit *shall* include:

- 18                   (1) the name of the patient;
- 19                   (2) the address of the qualified patient's residence;
- 20                   (3) the name of the patient's primary caregiver, if  
21 applicable; and
- 22                   (4) any other information the Department may require.

23           (e) The permit *shall* be kept in a secure place on the premises  
24 of the qualified patient's residence, and must be made available upon  
25 request by authorized members of the Department or law enforcement  
26 officers.

1 (f) Cultivation and storage of cannabis *shall* be in an  
2 enclosed, locked location at the qualified patient's place of residence  
3 and away from public view.

4 (g) There *shall* be one (1) permit per residence and one (1)  
5 permit per dwelling in a multi-dwelling residence.

6 (h) The cultivation of medical cannabis *shall not* take place in  
7 the common areas of a multi-dwelling residence.

8 (i) Landlords reserve the right to restrict and prohibit  
9 cannabis cultivation on their property.

10 (j) It is forbidden for a qualified patient to cultivate or  
11 distribute medical cannabis for another qualified patient or for a  
12 primary caregiver to cultivate or distribute medical cannabis for another  
13 qualified patient on a location that is *not* the residence of that qualified  
14 patient.

15 **§ 122509. Exemption from Criminal and Civil Penalties for the**  
16 **Home Cultivation of Cannabis for Medical Use.**

17 (a) Presumption of participation of home cultivation *shall* exist if the  
18 qualified patient has on the premises of their residence six (6) mature plants  
19 and six (6) immature plants and is acting in accordance with this Act.

20 (b) A qualified patient possessing a Home Cultivation Permit issued  
21 by the Department of Public Health and Social Services, and the qualified  
22 patient's primary caregiver, are *not* subject to arrest, prosecution, civil or  
23 criminal penalty, or denial of any right or privilege for possessing cannabis, if  
24 the amount of cannabis possessed collectively is *not more than* the allowable  
25 amount and six (6) mature cannabis plants and six (6) immature cannabis  
26 plants, as well as the harvested cannabis at the qualified patient's residence.

1 (c) A practitioner *shall not* be subject to arrest or prosecution, to be  
2 penalized in any manner, or denied any right or privilege for recommending  
3 the medical use of cannabis or providing written certification for the medical  
4 use of cannabis pursuant to this Section.

5 **§ 122510. Department Responsibilities.**

6 (a) The Department *shall* maintain a list of Home Cultivation  
7 Permits issued and keep the list confidential.

8 (b) The Department *shall not* request or require the patient's medical  
9 condition(s), medical information, or medical records when issuing Home  
10 Cultivation Permits.

11 (c) The Department may revoke a qualified patient's Home  
12 Cultivation Permit for violating any condition of this Act or conducting  
13 activities *not* permitted by this Act.

14 (d) The Department *shall* ensure that no Home Cultivation Permit  
15 will be issued to any qualified patient who resides in a residence that is the  
16 principal residence of a person who has entered a plea of guilty to, a plea of  
17 *nolo contendere* to, been found guilty of, or been convicted of a felony  
18 offense.

19 **§ 122511. Required Reporting for Primary Caregivers.**

20 All primary caregivers *shall* immediately report the death of a qualified  
21 patient for whom they provide care to the Department. Failure to report the  
22 death of the qualified patient within thirty (30) days of the date of death *shall*  
23 result in the revocation of the primary caregiver's Registry Identification  
24 Card.

25 **§ 122512. Revocation of Home Cultivation Permit.**

26 (a) If the qualified patient or their primary caregiver knowingly  
27 violates this Act or conducts activities *not* permitted by this Act, the

1 Department *shall* provide a written notice of intent to revoke the qualified  
2 patient's Home Cultivation Permit forty-eight (48) hours before revoking the  
3 Home Cultivation Permit. The notice *shall* include the specific reason or  
4 reasons for the revocation, and the process for requesting a hearing of the  
5 Department's decision pursuant to the Department's procedures.

6 (b) The qualified patient and/or their primary caregiver may destroy  
7 and dispose of medical cannabis within the forty-eight (48) hours before  
8 revocation of the Home Cultivation Permit by the Department according to §  
9 122513 of this Subarticle.

10 (c) Prior to revoking a Home Cultivation Permit, the Department *shall*  
11 seize all medical cannabis plants at the qualified patient's residence according to  
12 § 122514 of this Subarticle.

13 (d) The Department *shall* revoke the Home Cultivation Permits issued  
14 to qualified patients who are reported deceased.

15 **§ 122513. Destruction and Disposal of Cannabis.**

16 The Department *shall* establish rules for destroying, disposing, and  
17 reporting the disposal of medical cannabis, prepared medical cannabis, and  
18 medical cannabis product. No destruction shall occur in public or in a manner  
19 that will expose the public unknowingly to cannabis. If necessary, the  
20 Department and authorized law enforcement officers may be authorized to  
21 possess cannabis for the purpose of secure destruction and disposal. The  
22 qualified patient or their primary caregiver *shall* submit a video recording of  
23 the destruction and disposal of the medical cannabis, prepared medical  
24 cannabis, or medical cannabis product, and attach the recording with the  
25 report. A report of the destruction of cannabis *shall* include, but is *not* limited  
26 to:

27 (a) the amount, in weight, destroyed or disposed of;

- 1 (b) the method of destruction or disposal;
- 2 (c) the time and date of destruction or disposal;
- 3 (d) the reason for destruction or disposal; and
- 4 (e) any other information the Department deems necessary.

5 **§ 122514. Seizure of Cannabis Plants.**

6 The Department and authorized law enforcement officers may destroy all  
7 cannabis plants at the qualified patient's residence or otherwise seize and remove  
8 all cannabis plants from the qualified patient's residence prior to revoking a  
9 qualified patient's Home Cultivation Permit. The Department may possess and  
10 transport cannabis plants for the purpose of carrying out the provisions of this  
11 Section. The Department and authorized law enforcement officers *shall* provide  
12 the qualified patient and/or the qualified patient's primary caregiver with at least  
13 twenty-four (24) hours notice of intent to seize and destroy cannabis plants at the  
14 qualified patient's residence. The qualified patient and/or the qualified patient's  
15 primary caregiver may destroy and dispose of medical cannabis and provide a  
16 report of the destruction to the Department and authorized law enforcement  
17 officials. Prior to entering the patient's residence or dwelling to destroy, seize,  
18 or remove cannabis plants, the Department and authorized law enforcement  
19 officers *shall* make reasonable attempts to contact the qualified patient and their  
20 primary caregiver. The Department and authorized law enforcement officers  
21 *shall not* be allowed to enter the qualified patient's residence without the  
22 qualified patient or their primary caregiver present."

23 **Section 2. Severability.** If any provision of this Act or its application to  
24 any person or circumstance is found to be invalid or contrary to law, such invalidity  
25 *shall not* affect other provisions or applications of this Act that can be given effect  
26 without the invalid provisions or application, and to this end the provisions of this  
27 Act are severable.

1           **Section 3. Effective Date.** This Act *shall* take effect upon its enactment  
2 into law.