



UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

Transmitted via Email to: speaker@guamlegislature.org

July 22, 2024

THE HON. THERESE M. TERLAJE, *Speaker*
I Mina'trentai Siette Na Liheslaturan Guåhan
37th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: Substitute Bill No. 6-37 (COR) - AN ACT TO ADD A NEW ARTICLE 26 TO PART 2 OF CHAPTER 12, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ENDING DISCRIMINATION IN EMPLOYMENT USE OF CANNABIS.

Håfa Adai Madam Speaker,

Bill No. 6-37 prevents an employer from discriminating against a person in hiring, or any term or condition of employment, or otherwise penalizing an employee's use of cannabis off the job and away from the workplace.

With the enactment of The Joaquin (KC) Concepcion, II Compassionate Cannabis Use Act of 2013, which allowed the beneficial use of medical cannabis, and the enactment of the Guam Cannabis Industry Act of 2019, which declassified cannabis as a Schedule I Controlled Substance and allowed recreational use, there is no reason for an employer to discriminate against a person in hiring or as a condition of employment for using cannabis. Nor is there a reason to penalize an employee for cannabis use off the job and away from the workplace.

The result of multiple legislative and public hearings, Bill No. 6-37 addresses multiple concerns involving the use and possession of cannabis within the workplace or to individuals in certain industries, public safety, schools, the Judiciary of Guam, etc.

The intent of the legislation is to not penalize employees for off-work use, but the language of subsections (f) and (g) may complicate the ability of employers to investigate and deter on-the-job use. Bill No. 6-37 distinguishes non-psychoactive and psychoactive cannabis metabolites for the discrimination of employees who have been screened for cannabis metabolites under subsection (a)(1) and subsection (a)(2). However, there is no distinction under subsections (f) and (g) for employers who test and find the presence of psychoactive cannabis metabolites indicating use while on the job. This vague language would tie the hands of employers whose employees' conduct evidences cannabis use while on the job. Although there were substantial comments indicating the intent of Bill 6-37 was not to prevent employers from penalizing on-the-job use, the language of subsections (f) and (g) does not clearly distinguish that.

To: The Hon. Therese M. Terlaje, Speaker
Fr: The Hon. Lourdes A. Leon Guerrero, Governor of Guam
Date: July 22, 2024
Re: Substitute Bill No. 6-37 (COR)

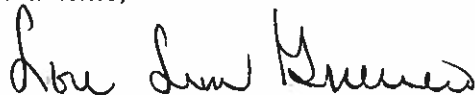
Page 2 of 2

Bill 6-37 will lapse into law without my signature due to these pending concerns. Our administration will work with the Guam Legislature to ensure these concerns are addressed while preserving the intent of the bill.

I acknowledge the extensive public participation and comments provided by professionals, stakeholders, and individuals to improve the changes in this legislation.

For the reasons noted above, Bill No. 6-37 (COR) will lapse into law without my signature as ***Public Law 37-119***.

Senseramente,



LOURDES A. LEON GUERRERO

I Maga'hågan Guåhan
Governor of Guam

Enclosure(s): Substitute Bill No. 6-37 (COR) nka P.L. 37-119 (LAPSED)

cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*, Lt. Governor of Guam
Compiler of Laws

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

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

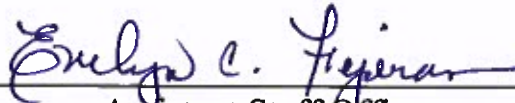
This is to certify that **Substitute Bill No. 6-37 (COR), "AN ACT TO ADD A NEW ARTICLE 26 TO PART 2 OF CHAPTER 12, TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ENDING DISCRIMINATION IN EMPLOYMENT USE OF CANNABIS,"** was on the 10th day of July 2024, duly and regularly passed.


Therese M. Terlaje
Speaker

Attested:


Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 10th day of July,
2024, at 4:22 o'clock P.M.

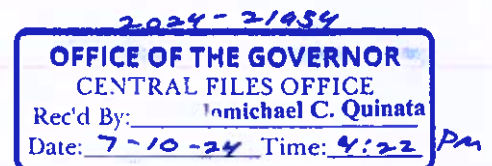

Evelyn C. Fejeran
Assistant Staff Officer
Maga'håga's Office

APPROVED:


Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: JULY 22, 2024

Public Law No. 37-119



I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 6-37 (COR)

As substituted; amended by the Committee
on Human Resources, Hagåtña Revitalization,
Regional Affairs, Public Libraries,
Telecommunications, Technology and
Federal and Foreign Affairs; and
further amended on the Floor.

Introduced by:

William A. Parkinson
Dwayne T.D. San Nicolas
Tina Rose Muña Barnes
Chris Barnett
Frank Blas, Jr.
Joanne M. Brown
Christopher M. Dueñas
Thomas J. Fisher
Jesse A. Lujan
Roy A. B. Quinata
Joe S. San Agustin
Amanda L. Shelton
Telo T. Taitague
Therese M. Terlaje

**AN ACT TO *ADD* A NEW ARTICLE 26 TO PART 2 OF
CHAPTER 12, TITLE 10, GUAM CODE ANNOTATED,
RELATIVE TO ENDING DISCRIMINATION IN
EMPLOYMENT USE OF CANNABIS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Article 26 is *added* to Part 2 of Chapter 12, Title 10, Guam
Code Annotated, to read:

“ARTICLE 26

RESPONSIBLE CANNABIS USER EMPLOYMENT PROTECTION ACT

1 § 122601. Short Title.

2 § 122602. Discrimination in Employment: Use of Cannabis.

3 **§ 122601. Short Title.**

4 This Act shall be called the “*Responsible Cannabis User Employment*
5 *Protection Act.*”

6 **§ 122602. Discrimination in Employment: Use of Cannabis.**

7 (a) It is unlawful for an employer to discriminate against a person in
8 hiring, or any term or condition of employment, or otherwise penalizing a
9 person, if the discrimination is based upon any of the following:

10 (1) the person’s use of cannabis off the job and away from the
11 workplace. This paragraph does not prohibit an employer from
12 discriminating in hiring, or any term or condition of employment, or
13 otherwise penalize a person based on scientifically valid
14 preemployment drug screening conducted through methods that do not
15 screen for nonpsychoactive cannabis metabolites; or

16 (2) an employer-required drug screening test that has found
17 the person to have nonpsychoactive cannabis metabolites in their hair,
18 blood, urine, or other bodily fluids.

19 (b) Nothing in this Act permits an employee to possess, to be
20 impaired by, or to use cannabis on the job, or affect the rights or obligations
21 of an employer to maintain a drug-free and alcohol-free workplace, or any
22 other rights or obligations of an employer specified by federal law or
23 regulation.

24 (c) This Act does not apply to an employee in the building and
25 construction trades, law enforcement officers, firefighters, emergency
26 responders, and other positions where public safety is concerned, medical
27 professionals involved in patient care, transportation operators, teachers, child

1 care providers, the Guam Waterworks Authority or the government water and
2 wastewater utility, the Guam Power Authority or government power utility,
3 and the Judiciary of Guam.

4 (d) This Act does not apply to applicants or employees hired for
5 positions that require a federal government background investigation or
6 security clearance in accordance with regulations issued by the United States
7 Department of Defense pursuant to Part 117 of Title 32 of the Code of Federal
8 Regulations, or equivalent regulations applicable to other agencies.

9 (e) This Act does not preempt state or federal laws requiring
10 applicants or employees to be tested for controlled substances, including laws
11 and regulations requiring applicants or employees to be tested, or the manner
12 in which they are tested, as a condition of employment, receiving federal
13 funding or federal licensing-related benefits, or entering into a federal
14 contract.

15 (f) For the purpose of drug screening on Guam, the presence of
16 cannabis metabolites shall not be considered an illicit substance for
17 justification of a positive drug test result.

18 (g) No employer shall rely on the presence of cannabis metabolites
19 in a drug screening result for any employment related decision affecting an
20 applicant.

21 (h) The use of the word “employer” in this Act includes any
22 individual, partnership, association, corporation, business, trust, legal
23 representative, government entity or instrumentality, or any organized group
24 of persons acting directly or indirectly in the interest of an employer in relation
25 to an employee, but shall not include the United States government, or
26 employers engaged in contracts with the federal government.”

27 **Section 2. Effective Date.** This Act shall be effective upon enactment.

Section 3. Severability. If any provision of this Act or its application to

any person or circumstance is found to be invalid or inorganic, 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.