

115TH CONGRESS
1ST SESSION

H. R. 2215

To create protections for depository institutions that provide financial services to cannabis-related legitimate businesses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2017

Mr. PERLMUTTER (for himself, Mr. BLUMENAUER, Mr. COFFMAN, Mr. COHEN, Mr. CONYERS, Mr. CORREA, Mr. COURTNEY, Ms. DEGETTE, Mr. DELANEY, Ms. DELBENE, Mr. HECK, Mr. HUNTER, Ms. JAYAPAL, Mr. KIHUEN, Ms. LEE, Mr. LEWIS of Minnesota, Mr. TED LIEU of California, Ms. MCCOLLUM, Mr. MCGOVERN, Ms. NORTON, Mr. PETERS, Mr. POCAN, Mr. POLIS, Mr. ROHRABACHER, Mr. SCHRADER, Mr. SHERMAN, Mr. SWALWELL of California, Ms. TITUS, and Mr. YOUNG of Alaska) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To create protections for depository institutions that provide financial services to cannabis-related legitimate businesses, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Secure And Fair En-
3 forcement Banking Act of 2017” or the “SAFE Act of
4 2017”.

5 **SEC. 2. SAFE HARBOR FOR DEPOSITORY INSTITUTIONS.**

6 A Federal banking regulator may not—

7 (1) terminate or limit the deposit insur-
8 ance or share insurance of a depository institu-
9 tion under the Federal Deposit Insurance Act
10 (12 U.S.C. 1811 et seq.) or the Federal Credit
11 Union Act (12 U.S.C. 1751 et seq.) solely be-
12 cause the depository institution provides or has
13 provided financial services to a cannabis-related
14 legitimate business;

15 (2) prohibit, penalize, or otherwise discour-
16 age a depository institution from providing fi-
17 nancial services to a cannabis-related legitimate
18 business or to a State or political subdivision of
19 a State that exercises jurisdiction over can-
20 nabis-related legitimate businesses;

21 (3) recommend, incentivize, or encourage a
22 depository institution not to offer financial serv-
23 ices to an account holder, or to downgrade or
24 cancel the financial services offered to an ac-
25 count holder solely because—

1 (A) the account holder is a manufac-
2 turer or producer, or is the owner, oper-
3 ator, or employee of a cannabis-related le-
4 gitimate business;

5 (B) the account holder later becomes
6 an owner or operator of a cannabis-related
7 legitimate business; or

8 (C) the depository institution was not
9 aware that the account holder is the owner
10 or operator of a cannabis-related legitimate
11 business; and

12 (4) take any adverse or corrective super-
13 visory action on a loan made to an owner or op-
14 erator of—

15 (A) a cannabis-related legitimate busi-
16 ness, solely because the owner or operator
17 owns or operates a cannabis-related legiti-
18 mate business; or

19 (B) real estate or equipment that is
20 leased to a cannabis-related legitimate
21 business, solely because the owner or oper-
22 ator of the real estate or equipment leased
23 the equipment or real estate to a cannabis-
24 related legitimate business.

1 **SEC. 3. PROTECTIONS UNDER FEDERAL LAW.**

2 (a) IN GENERAL.—In a State or a political subdivi-
3 sion of a State that allows the cultivation, production,
4 manufacture, sale, transportation, display, dispensing, dis-
5 tribution, or purchase of cannabis pursuant to a law or
6 regulation of such State or political subdivision a deposi-
7 tory institution that provides financial services to a can-
8 nabis-related legitimate business, and the officers, direc-
9 tors, and employees of that depository institution may not
10 be held liable pursuant to any Federal law or regulation—

11 (1) solely for providing such financial services
12 pursuant to the law or regulation of such State or
13 political subdivision; or

14 (2) for further investing any income derived
15 from such financial services.

16 (b) FORFEITURE.—A depository institution that has
17 a legal interest in the collateral for a loan or another fi-
18 nancial service provided to an owner or operator of a can-
19 nabis-related legitimate business, or to an owner or oper-
20 ator of real estate or equipment that is leased or sold to
21 a cannabis-related legitimate business, shall not be subject
22 to criminal, civil, or administrative forfeiture of that legal
23 interest pursuant to any Federal law for providing such
24 loan or other financial service.

1 **SEC. 4. RULE OF CONSTRUCTION.**

2 Nothing in this Act shall require a depository institu-
3 tion to provide financial services to a cannabis-related le-
4 gitimate business.

5 **SEC. 5. REQUIREMENTS FOR FILING SUSPICIOUS ACTIVITY**
6 **REPORTS.**

7 Section 5318(g) of title 31, United States Code, is
8 amended by adding at the end the following:

9 “(5) REQUIREMENTS FOR CANNABIS-RELATED
10 BUSINESSES.—A financial institution or any direc-
11 tor, officer, employee, or agent of a financial institu-
12 tion that reports a suspicious transaction pursuant
13 to this subsection and the reason for the report re-
14 lates to a cannabis-related legitimate business (as
15 defined in section 6 of the Secure and Fair Enforce-
16 ment Banking Act of 2017), the report shall comply
17 with appropriate guidance issued by the Financial
18 Crimes Enforcement Network. The Secretary shall
19 ensure that the guidance is consistent with the pur-
20 pose and intent of the Secure and Fair Enforcement
21 Banking Act of 2017 and does not inhibit the provi-
22 sion of financial services to a cannabis-related legiti-
23 mate business in a State or political subdivision of
24 a State that has allowed the cultivation, production,
25 manufacture, transportation, display, dispensing,
26 distribution, sale, or purchase of cannabis pursuant

1 to law or regulation of such State or political sub-
2 division.”.

3 **SEC. 6. DEFINITIONS.**

4 In this Act:

5 (1) DEPOSITORY INSTITUTION.—The term “de-
6 pository institution” means—

7 (A) a depository institution as defined in
8 section 3(c) of the Federal Deposit Insurance
9 Act (12 U.S.C. 1813(c));

10 (B) a Federal credit union as defined in
11 section 101 of the Federal Credit Union Act
12 (12 U.S.C. 1752); or

13 (C) a State credit union as defined in sec-
14 tion 101 of the Federal Credit Union Act (12
15 U.S.C. 1752).

16 (2) FEDERAL BANKING REGULATOR.—The
17 term “Federal banking regulator” means each of the
18 Board of Governors of the Federal Reserve System,
19 the Bureau of Consumer Financial Protection, the
20 Federal Deposit Insurance Corporation, the Office of
21 the Comptroller of the Currency, the National Credit
22 Union Administration, or any Federal agency or de-
23 partment that regulates banking or financial serv-
24 ices, as determined by the Secretary of the Treas-
25 ury.

1 (3) FINANCIAL SERVICE.—The term “financial
2 service” means a financial product or service as de-
3 fined in section 1002 of the Dodd-Frank Wall Street
4 Reform and Consumer Protection Act (12 U.S.C.
5 5481).

6 (4) MANUFACTURER.—The term “manufac-
7 turer” means a person who manufactures, com-
8 pounds, converts, processes, prepares, or packages
9 cannabis or cannabis products.

10 (5) CANNABIS-RELATED LEGITIMATE BUSI-
11 NESS.—The term “cannabis-related legitimate busi-
12 ness” means a manufacturer, producer, or any per-
13 son that—

14 (A) engages in an activity described in sub-
15 paragraph (B) pursuant to a law or regulation
16 of a State, political subdivision of a State, or a
17 Tribal-State compact; or

18 (B) participates in any business or orga-
19 nized activity that involves handling cannabis or
20 cannabis products, including cultivating, pro-
21 ducing, manufacturing, selling, transporting,
22 displaying, dispensing, distributing, or pur-
23 chasing cannabis or cannabis products.

1 (6) CANNABIS.—The term “cannabis” has the
2 meaning given the term “marihuana” in section 102
3 of the Controlled Substances Act (21 U.S.C. 802).

4 (7) CANNABIS PRODUCT.—The term “cannabis
5 product” means any article which contains cannabis,
6 including an article which is a concentrate, an edi-
7 ble, a tincture, a cannabis-infused product, or a top-
8 ical.

9 (8) PRODUCER.—The term “producer” means a
10 person who plants, cultivates, harvests, or in any
11 way facilitates the natural growth of cannabis.

12 (9) STATE.—The term “State” means each of
13 the several States, the District of Columbia, Puerto
14 Rico, and any territory or possession of the United
15 States.

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