

116TH CONGRESS
1ST SESSION

H. R. 1595

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2019

Mr. PERLMUTTER (for himself, Mr. HECK, Mr. STIVERS, Mr. DAVIDSON of Ohio, Mr. AGUILAR, Ms. BARRAGÁN, Mr. BEYER, Mr. BLUMENAUER, Ms. BONAMICI, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. BROWN of Maryland, Ms. BROWNLEY of California, Mr. CARBAJAL, Mr. CÁRDENAS, Mr. CARTWRIGHT, Ms. CASTOR of Florida, Mr. CICILLINE, Mr. CISNEROS, Ms. CLARK of Massachusetts, Ms. CLARKE of New York, Mr. COHEN, Mr. COOPER, Mr. CORREA, Mr. COURTNEY, Mr. COX of California, Mr. CRIST, Mr. CROW, Mrs. DAVIS of California, Mr. DEFazio, Ms. DEGETTE, Ms. DELAURO, Ms. DELBENE, Mr. DESAULNIER, Ms. ESHOO, Mr. ESPAILLAT, Mr. FOSTER, Ms. FUDGE, Ms. GABBARD, Mr. GALLEGRO, Mr. GARCÍA of Illinois, Mr. GOMEZ, Mr. GONZALEZ of Texas, Mr. HASTINGS, Ms. HILL of California, Mr. HORSFORD, Mr. HUFFMAN, Ms. JACKSON LEE, Ms. JAYAPAL, Mr. JOHNSON of Georgia, Mr. KHANNA, Mr. KILMER, Mrs. KIRKPATRICK, Mr. KRISHNAMOORTHY, Mr. LAWSON of Florida, Ms. LEE of California, Mrs. LEE of Nevada, Mr. LEVIN of Michigan, Mr. LEVIN of California, Mr. TED LIEU of California, Mr. LUJÁN, Ms. MATSUI, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. MEEKS, Mr. NEGUSE, Ms. NORTON, Mr. PANETTA, Mr. PAPPAS, Ms. PINGREE, Ms. PORTER, Mr. QUIGLEY, Mr. RASKIN, Mr. RUSH, Mr. RYAN, Mr. ROUDA, Ms. SCHAKOWSKY, Mr. SCHRADER, Mr. SHERMAN, Mr. SIRES, Mr. SMITH of Washington, Mr. SOTO, Ms. SPEIER, Mr. SWALWELL of California, Ms. TITUS, Mrs. TORRES of California, Mr. VARGAS, Ms. VELÁZQUEZ, Mrs. WATSON COLEMAN, Mr. WELCH, Ms. WILD, Mr. YARMUTH, Mr. RODNEY DAVIS of Illinois, Mr. HUNTER, Mr. JOYCE of Ohio, Mr. NEWHOUSE, Mr. YOUNG, Mr. HIMES, Mr. LOEBSACK, Ms. LOFGREN, Mr. LOWENTHAL, Mrs. CAROLYN B. MALONEY of New York, Mr. SEAN PATRICK MALONEY of New York, Mr. TAKANO, Mr. THOMPSON of California, Mr. GAETZ, Mr. RIGGLEMAN, Mr. DAVID SCOTT of Georgia, Ms. WATERS, and Ms. SCHRIER) 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 consider-

ation 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 service providers for such 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,*

3 **SECTION 1. SHORT TITLE; PURPOSE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Secure And Fair Enforcement Banking Act of 2019” or
6 the “SAFE Banking Act of 2019”.

7 (b) **PURPOSE.**—The purpose of this Act is to increase
8 public safety by expanding financial services to cannabis-
9 related legitimate businesses and service providers and re-
10 ducing the amount of cash at such businesses.

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

12 A Federal banking regulator may not—

13 (1) terminate or limit the deposit insurance or
14 share insurance of a depository institution under the
15 Federal Deposit Insurance Act (12 U.S.C. 1811 et
16 seq.), the Federal Credit Union Act (12 U.S.C. 1751
17 et seq.), or take any other adverse action against a
18 depository institution under section 8 of the Federal

1 Deposit Insurance Act (12 U.S.C. 1818) solely be-
2 cause the depository institution provides or has pro-
3 vided financial services to a cannabis-related legiti-
4 mate business or service provider;

5 (2) prohibit, penalize, or otherwise discourage a
6 depository institution from providing financial serv-
7 ices to a cannabis-related legitimate business or
8 service provider or to a State, political subdivision of
9 a State, or Indian Tribe that exercises jurisdiction
10 over cannabis-related legitimate businesses;

11 (3) recommend, incentivize, or encourage a de-
12 pository institution not to offer financial services to
13 an account holder, or to downgrade or cancel the fi-
14 nancial services offered to an account holder solely
15 because—

16 (A) the account holder is a cannabis-re-
17 lated legitimate business or service provider, or
18 is an employee, owner, or operator of a can-
19 nabis-related legitimate business or service pro-
20 vider;

21 (B) the account holder later becomes an
22 employee, owner, or operator of a cannabis-re-
23 lated legitimate business or service provider; or

24 (C) the depository institution was not
25 aware that the account holder is an employee,

1 owner, or operator of a cannabis-related legiti-
2 mate business or service provider;

3 (4) take any adverse or corrective supervisory
4 action on a loan made to—

5 (A) a cannabis-related legitimate business
6 or service provider, solely because the business
7 is a cannabis-related legitimate business or
8 service provider;

9 (B) an employee, owner, or operator of a
10 cannabis-related legitimate business or service
11 provider, solely because the employee, owner, or
12 operator is employed by, owns, or operates a
13 cannabis-related legitimate business or service
14 provider, as applicable; or

15 (C) an owner or operator of real estate or
16 equipment that is leased to a cannabis-related
17 legitimate business or service provider, solely
18 because the owner or operator of the real estate
19 or equipment leased the equipment or real es-
20 tate to a cannabis-related legitimate business or
21 service provider, as applicable; and

22 (5) prohibit or penalize a depository institution,
23 or entity performing services for the depository insti-
24 tution, for, or otherwise discourage a depository in-
25 stitution, or entity performing services for the depos-

1 itory institution, from, authorizing, processing, clear-
2 ing, settling, billing, transferring, reconciling, or col-
3 lecting payments for a cannabis-related legitimate
4 business, where such payment is made by any
5 means, including a credit, debit, or other payment
6 card, an account, check, or electronic funds transfer.

7 **SEC. 3. PROTECTIONS FOR ANCILLARY BUSINESSES.**

8 For purposes of sections 1956 and 1957 of title 18,
9 United States Code, and all other provisions of Federal
10 law, the proceeds from a transaction conducted by a can-
11 nabis-related legitimate business or service provider shall
12 not be considered as proceeds from an unlawful activity
13 solely because the transaction was conducted by a can-
14 nabis-related legitimate business or service provider, as
15 applicable.

16 **SEC. 4. PROTECTIONS UNDER FEDERAL LAW.**

17 (a) IN GENERAL.—With respect to providing finan-
18 cial services within a State, political subdivision of a State,
19 or Indian country that allows the cultivation, production,
20 manufacture, sale, transportation, display, dispensing, dis-
21 tribution, or purchase of cannabis pursuant to a law or
22 regulation of such State, political subdivision, or Indian
23 Tribe that has jurisdiction over the Indian country, as ap-
24 plicable, a depository institution that provides financial
25 services to a cannabis-related legitimate business or serv-

1 ice provider, and the officers, directors, and employees of
2 that depository institution may not be held liable pursuant
3 to any Federal law or regulation—

4 (1) solely for providing such financial services;

5 or

6 (2) for further investing any income derived
7 from such financial services.

8 (b) FORFEITURE.—A depository institution that has
9 a legal interest in the collateral for a loan or another fi-
10 nancial service provided to an owner or operator of a can-
11 nabis-related legitimate business or service provider, or to
12 an owner or operator of real estate or equipment that is
13 leased or sold to a cannabis-related legitimate business or
14 service provider, shall not be subject to criminal, civil, or
15 administrative forfeiture of that legal interest pursuant to
16 any Federal law for providing such loan or other financial
17 service.

18 **SEC. 5. RULE OF CONSTRUCTION.**

19 Nothing in this Act shall require a depository institu-
20 tion to provide financial services to a cannabis-related le-
21 gitimate business or service provider.

22 **SEC. 6. REQUIREMENTS FOR FILING SUSPICIOUS ACTIVITY**
23 **REPORTS.**

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

1 “(5) REQUIREMENTS FOR CANNABIS-RELATED
2 LEGITIMATE BUSINESSES.—

3 “(A) IN GENERAL.—With respect to a fi-
4 nancial institution or any director, officer, em-
5 ployee, or agent of a financial institution that
6 reports a suspicious transaction pursuant to
7 this subsection, if the reason for the report re-
8 lates to a cannabis-related legitimate business
9 or service provider, the report shall comply with
10 appropriate guidance issued by the Financial
11 Crimes Enforcement Network. The Secretary
12 shall ensure that the guidance is consistent with
13 the purpose and intent of the SAFE Banking
14 Act of 2019 and does not significantly inhibit
15 the provision of financial services to a cannabis-
16 related legitimate business or service provider in
17 a State, political subdivision of a State, or In-
18 dian country that has allowed the cultivation,
19 production, manufacture, transportation, dis-
20 play, dispensing, distribution, sale, or purchase
21 of cannabis pursuant to law or regulation of
22 such State, political subdivision, or Indian
23 Tribe that has jurisdiction over the Indian
24 country.

1 “(B) DEFINITIONS.—For purposes of this
2 paragraph:

3 “(i) CANNABIS.—The term ‘cannabis’
4 has the meaning given the term ‘mari-
5 huana’ in section 102 of the Controlled
6 Substances Act (21 U.S.C. 802).

7 “(ii) CANNABIS-RELATED LEGITIMATE
8 BUSINESS.—The term ‘cannabis-related le-
9 gitimate business’ has the meaning given
10 that term in section 8 of the SAFE Bank-
11 ing Act of 2019.

12 “(iii) INDIAN COUNTRY.—The term
13 ‘Indian country’ has the meaning given
14 that term in section 1151 of title 18.

15 “(iv) INDIAN TRIBE.—The term ‘In-
16 dian Tribe’ has the meaning given that
17 term in section 102 of the Federally Rec-
18 ognized Indian Tribe List Act of 1994 (25
19 U.S.C. 479a).

20 “(v) FINANCIAL SERVICE.—The term
21 ‘financial service’ means a financial prod-
22 uct or service as defined in section 1002 of
23 the Dodd-Frank Wall Street Reform and
24 Consumer Protection Act (12 U.S.C.
25 5481).

1 “(vi) SERVICE PROVIDER.—The term
2 ‘service provider’ has the meaning given
3 that term in section 8 of the SAFE Bank-
4 ing Act of 2019.

5 “(vii) STATE.—The term ‘State’
6 means each of the several States, the Dis-
7 trict of Columbia, Puerto Rico, and any
8 territory or possession of the United
9 States.”.

10 **SEC. 7. GUIDANCE AND EXAMINATION PROCEDURES.**

11 (a) IN GENERAL.—Not later than 180 days after the
12 date of enactment of this Act, the Financial Institutions
13 Examination Council shall develop uniform guidance and
14 examination procedures for depository institutions that
15 provide financial services to cannabis-related legitimate
16 businesses and service providers.

17 (b) ISSUANCE BY FEDERAL BANKING REGU-
18 LATORS.—The Federal banking regulators shall each issue
19 guidance and examination procedures for depository insti-
20 tutions that provide financial services to cannabis-related
21 legitimate businesses and service providers that are con-
22 sistent with the uniform guidance and examination proce-
23 dures developed under subsection (a).

24 **SEC. 8. DEFINITIONS.**

25 In this Act:

1 (1) 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 (2) 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 (3) CANNABIS-RELATED LEGITIMATE BUSI-
10 NESS.—The term “cannabis-related legitimate busi-
11 ness” means a manufacturer, producer, or any per-
12 son or company that—

13 (A) engages in any activity described in
14 subparagraph (B) pursuant to a law established
15 by a State or a political subdivision of a State,
16 as determined by such State or political subdivi-
17 sion; and

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.

24 (4) DEPOSITORY INSTITUTION.—The term “de-
25 pository institution” means—

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

4 (B) a Federal credit union as defined in
5 section 101 of the Federal Credit Union Act
6 (12 U.S.C. 1752); or

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

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

20 (6) FINANCIAL SERVICE.—The term “financial
21 service” means a financial product or service as de-
22 fined in section 1002 of the Dodd-Frank Wall Street
23 Reform and Consumer Protection Act (12 U.S.C.
24 5481).

1 (7) INDIAN COUNTRY.—The term “Indian coun-
2 try” has the meaning given that term in section
3 1151 of title 18.

4 (8) INDIAN TRIBE.—The term “Indian Tribe”
5 has the meaning given that term in section 102 of
6 the Federally Recognized Indian Tribe List Act of
7 1994 (25 U.S.C. 479a).

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

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

15 (11) SERVICE PROVIDER.—The term “service
16 provider”—

17 (A) means a business, organization, or
18 other person that—

19 (i) sells goods or services to a can-
20 nabis-related legitimate business; or

21 (ii) provides any business services, in-
22 cluding the sale or lease of real or any
23 other property, legal or other licensed serv-
24 ices, or any other ancillary service, relating
25 to cannabis; and

1 (B) does not include a business, organiza-
2 tion, or other person that participates in any
3 business or organized activity that involves han-
4 dling cannabis or cannabis products, including
5 cultivating, producing, manufacturing, selling,
6 transporting, displaying, dispensing, distrib-
7 uting, or purchasing cannabis or cannabis prod-
8 ucts.

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

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