

**ASSEMBLY, No. 4263**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED JUNE 16, 2022

**Sponsored by:**

**Assemblywoman VERLINA REYNOLDS-JACKSON**

**District 15 (Hunterdon and Mercer)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Assemblyman REGINALD W. ATKINS**

**District 20 (Union)**

**SYNOPSIS**

Protects financial institutions and insurers doing business with cannabis industry from being penalized by State regulators.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/5/2022)**

1 AN ACT concerning cannabis and the protection of insurers and  
2 financial institutions and supplementing Title 17 of the Revised  
3 Statutes.

4  
5 BE IT ENACTED by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. As used in this act:

9 “Business associate” means a person that is a customer or  
10 supplier of goods or services to or for the benefit of an alternative  
11 treatment center, cannabis cultivator, cannabis delivery service,  
12 cannabis distributor, cannabis testing facility, or any other cannabis  
13 establishment, as these terms are defined pursuant to section 3 of  
14 P.L.2021, c.16 (C.24:6I-33), or an officer or director, owner,  
15 operator, shareholder, member, employee, agent or financial backer  
16 of a cannabis establishment.

17 “Cannabis” means “marihuana” as defined pursuant to section 2  
18 of the “New Jersey Controlled Dangerous Substances Act,”  
19 P.L.1970, c.226 (C.24:2I-2).

20 “Cannabis product” means a product that contains cannabis, a  
21 cannabis extract or a cannabis concentrate, including, but not  
22 limited to, edible product, beverages, topicals, ointments, oils,  
23 tinctures, capsules, pills, suppositories, or inhaled products.

24 “Department” means the Department of Banking and Insurance.

25 “Depository institution” means:

26 (1) a depository institution as defined in section 3 of the Federal  
27 “Deposit Insurance Act,” 12 U.S.C. s.1811;

28 (2) a federal credit union as defined in section 101 of the  
29 “Federal Credit Union Act,” 12 U.S.C. s.1751 et seq; or

30 (3) a State credit union as defined in section 101 of the “Federal  
31 Credit Union Act,” 12 U.S.C. s.1751 et seq.

32 “Federal financial regulatory agency” means the Federal Reserve  
33 System, the United States Department of the Treasury, the Office of  
34 the Comptroller of the Currency, the National Credit Union  
35 Administration, the Federal Deposit Insurance Corporation, the  
36 United States Securities and Exchange Commission, and the  
37 Consumer Financial Protection Bureau.

38 “Financial institution” means a financial institution as defined  
39 pursuant to section 2 of P.L.1998, c.121 (C.17:16T-2);

40 “Financial service” means a financial product or service:

41 (1) as defined by section 5481 of the “Dodd-Frank Wall Street  
42 Reform and Consumer Protection act,” 12 U.S.C. s.5301 et seq.;

43 (2) permitted to be provided under the authority of:

44 (a) a national bank or a financial subsidiary pursuant to 12  
45 U.S.C. ss.24, 24a, and 92a;

46 (b) a federal credit union pursuant to the “Federal Credit Union  
47 Act,” 12 U.S.C. s.1751 et seq.;

1 (c) a corporation, as defined pursuant to section 2.1 of the “New  
2 Jersey Business Corporation Act,” P.L.1988, c.94 (C.14A:1-2.1);  
3 (d) a credit union, pursuant to the “The Credit Union Act of  
4 1984,” P.L.1984, c.171 (C.17:13-79 et seq.);  
5 (e) a person registered, or exempt from registration, to offer or  
6 sell any security, or to act as a broker, dealer, transfer agency,  
7 clearing agency or investment company under the federal  
8 “Investment Company Act of 1940,” 15 U.S.C. s.80a-1et seq.;  
9 (f) a person registered, or exempt from registration, to:  
10 (i) offer or sell any security, pursuant to the federal “Securities  
11 Act of 1933,” 15 U.S.C. s.77a et seq.;  
12 (ii) act as an exchange, a broker, dealer, transfer agent or  
13 clearing agent pursuant to the federal “Securities Exchange Act of  
14 1934,” 15 U.S.C. s.78a et seq.;  
15 (iii) act as an investment adviser pursuant to the federal  
16 “Investment Advisers Act of 1940,” 15 U.S.C. s.80b-1 et seq.; or  
17 (iv) act as an investment company pursuant to the federal  
18 “Investment Company Act of 1940,” 15 U.S.C. s. s.80a-1et seq.; or  
19 (g) a person acting as a broker-dealer, agent, or investment  
20 adviser pursuant to the “Uniform Securities Law,” P.L.1967, c.93  
21 (C.49:3-47 et seq.); or  
22 (3) that includes a service, whether performed directly or  
23 indirectly, authorizing, processing, clearing, settling, billing,  
24 transferring for deposit, transmitting, delivering, instructing to be  
25 delivered, reconciling, collecting or otherwise effectuating or  
26 facilitating the payments of funds, where funds payments or funds  
27 are made or transferred by any means, including by the use of credit  
28 cards, debit cards or other access devices, accounts, original or  
29 substitute checks or electronic funds transfers.  
30 “Hemp” means the plant Cannabis sativa L. and any part of that  
31 plant, as defined pursuant to section 3 of P.L.2019, c.238 (C.4:28-  
32 8).  
33 “Insurance service” means a service authorized to be provided by  
34 an insurer in this State.  
35 “Insurer” means an entity or person authorized by the department  
36 to transact the business of insurance in this State or designated as a  
37 surplus lines insurer as defined pursuant to section 7 of P.L.1960,  
38 c.32 (C.17:22-6.41).  
39 “Legitimate cannabis-related business” means a person that  
40 participates in any business or organized activity that involves  
41 handling cannabis or a cannabis product, including cultivating,  
42 producing, manufacturing, selling, transporting, displaying,  
43 dispensing, distributing or purchasing cannabis or a cannabis  
44 product in compliance with the laws of this State or a law  
45 established by another state.  
46 “State” means any state, territory or possession of the United  
47 States, the District of Columbia, the Commonwealth of Puerto Rico,  
48 the Commonwealth of the Northern Mariana Islands, Guam,

1 American Samoa, the United States Virgin Islands, or any federally  
2 recognized Indian tribe as defined by the Secretary of the Interior  
3 under the “Federally Recognized Indian Tribe List Act of 1994,” 25  
4 U.S.C. s.5131.

5 “Trust company” means:

6 (1) a national bank authorized to exercise trust powers as  
7 authorized by 12 U.S.C. s.92a; or

8 (2) a bank or trust company organized under the laws of this  
9 State.

10  
11 2. a. A financial institution authorized to engage in business in  
12 this State may provide financial services to or for the benefit of a  
13 legitimate cannabis-related business and the business associates of a  
14 legitimate cannabis-related business subject to:

15 (1) the laws and regulations applicable to the provision of  
16 financial services to other customers of the financial institution;

17 (2) any applicable consumer protection laws of this State;

18 (3) any additional requirements applicable to the institution  
19 established for the provision of services to a legitimate cannabis-  
20 related business or its business associates by a federal financial  
21 regulatory agency, the department or a financial regulatory agency  
22 of the State under which the institution is organized; and

23 (4) to the extent the institution is providing services to a  
24 legitimate cannabis-related business or its business associates in  
25 another jurisdiction, any additional requirements applicable to the  
26 institution established for the provision of the services by a  
27 financial regulatory agency of that jurisdiction.

28 b. An insurer may provide insurance services to or for the  
29 benefit of a legitimate cannabis-related business and the business  
30 associates of a legitimate cannabis-related business subject to:

31 (1) the laws and regulations applicable to the provision of  
32 insurance services to other customers of the insurer;

33 (2) any applicable consumer protection laws of this State;

34 (3) any additional requirements applicable to the insurer  
35 established for the provision of services to a legitimate cannabis-  
36 related business or its business associates by the department; and

37 (4) to the extent the insurer is providing services to a legitimate  
38 cannabis-related business or its business associates in another  
39 jurisdiction, any additional requirements applicable to the insurer  
40 established for the provision of the services by an insurance  
41 regulatory agency of that jurisdiction.

42 c. Nothing in this section shall require a depository institution,  
43 an entity performing a financial service for or in association with a  
44 financial institution or an insurer to provide financial or insurance  
45 services to a legitimate cannabis-related business or the business  
46 associates of a legitimate cannabis-related business or to any other  
47 business.

1       d. Any violation of the requirements of subsections a. and b. of  
2 this section shall be a violation of P.L.1960, c.39 (C.56:8-1 et seq.).

3  
4       3. a. Subject to the authorizations of subsections a. and b. of  
5 section 2 of P.L.     , c.     (C.     ) (pending before the Legislature  
6 as this bill), no agency or political subdivision of this State shall:

7       (1) prohibit, penalize, or otherwise discourage a financial  
8 institution or insurer from providing financial or insurance services  
9 to a legitimate cannabis-related business or the business associates  
10 of a legitimate cannabis-related business;

11       (2) recommend, incentivize, or encourage a financial institution  
12 or insurer not to offer financial or insurance services to an account  
13 holder, or downgrade or cancel services provided to the account  
14 holder, solely because the account holder is a legitimate cannabis-  
15 related business or a business associate of a legitimate cannabis-  
16 related business;

17       (3) take adverse or corrective supervisory action on a loan made  
18 to a legitimate cannabis-related business or a business associate of a  
19 legitimate cannabis-related business solely because the loan has  
20 been made to a legitimate cannabis-related business or a business  
21 associate of a legitimate cannabis-related business;

22       (4) prohibit or penalize a financial institution or insurer  
23 performing financial or insurance services in association with  
24 another financial institution or insurer from providing financial or  
25 insurance services to a legitimate cannabis-related business or a  
26 business associate of a legitimate cannabis-related business; or

27       (5) subject the legal interest of a financial institution in the  
28 collateral for a loan or another financial service provided to a  
29 legitimate cannabis-related business or the business associates of a  
30 legitimate cannabis-related business to civil or criminal forfeiture  
31 under any laws of this State or initiate or participate in proceedings  
32 for the civil or criminal forfeiture of a legal interest under federal  
33 law or under the laws of another state.

34       b. No financial institution or insurer, or the directors, officers,  
35 employees, agents, owners, shareholders, or members of a financial  
36 institution or insurer, shall be subject to a criminal prosecution,  
37 sanction, or claim for damages or any equitable remedy, solely  
38 because the institution or insurer is providing financial or insurance  
39 services to or for the benefit of a legitimate cannabis-related  
40 business or the business associates of a legitimate cannabis-related  
41 business.

42       c. The proceeds of any transaction involving the activities of a  
43 legitimate cannabis-related business shall not be considered  
44 proceeds from an unlawful activity, solely because the transaction  
45 involves the proceeds from a legitimate cannabis-related business or  
46 a business associate of a legitimate cannabis-related business.

47       d. No legitimate cannabis-related business, or a business  
48 associate of a legitimate cannabis-related business, shall be denied

1 any right or privilege by a State agency solely because of the  
2 business's or business associate's lawful participation in the "New  
3 Jersey Cannabis Regulatory, Enforcement Assistance, and  
4 Marketplace Modernization Act," P.L.2021, c.16 (C.24:6I-31 et al.).

5 e. If a legitimate cannabis-related business fails to provide the  
6 notice required pursuant to section 4 of P.L. , c. (C. )  
7 (pending before the Legislature as this bill) to a financial institution  
8 or insurer, the financial institution or insurer shall not be deemed in  
9 violation of this section solely because the financial institution or  
10 insurer was not notified and continued to provide services beyond  
11 the date at which the services should or could have been terminated  
12 as a result of the suspension or revocation of the permit,  
13 registration, or certification.

14  
15 4. a. A legitimate cannabis-related business that obtains  
16 financial or insurance services from a financial institution or insurer  
17 doing business in this State shall, within five business days, provide  
18 notice to the financial institution or insurer if a license, permit,  
19 registration, or certification held by the business or its affiliates  
20 under federal law, the laws of this State, or a law established by  
21 another state is suspended or revoked.

22 b. If a legitimate cannabis-related business fails to give the  
23 notice required under subsection a. of this section to a financial  
24 institution or insurer, the business or business associate may be  
25 assessed a civil penalty not to exceed \$500 per day until the notice  
26 is provided; however, this amount shall not exceed \$25,000. A civil  
27 penalty imposed under this subsection shall be collected by the  
28 department pursuant to the "Penalty Enforcement Law of 1999,"  
29 P.L.1999, c.274 (C.2A:58-10 et seq.).

30  
31 5. The department shall adopt rules and regulations as  
32 necessary to implement and administer P.L. , c. (C. )  
33 (pending before the Legislature as this bill) in accordance with the  
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
35 seq.).

36  
37 6. This act shall take effect immediately.

#### 40 STATEMENT

41  
42 This bill protects financial institutions and insurers doing  
43 business with the cannabis industry from being penalized by State  
44 regulators.

45 Under the bill, a financial institution or insurer authorized to  
46 engage in business in this State may provide financial or insurance  
47 services to or for the benefit of a legitimate cannabis-related

1 business and the business associates of a legitimate cannabis-related  
2 business subject to:

3 (1) the laws and regulations applicable to the provision of  
4 financial or insurance services to other customers of the financial  
5 institution or insurer;

6 (2) any applicable consumer protection laws of this State;

7 (3) any additional requirements applicable to the financial  
8 institution or insurer established for the provision of services to a  
9 legitimate cannabis-related business or its business associates by a  
10 federal regulatory agency or the department; and

11 (4) to the extent the financial institution or insurer is providing  
12 services to a legitimate cannabis-related business or its business  
13 associates in another jurisdiction, any additional requirements  
14 applicable to the financial institution or insurer established for the  
15 provision of the services by a regulatory agency of that jurisdiction.

16 The bill provides that no agency or political subdivision of this  
17 State will:

18 (1) prohibit, penalize or otherwise discourage a financial  
19 institution or insurer from providing financial or insurance services  
20 to a legitimate cannabis-related business or the business associates  
21 of a legitimate cannabis-related business;

22 (2) recommend, incentivize or encourage a financial institution  
23 or insurer not to offer financial or insurance services to an account  
24 holder, or downgrade or cancel services provided to the account  
25 holder, solely because the account holder is a legitimate cannabis-  
26 related business or a business associate of a legitimate cannabis-  
27 related business;

28 (3) take adverse or corrective supervisory action on a loan made  
29 to a legitimate cannabis-related business or a business associate of a  
30 legitimate cannabis-related business solely because the loan has  
31 been made to a legitimate cannabis-related business or a business  
32 associate of a legitimate cannabis-related business;

33 (4) prohibit or penalize a financial institution or insurer  
34 performing financial or insurance services in association with  
35 another financial institution or insurer from providing financial or  
36 insurance services to a legitimate cannabis-related business or a  
37 business associate of a legitimate cannabis-related business; or

38 (5) subject the legal interest of a financial institution in the  
39 collateral for a loan or another financial service provided to a  
40 legitimate cannabis-related business or the business associates of a  
41 legitimate cannabis-related business to civil or criminal forfeiture  
42 under any laws of this State or initiate or participate in proceedings  
43 for the civil or criminal forfeiture of a legal interest under federal  
44 law or under the laws of another state.

45 Additionally, under the bill, no financial institution or insurer, or  
46 the directors, officers, employees, agents, owners, shareholders or  
47 members of a financial institution or insurer, will be subject to a  
48 criminal prosecution, sanction or claim for damages or any

1 equitable remedy, solely because the institution or insurer is  
2 providing financial or insurance services to or for the benefit of a  
3 legitimate cannabis-related business or the business associates of a  
4 legitimate cannabis-related business.

5 Finally, this bill provides that a legitimate cannabis-related  
6 business provide notice to a financial institution or insurer if a  
7 license, permit, registration or certification held by the business or  
8 its affiliates under federal law, the laws of this State or a law  
9 established by another state is suspended or revoked.