

[First Reprint]

## ASSEMBLY, No. 4263

# STATE OF NEW JERSEY

## 220th LEGISLATURE

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 reported by the Assembly Financial Institutions and Insurance Committee on December 5, 2022, with amendments.



(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;

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AFI committee amendments adopted December 5, 2022.

- 1 (b) a federal credit union pursuant to the “Federal Credit Union
- 2 Act,” 12 U.S.C. s.1751 et seq.;
- 3 (c) a corporation, as defined pursuant to section 2.1 of the “New
- 4 Jersey Business Corporation Act,” P.L.1988, c.94 (C.14A:1-2.1);
- 5 (d) a credit union, pursuant to the “The Credit Union Act of
- 6 1984,” P.L.1984, c.171 (C.17:13-79 et seq.);
- 7 (e) a person registered, or exempt from registration, to offer or
- 8 sell any security, or to act as a broker, dealer, transfer agency,
- 9 clearing agency or investment company under the federal
- 10 “Investment Company Act of 1940,” 15 U.S.C. s.80a-1et seq.;
- 11 (f) a person registered, or exempt from registration, to:
- 12 (i) offer or sell any security, pursuant to the federal “Securities
- 13 Act of 1933,” 15 U.S.C. s.77a et seq.;
- 14 (ii) act as an exchange, a broker, dealer, transfer agent or
- 15 clearing agent pursuant to the federal “Securities Exchange Act of
- 16 1934,” 15 U.S.C. s.78a et seq.;
- 17 (iii) act as an investment adviser pursuant to the federal
- 18 “Investment Advisers Act of 1940,” 15 U.S.C. s.80b-1 et seq.; or
- 19 (iv) act as an investment company pursuant to the federal
- 20 “Investment Company Act of 1940,” 15 U.S.C. s. s.80a-1et seq.; or
- 21 (g) a person acting as a broker-dealer, agent, or investment
- 22 adviser pursuant to the “Uniform Securities Law,” P.L.1967, c.93
- 23 (C.49:3-47 et seq.); or
- 24 (3) that includes a service, whether performed directly or
- 25 indirectly, authorizing, processing, clearing, settling, billing,
- 26 transferring for deposit, transmitting, delivering, instructing to be
- 27 delivered, reconciling, collecting or otherwise effectuating or
- 28 facilitating the payments of funds, where funds payments or funds
- 29 are made or transferred by any means, including by the use of credit
- 30 cards, debit cards or other access devices, accounts, original or
- 31 substitute checks or electronic funds transfers.
- 32 “Hemp” means the plant Cannabis sativa L. and any part of that
- 33 plant, as defined pursuant to section 3 of P.L.2019, c.238 (C.4:28-
- 34 8).
- 35 “Insurance service” means a service authorized to be provided by
- 36 an insurer in this State.
- 37 “Insurer” means an entity or person authorized by the department
- 38 to transact the business of insurance in this State or designated as a
- 39 surplus lines insurer as defined pursuant to section 7 of P.L.1960,
- 40 c.32 (C.17:22-6.41).
- 41 “Legitimate cannabis-related business” means a person that
- 42 participates in any business or organized activity that involves
- 43 handling cannabis or a cannabis product, including cultivating,
- 44 producing, manufacturing, selling, transporting, displaying,
- 45 dispensing, distributing or purchasing cannabis or a cannabis
- 46 product in compliance with the laws of this State or a law
- 47 established by another state.

1 “State” means any state, territory or possession of the United  
2 States, the District of Columbia, the Commonwealth of Puerto Rico,  
3 the Commonwealth of the Northern Mariana Islands, Guam,  
4 American Samoa, the United States Virgin Islands, or any federally  
5 recognized Indian tribe as defined by the Secretary of the Interior  
6 under the “Federally Recognized Indian Tribe List Act of 1994,” 25  
7 U.S.C. s.5131.

8 “Trust company” means:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 associates of a legitimate cannabis-related business or to any other  
2 business.

3 d. Any violation of the requirements of subsections a. and b. of  
4 this section shall be a violation of P.L.1960, c.39 (C.56:8-1 et seq.).  
5

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

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

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

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

24 (4) prohibit or penalize a financial institution or insurer  
25 performing financial or insurance services in association with  
26 another financial institution or insurer from providing financial or  
27 insurance services <sup>1</sup>solely because the institution or insurer is  
28 providing financial or insurance services<sup>1</sup> to a legitimate cannabis-  
29 related business or a business associate of a legitimate cannabis-  
30 related business <sup>1</sup>in association with another financial institution or  
31 insurer<sup>1</sup>; or

32 (5) subject the legal interest of a financial institution in the  
33 collateral for a loan or another financial service provided to a  
34 legitimate cannabis-related business or the business associates of a  
35 legitimate cannabis-related business to civil or criminal forfeiture  
36 under any laws of this State or initiate or participate in proceedings  
37 for the civil or criminal forfeiture of a legal interest under federal  
38 law or under the laws of another state <sup>1</sup>solely because the loan has  
39 been made to a legitimate cannabis-related business or a business  
40 associate of a legitimate cannabis-related business<sup>1</sup>.

41 b. No financial institution or insurer, or the directors, officers,  
42 employees, agents, owners, shareholders, or members of a financial  
43 institution or insurer, shall be subject to a criminal prosecution,  
44 sanction, or claim for damages or any equitable remedy, solely  
45 because the institution or insurer is providing financial or insurance  
46 services to or for the benefit of a legitimate cannabis-related

1 business or the business associates of a legitimate cannabis-related  
2 business.

3 c. The proceeds of any transaction involving the activities of a  
4 legitimate cannabis-related business shall not be considered  
5 proceeds from an unlawful activity, solely because the transaction  
6 involves the proceeds from a legitimate cannabis-related business or  
7 a business associate of a legitimate cannabis-related business.

8 d. No legitimate cannabis-related business, or a business  
9 associate of a legitimate cannabis-related business, shall be denied  
10 any right or privilege by a State agency solely because of the  
11 business's or business associate's lawful participation in the "New  
12 Jersey Cannabis Regulatory, Enforcement Assistance, and  
13 Marketplace Modernization Act," P.L.2021, c.16 (C.24:6I-31 et al.).

14 e. If a legitimate cannabis-related business fails to provide the  
15 notice required pursuant to section 4 of P.L. , c. (C. )  
16 (pending before the Legislature as this bill) to a financial institution  
17 or insurer, the financial institution or insurer shall not be deemed in  
18 violation of this section solely because the financial institution or  
19 insurer was not notified and continued to provide services beyond  
20 the date at which the services should or could have been terminated  
21 as a result of the suspension or revocation of the permit,  
22 registration, or certification.

23

24 4. a. A legitimate cannabis-related business that obtains  
25 financial or insurance services from a financial institution or insurer  
26 doing business in this State shall, within five business days, provide  
27 notice to the financial institution or insurer if a license, permit,  
28 registration, or certification held by the business or its affiliates  
29 under federal law, the laws of this State, or a law established by  
30 another state is suspended or revoked.

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

39

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

45

46 6. This act shall take effect immediately.