

SENATE, No. 2819

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 9, 2022

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



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.