

114TH CONGRESS
1ST SESSION

S. 1726

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

IN THE SENATE OF THE UNITED STATES

JULY 9, 2015

Mr. MERKLEY (for himself, Mr. GARDNER, Mr. BENNET, Mr. PAUL, Mr. WYDEN, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To create protections for depository institutions that provide financial services to marijuana-related 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.**

4 This Act may be cited as the “Marijuana Businesses
5 Access to Banking Act of 2015”.

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

7 A Federal banking regulator may not—

8 (1) terminate or limit the deposit insur-
9 ance or share insurance of a depository institu-

1 tion under the Federal Deposit Insurance Act
2 (12 U.S.C. 1811 et seq.) or the Federal Credit
3 Union Act (12 U.S.C. 1751 et seq.) solely be-
4 cause the depository institution provides or has
5 provided financial services to a marijuana-re-
6 lated legitimate business;

7 (2) prohibit, penalize, or otherwise discour-
8 age a depository institution from providing fi-
9 nancial services to a marijuana-related legiti-
10 mate business;

11 (3) recommend, incentivize, or encourage a
12 depository institution not to offer financial serv-
13 ices to an individual, or to downgrade or cancel
14 the financial services offered to an individual
15 solely because—

16 (A) the individual is a manufacturer
17 or producer, or is the owner or operator of
18 a marijuana-related legitimate business;

19 (B) the individual later becomes an
20 owner or operator of a marijuana-related
21 legitimate business; or

22 (C) the depository institution was not
23 aware that the individual is the owner or
24 operator of a marijuana-related legitimate
25 business; and

1 (4) take any adverse or corrective super-
2 visory action on a loan to an owner or operator
3 of—

4 (A) a marijuana-related legitimate
5 business solely because the business owner
6 or operator is a marijuana-related busi-
7 ness; or

8 (B) real estate or equipment that is
9 leased to a marijuana-related legitimate
10 business solely because the owner or oper-
11 ator of the real estate or equipment leased
12 the equipment or real estate to a mari-
13 juana-related legitimate business.

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

15 (a) IN GENERAL.—In a State or political subdivision
16 that allows the cultivation, production, manufacturing,
17 transportation, display, dispensing, distribution, sale, or
18 purchase of marijuana pursuant to a law (including regu-
19 lations) of the State or political subdivision, a depository
20 institution and the officers, director, and employees of the
21 depository institution that provides financial services to a
22 marijuana-related legitimate business may not be held lia-
23 ble pursuant to any Federal law (including regulations)—

1 (1) solely for providing the financial services
2 pursuant to the law (including regulations) of the
3 State or political subdivision; or

4 (2) for further investing any income derived
5 from the financial services.

6 (b) FORFEITURE.—A depository institution that has
7 a legal interest in the collateral for a loan made to an
8 owner or operator of a marijuana-related legitimate busi-
9 ness, or to an owner or operator of real estate or equip-
10 ment that is leased to a marijuana-related legitimate busi-
11 ness, shall not be subject to criminal, civil, or administra-
12 tive forfeiture of that legal interest pursuant to any Fed-
13 eral law for providing the loan.

14 **SEC. 4. RULE OF CONSTRUCTION.**

15 Nothing in this Act shall require a depository institu-
16 tion to provide financial services to a marijuana-related
17 legitimate business.

18 **SEC. 5. REQUIREMENTS FOR FILING SUSPICIOUS ACTIVITY**

19 **REPORTS.**

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

22 “(5) REQUIREMENTS FOR MARIJUANA-RELATED
23 BUSINESSES.—A financial institution or any direc-
24 tor, officer, employee, or agent of a financial institu-
25 tion that reports a suspicious transaction pursuant

1 to a marijuana-related legitimate business (as de-
2 fined in section 6 of the Marijuana Businesses Ac-
3 cess to Banking Act of 2015) shall comply with ap-
4 propriate guidance issued by the Financial Crimes
5 Enforcement Network. The Secretary shall ensure
6 that the guidance is consistent with the purpose and
7 intent of the Marijuana Businesses Access to Bank-
8 ing Act of 2015 and does not inhibit the provision
9 of financial services to a marijuana-related legiti-
10 mate business in a State or political subdivision of
11 a State that has allowed the cultivation, production,
12 manufacturing, transportation, display, dispensing,
13 distribution, sale, or purchase of marijuana pursuant
14 to law or regulation of the State or political subdivi-
15 sion.”.

16 **SEC. 6. DEFINITIONS.**

17 In this Act:

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

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

23 (B) a Federal credit union as defined in
24 section 101 of the Federal Credit Union Act
25 (12 U.S.C. 1752); or

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

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

14 (3) FINANCIAL SERVICE.—The term “financial
15 service” means a financial product or service as de-
16 fined in section 1002 of the Dodd-Frank Wall Street
17 Reform and Consumer Protection Act (12 U.S.C.
18 5481).

19 (4) MANUFACTURER.—The term “manufac-
20 turer” means a person who manufactures, com-
21 pounds, converts, processes, prepares, or packages
22 marijuana or marijuana products.

23 (5) MARIJUANA-RELATED LEGITIMATE BUSI-
24 NESS.—The term “marijuana-related legitimate

1 business” means a manufacturer, producer, or any
2 person that—

3 (A) participates in any business or orga-
4 nized activity that involves handling marijuana
5 or marijuana products, including cultivating,
6 producing, manufacturing, selling, transporting,
7 displaying, dispensing, distributing, or pur-
8 chasing marijuana or marijuana products; and

9 (B) engages in such activity pursuant to a
10 law established by a State or a political subdivi-
11 sion of a State.

12 (6) MARIJUANA.—The term “marijuana” has
13 the meaning given the term “marihuana” in section
14 102 of the Controlled Substances Act (21 U.S.C.
15 802).

16 (7) MARIJUANA PRODUCT.—The term “mari-
17 juana product” means any article which contains
18 marijuana, including an article which is a con-
19 centrate, an edible, a tincture, a marijuana-infused
20 product, or a topical.

21 (8) PRODUCER.—The term “producer” means a
22 person who plants, cultivates, harvests, or in any
23 way facilitates the natural growth of marijuana.

24 (9) STATE.—The term “State” means each of
25 the several States, the District of Columbia, Puerto

1 Rico, and any territory or possession of the United
2 States.

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