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(Original Signature of Member)

116TH CONGRESS  
1ST SESSION

**H. R.**

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.

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IN THE HOUSE OF REPRESENTATIVES

Mr. PERLMUTTER (for himself, Mr. HECK, Mr. STIVERS, and Mr. DAVIDSON of Ohio) introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**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”.

1 (b) PURPOSE.—The purpose of this Act is to increase  
2 public safety by expanding financial services to cannabis-  
3 related legitimate businesses and service providers and re-  
4 ducing the amount of cash at such businesses.

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

6 A Federal banking regulator may not—

7 (1) terminate or limit the deposit insur-  
8 ance or share insurance of a depository institu-  
9 tion under the Federal Deposit Insurance Act  
10 (12 U.S.C. 1811 et seq.), the Federal Credit  
11 Union Act (12 U.S.C. 1751 et seq.), or take  
12 any other adverse action against a depository  
13 institution under section 8 of the Federal De-  
14 posit Insurance Act (12 U.S.C. 1818) solely be-  
15 cause the depository institution provides or has  
16 provided financial services to a cannabis-related  
17 legitimate business or service provider;

18 (2) prohibit, penalize, or otherwise discour-  
19 age a depository institution from providing fi-  
20 nancial services to a cannabis-related legitimate  
21 business or service provider or to a State, polit-  
22 ical subdivision of a State, or Indian Tribe that  
23 exercises jurisdiction over cannabis-related le-  
24 gitimate businesses;

1           (3) recommend, incentivize, or encourage a  
2           depository institution not to offer financial serv-  
3           ices to an account holder, or to downgrade or  
4           cancel the financial services offered to an ac-  
5           count holder solely because—

6                   (A) the account holder is a cannabis-  
7                   related legitimate business or service pro-  
8                   vider, or is an employee, owner, or oper-  
9                   ator of a cannabis-related legitimate busi-  
10                  ness or service provider;

11                  (B) the account holder later becomes  
12                  an employee, owner, or operator of a can-  
13                  nabis-related legitimate business or service  
14                  provider; or

15                  (C) the depository institution was not  
16                  aware that the account holder is an em-  
17                  ployee, owner, or operator of a cannabis-re-  
18                  lated legitimate business or service pro-  
19                  vider;

20           (4) take any adverse or corrective super-  
21           visory action on a loan made to—

22                   (A) a cannabis-related legitimate busi-  
23                   ness or service provider, solely because the  
24                   business is a cannabis-related legitimate  
25                   business or service provider;

1 (B) an employee, owner, or operator  
2 of a cannabis-related legitimate business or  
3 service provider, solely because the em-  
4 ployee, owner, or operator is employed by,  
5 owns, or operates a cannabis-related legiti-  
6 mate business or service provider, as appli-  
7 cable; or

8 (C) an owner or operator of real es-  
9 tate or equipment that is leased to a can-  
10 nabis-related legitimate business or service  
11 provider, solely because the owner or oper-  
12 ator of the real estate or equipment leased  
13 the equipment or real estate to a cannabis-  
14 related legitimate business or service pro-  
15 vider, as applicable; and

16 (5) prohibit or penalize a depository insti-  
17 tution, or entity performing services for the de-  
18 pository institution, for, or otherwise discourage  
19 a depository institution, or entity performing  
20 services for the depository institution, from, au-  
21 thorizing, processing, clearing, settling, billing,  
22 transferring, reconciling, or collecting payments  
23 for a cannabis-related legitimate business,  
24 where such payment is made by any means, in-

1           cluding a credit, debit, or other payment card,  
2           an account, check, or electronic funds transfer.

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

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

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

13           (a) IN GENERAL.—With respect to providing finan-  
14 cial services within a State, political subdivision of a State,  
15 or Indian country that allows the cultivation, production,  
16 manufacture, sale, transportation, display, dispensing, dis-  
17 tribution, or purchase of cannabis pursuant to a law or  
18 regulation of such State, political subdivision, or Indian  
19 Tribe that has jurisdiction over the Indian country, as ap-  
20 plicable, a depository institution that provides financial  
21 services to a cannabis-related legitimate business or serv-  
22 ice provider, and the officers, directors, and employees of  
23 that depository institution may not be held liable pursuant  
24 to any Federal law or regulation—

1           (1) solely for providing such financial services;  
2           or  
3           (2) for further investing any income derived  
4           from such financial services.

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

15 **SEC. 5. RULE OF CONSTRUCTION.**

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

19 **SEC. 6. REQUIREMENTS FOR FILING SUSPICIOUS ACTIVITY**  
20 **REPORTS.**

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

23           “(5) REQUIREMENTS FOR CANNABIS-RELATED  
24           LEGITIMATE BUSINESSES.—

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

23           “(B) DEFINITIONS.—For purposes of this  
24          paragraph:

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

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

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

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

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

24           “(vi) SERVICE PROVIDER.—The term  
25           ‘service provider’ has the meaning given



1                   that term in section 8 of the SAFE Bank-  
2                   ing Act of 2019.

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

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

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

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

22   **SEC. 8. DEFINITIONS.**

23          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(e) of the Federal Deposit Insurance  
3 Act (12 U.S.C. 1813(e));

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.