

AMENDMENTS TO HOUSE BILL NO. 331

Sponsor: SENATOR DiSANTO

Printer's No. 306

1 Amend Bill, page 1, lines 1 and 2, by striking out all of
2 said lines and inserting
3 Amending Title 12 (Commerce and Trade) of the Pennsylvania
4 Consolidated Statutes, providing for legitimate cannabis-
5 related business and Incentive-based Savings Program.
6 Amend Bill, page 1, lines 5 through 18; pages 2 through 5,
7 lines 1 through 30; page 6, lines 1 and 2; by striking out all
8 of said lines on said pages and inserting

9 Section 1. The General Assembly finds and declares as
10 follows:

11 (1) The headwinds to the economy on a national and State
12 level are significant.

13 (2) The financial stability of the citizens of this
14 Commonwealth is challenged.

15 (3) It is important to authorize and provide a
16 regulatory framework for financial institutions to conduct
17 savings promotion programs to encourage robust saving habits
18 and improve financial literacy.

19 (4) The framework under paragraph (3) should include
20 financial services for legitimate cannabis-related
21 businesses.

22 Section 2. Title 12 of the Pennsylvania Consolidated
23 Statutes is amended by adding chapters to read:

24 CHAPTER 55

25 LEGITIMATE CANNABIS-RELATED BUSINESS

26 Sec.

27 5501. Scope of chapter.

28 5502. Definitions.

29 5503. Services to legitimate cannabis-related businesses.

30 5504. Protections for financial institutions, insurers,
31 legitimate cannabis-related businesses and business
32 associates.

33 5505. Access to information.

34 5506. Required disclosures.

35 5507. Regulations and statements of policy.

1 § 5501. Scope of chapter.

2 This chapter relates to legitimate cannabis-related
3 businesses.

4 § 5502. Definitions.

5 The following words and phrases when used in this chapter
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Business associate." A person that is a customer or
9 supplier of goods or services to or for the benefit of a
10 legitimate cannabis-related business or an officer or director,
11 owner, operator, shareholder, member, employee, agent or
12 financial backer of a legitimate cannabis-related business.

13 "Cannabis." Any substance defined as "marihuana" by section
14 102 of the Controlled Substances Act (Public Law 91-513, 84
15 Stat. 1236) or section 2 of the act of April 14, 1972 (P.L.233,
16 No.64), known as The Controlled Substance, Drug, Device and
17 Cosmetic Act. The term shall include hemp.

18 "Cannabis product." A product that contains cannabis, a
19 cannabis extract or a cannabis concentrate, including, but not
20 limited to, edible products, beverages, topicals, ointments,
21 oils, tinctures, capsules, pills, suppositories, inhaled
22 products, a hemp-derived cannabinoid product or a medical
23 marijuana product as defined in section 103 of the act of April
24 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act.

25 "Depository institution." As follows:

26 (1) a depository institution as defined in section 3(c)
27 of the Federal Deposit Insurance Act (64 Stat. 873, 12 U.S.C.
28 § 1811 et seq.);

29 (2) a Federal credit union as defined in section 101 of
30 the Federal Credit Union Act (48 Stat. 1216, 12 U.S.C. § 1751
31 et seq.); or

32 (3) a State credit union as defined in section 101 of
33 the Federal Credit Union Act.

34 "Federal financial regulatory agency." The term includes the
35 Federal Reserve System, the United States Treasury, the
36 Comptroller of the Currency, the National Credit Union
37 Administration, the Federal Deposit Insurance Corporation, the
38 Securities and Exchange Commission and the Consumer Financial
39 Protection Bureau.

40 "Financial institution." A depository institution, trust
41 company, licensee, a person subject to the jurisdiction of a
42 Federal financial regulatory agency or a person subject to the
43 jurisdiction of the Department of Banking and Securities under
44 the act of December 5, 1972 (P.L.1280, No.284), known as the
45 Pennsylvania Securities Act of 1972.

46 "Financial service."

47 (1) The term includes a financial product or service:

48 (i) as defined by section 1002 of the Dodd-Frank
49 Wall Street Reform and Consumer Protection Act (Public
50 Law 111-203, 12 U.S.C. § 5301 et seq.), regardless of
51 whether the customer receiving the product or service is

1 a consumer or a commercial entity; or
2 (ii) permitted to be provided under the authority
3 of:

4 (A) a national bank or a financial subsidiary
5 under 12 U.S.C. §§ 24 (42 Stat. 767), 24a (113 Stat.
6 1373) and 92a (76 Stat. 668);

7 (B) a Federal credit union under the Federal
8 Credit Union Act;

9 (C) an incorporated institution under the act of
10 November 30, 1965 (P.L.847, No.356), known as the
11 Banking Code of 1965;

12 (D) a credit union under 17 Pa.C.S. (relating to
13 credit unions);

14 (E) a person registered, or exempt from
15 registration, to offer or sell any security, or to
16 act as a broker, dealer, transfer agency, clearing
17 agency or investment company under the Investment
18 Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1
19 et seq.);

20 (F) a person registered, or exempt from
21 registration, to:

22 (I) offer or sell any security, under the
23 Securities Act of 1933 (48 Stat. 74, 15 U.S.C. §
24 77a et seq.);

25 (II) act as an exchange, a broker, dealer,
26 transfer agent or clearing agent under the
27 Securities Exchange Act of 1934 (48 Stat. 881, 15
28 U.S.C. § 78a et seq.);

29 (III) act as an investment adviser under the
30 Investment Advisers Act of 1940 (54 Stat. 847, 15
31 U.S.C. § 80b-1 et seq.); or

32 (IV) act as an investment company under the
33 Investment Company Act of 1940; or

34 (G) a person acting as a broker-dealer, agent,
35 investment adviser or investment adviser
36 representative in this Commonwealth under the
37 Pennsylvania Securities Act of 1972.

38 (2) The term includes a service, whether performed
39 directly or indirectly, authorizing, processing, clearing,
40 settling, billing, transferring for deposit, transmitting,
41 delivering, instructing to be delivered, reconciling,
42 collecting or otherwise effectuating or facilitating the
43 payments of funds, where funds payments or funds are made or
44 transferred by any means, including by the use of credit
45 cards, debit cards or other access devices, accounts,
46 original or substitute checks or electronic funds transfers.
47 "Hemp." As defined under section 297A of the Agricultural
48 Marketing Act of 1946 (132 Stat. 4908, 7 U.S.C. § 1639o).

49 "Insurance service." A service authorized to be provided by
50 an insurer in this Commonwealth.

51 "Insurer." An entity or person authorized by the Insurance

Department to transact the business of insurance in this Commonwealth or designated as an eligible surplus lines insurer as defined in section 1602 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921. The term includes a person licensed by the Insurance Department to sell, solicit or negotiate insurance, and that person's officers, directors, agents and employees.

"Legitimate cannabis-related business." A person that participates in any business or organized activity that involves handling cannabis or a cannabis product, including cultivating, producing, manufacturing, selling, transporting, displaying, dispensing, distributing or purchasing cannabis or a cannabis product in compliance with Federal law, the laws of this Commonwealth or a law established by another state.

"Licensee." A person defined as a licensee by section 2 of the act of May 15, 1933 (P.L.565, No.111), known as the Department of Banking and Securities Code.

"State." Any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa or the United States Virgin Islands or any federally recognized Indian tribe as defined by the Secretary of the Interior under section 104(a) of the Federally Recognized Indian Tribe List Act of 1994 (Public Law 103-454, 25 U.S.C. § 479a-1).

"Trust company." The term includes:

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

(2) a trust company as defined by section 102 of the Banking Code of 1965; or

(3) an interstate bank as defined in section 102 of the Banking Code of 1965 authorized to exercise the powers of a trust company in this Commonwealth.

§ 5503. Services to legitimate cannabis-related businesses.

(a) Authorization to provide financial services.--A financial institution authorized to engage in business in this Commonwealth may provide financial services to or for the benefit of a legitimate cannabis-related business and the business associates of a legitimate cannabis-related business subject to:

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

(2) any applicable consumer protection laws of this Commonwealth;

(3) any additional requirements applicable to the institution established for the provision of services to a legitimate cannabis-related business or its business associates by a Federal financial regulatory agency, the Department of Banking and Securities or a financial regulatory agency of the state under which the institution is

1 organized; and

2 (4) the extent the institution is providing services to
3 a legitimate cannabis-related business or its business
4 associates in another jurisdiction, any additional
5 requirements applicable to the institution established for
6 the provision of the services by a financial regulatory
7 agency of that jurisdiction.

8 (b) Authorization to provide insurance services.--An insurer
9 may provide insurance services to or for the benefit of a
10 legitimate cannabis-related business and the business associates
11 of a legitimate cannabis-related business subject to:

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

14 (2) any applicable consumer protection laws of this
15 Commonwealth;

16 (3) any additional requirements applicable to the
17 insurer established for the provision of services to a
18 legitimate cannabis-related business or its business
19 associates by the Insurance Department; and

20 (4) the extent the insurer is providing services to a
21 legitimate cannabis-related business or its business
22 associates in another jurisdiction, any additional
23 requirements applicable to the insurer established for the
24 provision of the services by an insurance regulatory agency
25 of that jurisdiction.

26 (c) No requirement to provide services.--Nothing in this
27 chapter shall require a depository institution, an entity
28 performing a financial service for or in association with a
29 financial institution or an insurer to provide financial or
30 insurance services to a legitimate cannabis-related business or
31 the business associates of a legitimate cannabis-related
32 business or to any other business.

33 § 5504. Protections for financial institutions, insurers,
34 legitimate cannabis-related businesses and business
35 associates.

36 (a) Actions of government agencies.--No agency or political
37 subdivision of this Commonwealth may:

38 (1) prohibit, penalize or otherwise discourage a
39 financial institution or insurer from providing financial or
40 insurance services to a legitimate cannabis-related business
41 or the business associates of a legitimate cannabis-related
42 business;

43 (2) recommend, incentivize or encourage a financial
44 institution or insurer not to offer financial or insurance
45 services to an account holder, or downgrade or cancel
46 services provided to the account holder, solely because the
47 account holder is a legitimate cannabis-related business or a
48 business associate of a legitimate cannabis-related business;

49 (3) take adverse or corrective supervisory action on a
50 loan made to a legitimate cannabis-related business or a
51 business associate of a legitimate cannabis-related business

1 solely because the loan has been made to a legitimate
2 cannabis-related business or a business associate of a
3 legitimate cannabis-related business;

4 (4) prohibit or penalize a financial institution or
5 insurer performing financial or insurance services in
6 association with another financial institution or insurer
7 from providing financial or insurance services to a
8 legitimate cannabis-related business or a business associate
9 of a legitimate cannabis-related business; or

10 (5) subject the legal interest of a financial
11 institution in the collateral for a loan or another financial
12 service provided to a legitimate cannabis-related business or
13 the business associates of a legitimate cannabis-related
14 business to civil or criminal forfeiture under any laws of
15 this Commonwealth or initiate or participate in proceedings
16 for the civil or criminal forfeiture of a legal interest
17 under Federal law or under the laws of another state.

18 (b) Enforcement authority.--Nothing in this act shall
19 prevent the Department of Banking and Securities, the Insurance
20 Department or the Attorney General, in a manner consistent with
21 the requirements of section 506 of the act of May 15, 1933
22 (P.L.565, No.111), known as the Department of Banking and
23 Securities Code, from undertaking an enforcement action for
24 compliance with the requirements of section 5503(a) or (b)
25 (relating to services to legitimate cannabis-related businesses)
26 in a manner consistent with subsection (a).

27 (c) Criminal prosecution and civil claims.--Subject to
28 subsection (h), no financial institution or insurer, or the
29 directors, officers, employees, agents, owners, shareholders or
30 members of a financial institution or insurer, shall be subject
31 to a criminal prosecution, sanction or claim for damages or any
32 equitable remedy, solely because the institution or insurer is
33 providing financial or insurance services to or for the benefit
34 of a legitimate cannabis-related business or the business
35 associates of a legitimate cannabis-related business.

36 (d) Proceeds of legitimate cannabis-related business
37 activities.--The proceeds of any transaction involving the
38 activities of a legitimate cannabis-related business may not be
39 considered proceeds from an unlawful activity, solely because
40 the transaction involves the proceeds from a legitimate
41 cannabis-related business or a business associate of a
42 legitimate cannabis-related business.

43 (e) Rights and privileges.--No legitimate cannabis-related
44 business, or a business associate of a legitimate cannabis-
45 related business, shall be denied any right or privilege by a
46 State agency solely because of the business's or business
47 associate's lawful participation in the medical marijuana
48 program established under the act of April 17, 2016 (P.L.84,
49 No.16), known as the Medical Marijuana Act.

50 (f) Limited immunity.--If a legitimate cannabis-related
51 business fails to provide the notice required under section

1 5506(a) (relating to required disclosures) to a financial
2 institution or insurer, the financial institution or insurer
3 shall not be deemed in violation of this chapter solely because
4 the financial institution or insurer was not notified and
5 continued to provide services beyond the date at which such
6 services should or could have been terminated as a result of the
7 suspension or revocation of the permit, registration or
8 certification.

9 (g) Exclusion.--This chapter shall not apply to the
10 cultivation, production, manufacture, sale, transportation,
11 display, dispensing, distribution or purchase of cannabis for
12 recreational use within this Commonwealth in a manner contrary
13 to the act of April 14, 1972 (P.L.233, No.64), known as The
14 Controlled Substance, Drug, Device and Cosmetic Act, or any
15 actions in violation of the Medical Marijuana Act except as
16 otherwise provided by this chapter.

17 (h) Requirements.--The protections provided by this section
18 to a financial institution or insurer and to the directors,
19 officers, employees, agents, owners, shareholders or members of
20 the institution or insurer are subject to the institution's or
21 insurer's material compliance with the requirements of section
22 5503(a) and (b) and reasonable due diligence to determine that a
23 legitimate cannabis-related business or a business associate of
24 a legitimate cannabis-related business is in compliance with the
25 laws of this Commonwealth and the laws of other states in which
26 the cannabis-related business is located, or with any applicable
27 Federal laws, which provide authorization for the operation of a
28 legitimate cannabis-related business.

29 § 5505. Access to information.

30 (a) Voluntary disclosures.--Section 1307 of the act of April
31 17, 2016 (P.L.84, No.16), known as the Medical Marijuana Act,
32 shall not prohibit the voluntary disclosure of any records or
33 other information by a legitimate cannabis-related business, or
34 a business associate to a financial institution or insurer, as
35 necessary to obtain financial or insurance services to the
36 extent not prohibited by and consistent with any applicable
37 requirements of the Health Insurance Portability and
38 Accountability Act of 1996 (Public Law 104-191, 110 Stat. 1936)
39 privacy regulation as promulgated by the United States
40 Department of Health and Human Services under 45 CFR Pts. 160
41 (relating to general administrative requirements), 162 (relating
42 to administrative requirements) and 164 (relating to security
43 and privacy) and 16 CFR Pt. 313 (relating to privacy of consumer
44 financial information).

45 (b) Restrictions on use of records.--A financial
46 institution, or insurer receiving access to information under
47 subsection (a), the distribution of which would otherwise be
48 prohibited, may only use the information as necessary to satisfy
49 due diligence obligations required to provide financial or
50 insurance services to persons participating in the medical
51 marijuana program established under the Medical Marijuana Act

1 and may not disclose the information records to other persons
2 except for information:

3 (1) required for the filing of suspicious activity
4 reports with the United States Department of the Treasury or
5 the investigation of related reports;

6 (2) requested by the institution's primary regulator,
7 the Federal Deposit Insurance Corporation or the National
8 Credit Union Administration for the purposes of conducting an
9 examination of the institution;

10 (3) as necessary to respond to court orders or subpoenas
11 after providing the person authorizing the release of the
12 records and the institution's primary regulator the
13 opportunity to object to the order or subpoena; or

14 (4) as authorized by a person who is the subject to the
15 confidential information.

16 § 5506. Required disclosures.

17 (a) Notification by legitimate cannabis-related business.--
18 If a legitimate cannabis-related business obtains financial or
19 insurance services from a financial institution or insurer doing
20 business in this Commonwealth, the business shall, within five
21 business days, provide notice to the financial institution or
22 insurer if a cannabis-related permit, registration or
23 certification held by the business or its affiliates under
24 Federal law, the laws of this Commonwealth or a law established
25 by another state is suspended or revoked.

26 (b) Penalty.--If a legitimate cannabis-related business
27 fails to give the notice required under subsection (a) to a
28 financial institution or insurer, the business or business
29 associate may be assessed a civil penalty up to \$500 per day,
30 not to exceed \$25,000, until the notice is provided. The
31 Department of Banking and Securities shall have authorization to
32 assess civil penalties for failure to give notice under this
33 section to a financial institution, and the Insurance Department
34 shall have authorization to assess civil penalties for failure
35 to give the notice under this section to an insurer.

36 § 5507. Regulations and statements of policy.

37 The Department of Banking and Securities and the Insurance
38 Department may adopt statements of policy or regulations to
39 implement this chapter and to provide guidance to financial
40 institutions and insurers providing financial or insurance
41 services to legitimate cannabis-related businesses and business
42 associates of a legitimate cannabis-related business.

43 CHAPTER 57

44 INCENTIVE-BASED SAVINGS PROGRAM

45 Sec.

46 5701. Legislative intent.

47 5702. Definitions.

48 5703. Savings promotion program.

49 5704. Compliance with Federal regulations.

50 5705. Qualified financial program.

51 5706. Terms and conditions.

1 5707. Maintenance of books and records.

2 § 5701. Legislative intent.

3 The intent of this chapter is to authorize and provide a
4 regulatory framework for financial institutions to conduct
5 savings promotion programs to encourage robust saving habits and
6 improve financial literacy.

7 § 5702. Definitions.

8 The following words and phrases when used in this chapter
9 shall have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Eligible financial institution." Any of the following:

12 (1) an insured credit union; or

13 (2) an insured depository institution.

14 "Eligible individual." An individual who:

15 (1) is at least 18 years of age;

16 (2) is a member or customer of the eligible financial
17 institution conducting the savings promotion program; and

18 (3) maintains a qualified account with the eligible
19 financial institution conducting the savings promotion
20 program.

21 "Insured credit union." As defined in section 101 of the
22 Federal Credit Union Act (48 Stat. 1216, 12 U.S.C. § 1752).

23 "Insured depository institution." As defined in section 3 of
24 the Federal Deposit Insurance Act (64 Stat. 873, 12 U.S.C. §
25 1813).

26 "Prudential regulator." As defined in section 1002 of the
27 Consumer Financial Protection Act of 2010 (Public Law 111-203
28 124 Stat. 1955, 12 U.S.C. § 5481).

29 "Qualified account." A savings account, time deposit or
30 savings program offered to an eligible individual by an eligible
31 financial institution pursuant to a savings promotion program.
32 The term includes a share account and an account where the
33 eligible individual has an interest individually or jointly with
34 another eligible individual.

35 "Qualified financial program." A program offered by an
36 eligible financial institution under section 5705 (relating to
37 qualified financial program).

38 "Savings promotion program." A contest in which the sole
39 consideration required for a chance of winning designated prizes
40 is obtained by the deposit of a specified amount of money in a
41 qualified account or other savings program of which each ticket
42 or entry has an equal chance of being drawn.

43 § 5703. Savings promotion program.

44 (a) Authorization.--Notwithstanding any prohibitions on
45 lotteries or gambling provided by the laws of this Commonwealth,
46 including 18 Pa.C.S. §§ 5512 (relating to lotteries, etc.), 5513
47 (relating to gambling devices, gambling, etc.) and 5514
48 (relating to pool selling and bookmaking), an eligible financial
49 institution may conduct a savings promotion program and any
50 activity conducted in connection with the savings promotion
51 program, including, but not limited to:

1 (1) the deposit of a minimum specified amount of money
2 in a qualified account for a minimum length of time;

3 (2) the participation in a qualified financial program
4 offered by the eligible financial institution;

5 (3) the transmission of any advertisement, list of
6 prizes or other information concerning the savings promotion
7 program;

8 (4) the offering, facilitation and acceptance of
9 deposits, withdrawals or other transactions in connection
10 with the savings promotion program;

11 (5) the transmission of any information relating to the
12 savings promotion program, including account balance and
13 transaction information;

14 (6) the deposit or transmission of prizes awarded in the
15 savings promotion program as well as notification or
16 publication of the deposit or transmission; and

17 (7) the establishment and operation of qualified
18 financial programs.

19 (b) Limitation.--An eligible financial institution may not
20 conduct a savings promotion program in a way that jeopardizes
21 the eligible financial institution's safety and soundness or
22 misleads an eligible individual or the public.

23 (c) Third-party participants.--An eligible financial
24 institution may offer a savings promotion program in conjunction
25 with a third-party participant that provides administrative
26 support, funding or other service.

27 § 5704. Compliance with Federal regulations.

28 An eligible financial institution may offer a savings
29 promotion program only to the extent permitted by Federal law,
30 including any regulations promulgated by the institution's
31 appropriate prudential regulator.

32 § 5705. Qualified financial program.

33 A qualified financial program offered under section 5703(a)
34 (2) (relating to savings promotion program) must include
35 programs to encourage an eligible individual to do at least one
36 of the following:

37 (1) Deposit or transfer money into a qualified account
38 on a recurring or automatic basis.

39 (2) Refinance or consolidate existing debt to obtain a
40 lower interest rate.

41 (3) Pay off or reduce outstanding balances to lower the
42 eligible individual's total debt ratio or revolving debt
43 ratio.

44 (4) Prepare a budget or a debt-reduction plan.

45 (5) Attend financial literacy seminars or counseling
46 sessions sponsored by the eligible financial institution that
47 are offered free of charge.

48 (6) Use free online financial education, budgeting or
49 debt-reduction tools.

50 § 5706. Terms and conditions.

51 (a) Disclosure.--An eligible financial institution

1 conducting a savings promotion program shall disclose to the
2 public and each participant the terms and conditions of the
3 savings promotion program. The terms and conditions shall be
4 posted in a location where entries may be submitted and shall be
5 included in printed materials or electronic media promoting the
6 savings promotion program.

7 (b) Content.--Terms and conditions for a savings promotion
8 program shall include language specifying that:

9 (1) No other action, purchase or other consideration is
10 necessary for an entry in the savings promotion program.

11 (2) No action or purchase of goods or services improves
12 the odds of winning.

13 (3) Each entry has the same odds of winning the savings
14 promotion program.

15 (4) The odds of winning the savings promotion program
16 will be determined based on the number of entries received.

17 (5) The winner is responsible for all applicable
18 Federal, State and local taxes.

19 (6) Participation in a qualified financial program is
20 offered to any qualified individual participating in the
21 savings promotion program.

22 (7) Participation in a savings promotion program
23 presents no financial risk to an eligible individual.
24 § 5707. Maintenance of books and records.

25 An eligible financial institution that conducts a savings
26 promotion program under this chapter shall maintain books and
27 records relating to the conduct of the savings promotion program
28 sufficient to facilitate an audit of the savings promotion
29 program. The financial institution shall keep a record of the
30 names of winners of all savings promotion programs, which shall
31 be available for inspection by the financial institution's
32 customers.

33 Section 3. The addition of 12 Pa.C.S. §§ 5503 and 5504 shall
34 apply to the provision of financial or insurance services to a
35 legitimate cannabis-related business or a business associate of
36 a legitimate cannabis-related business on or after the effective
37 date of this section.

38 Section 4. This act shall take effect as follows:

39 (1) The addition of 12 Pa.C.S. Ch. 57 shall take effect
40 in 60 days.

41 (2) The remainder of this act shall take effect
42 immediately.