



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 331

PRINTERS NO. 3324

PRIME SPONSOR: Brown, R.

COST / (SAVINGS)

FUND	FY 2022/23	FY 2023/24
Banking Fund	\$0	\$0
General Fund	\$0	\$0

SUMMARY: Creates two new chapters in Title 12: Legitimate Cannabis-Related Business and Incentive Based Savings Program. Chapter 55 (Legitimate Cannabis-Related Business) would take effect immediately while Chapter 57 (Incentive-Based Savings Program) would take effect in 60 days.

ANALYSIS: This legislation creates two new chapters, Chapter 55, Legitimate Cannabis-Related Business and Chapter 57, Incentive-Based Savings Program in Title 12 (Commerce and Trade).

Legitimate Cannabis-Related Business: Chapter 55 provides for certain services between financial institutions and insurers and legitimate cannabis-related businesses.

Financial Services: Financial institutions authorized to do business in the Commonwealth may provide services to legitimate cannabis businesses and business associates subject to:

- The laws and regulations applicable to other customers of the financial institution;
- Any applicable consumer protection laws of the Commonwealth;
- Any additional requirements applicable to the institution by a federal financial regulatory agency, the Department of Banking and Securities (DOBS) or a financial regulatory agency of the state; and
- To the extent the institution is providing services to a legitimate cannabis business or its business associates in another jurisdiction, any additional requirements applicable to the institution for services by a regulatory agency of that jurisdiction.

Insurance Services: An insurer may provide services to legitimate cannabis businesses and business associates subject to:

- The laws and regulations applicable to other customers of the insurer;
- Applicable consumer protection laws of the Commonwealth;
- Additional requirements applicable to the insurer by the Insurance Department; and
- To the extent the insurer is providing services to a legitimate cannabis business or its business associates in another jurisdiction, any additional requirements applicable to the insurer for services by a regulatory agency of that jurisdiction.

Nothing in this legislation shall require a depository institution, an entity providing financial services for or in association with a financial institution or an insurer to provide financial or insurance services to a legitimate cannabis business or business associates or any other business.

Protections: No agency or political subdivision may:

- Prohibit, penalize or otherwise discourage a financial institution or insurer from providing services to a legitimate cannabis business;
- Recommend, incentivize or encourage a financial institution or insurer not to offer services to an account holder, or downgrade or cancel services because the account holder is a legitimate cannabis business;
- Take adverse or corrective supervisory action on a loan made to a legitimate cannabis business or business associate solely because the loan was made because they are a legitimate cannabis business or business associate;
- Prohibit or penalize a financial institution or insurer performing a service in association with another financial institution or insurer from providing services to a legitimate cannabis business; or
- Subject the legal interest of a financial institution in the collateral for a loan or another financial service provided to a legitimate cannabis business or business associate to civil or criminal forfeiture under any laws of the Commonwealth.

Nothing in this act shall prevent DOBS, the Insurance Department or the Attorney General from undertaking an enforcement action for compliance with the requirements dealing with the services provided by financial institutions and insurers. (Section 5503 – Financial Services and Insurance services above).

No financial institution or insurer or directors, officers, employees, agents, owners, shareholders, members shall be subject to a criminal prosecution, sanction or claim for damages solely because the financial institution or insurer is providing financial or insurance services to or for the benefit of a legitimate cannabis business or business associate.

The proceeds from any transaction involving a legitimate cannabis business may not be considered proceeds from an unlawful activity, solely because the transaction includes the proceeds from a legitimate cannabis business or business associate.

No legitimate cannabis business or business associate shall be denied the right by a State agency solely because of the business's lawful participation in the medical marijuana program (established under the Medical Marijuana Act).

If a legitimate cannabis business fails to provide notice under required disclosures to a financial institution or insurer, the financial institution or insurer shall not be in violation of this chapter.

This chapter does not apply to the cultivation, production, manufacture, sale, transportation, display, dispensing, distribution, or purchase of cannabis for recreational use within the Commonwealth.

The protections provided by this section to a financial institution or insurer are subject to the institution's or insurer's material compliance that reasonable due diligence is done to determine that a legitimate cannabis business is in compliance with the laws of the Commonwealth.

Access to Information: The Medical Marijuana Act shall not prohibit the voluntary disclosure of any records or other information by a legitimate cannabis business or business associate to a financial institution or insurer, as necessary to obtain services to the extent not prohibited by and consistent with the Health Insurance Portability and Accountability Act.

A financial institution or insurer receiving access to information of which the distribution would be prohibited may only use the information as necessary to satisfy due diligence obligations required to provide services to the persons participating in the medical marijuana program and may not disclose the information records to other persons except information for:

- Required for filing of suspicious activity reports with the U.S. Department of Treasury;
- Requested by the institution's primary regulator, the FDIC or the National Credit Union Administration;
- As necessary to respond to court orders or subpoenas after providing the person authorizing the release of the records and the institution's primary regulator the opportunity to object; or
- As authorize by the person who is the subject to the confidential information.

Required Disclosures: If a legitimate cannabis business obtains financial or insurance services from a financial institution or insurer in the Commonwealth, the business shall, within 5 business days, provide notice to the financial institution or insurer if a cannabis-related permit, registration, or certification held by the business is suspended or revoked.

If a legitimate cannabis business fails to give the notice required, the business or business associate may be assessed a civil penalty up to \$500 per day, not to exceed \$25,000, until the notice is provided. DOBS and Department of Insurance shall have authorization to assess these penalties.

Regulations and Statement of Policy: DOBS and the Insurance Department may adopt policies or regulations to implement this chapter and to provide guidance to financial institutions and insurers providing services to cannabis businesses.

Incentive-Based Savings Program: Chapter 57 provides for an Incentive Based Savings Program Act to authorize and permit financial institutions to conduct savings promotion programs.

A financial institution (an insured credit union or depository institution) may conduct a savings promotion program in which the sole consideration for a chance to win a prize is via deposit of a specified amount of money in a qualified account/savings program, of which each entry has an equal chance of being drawn. A financial institution may not conduct a savings promotion in a way that jeopardizes the institution's safety and soundness or misleads an individual or the public.

A “qualified financial program” must include programs to encourage individuals to do one or more of the following:

- (1) Deposit or transfer money into a qualified account on a recurring or automatic basis;
- (2) Refinance or consolidate debt to obtain a lower interest rate;
- (3) Pay off or reduce balances to lower the individual’s debt ratio;
- (4) Prepare a budget or debt-reduction plan;
- (5) Attend financial literacy seminars or counseling sessions; or
- (6) Use free online financial education, budgeting or debt-reduction tools.

The financial institution shall disclose the terms and conditions of the savings promotion program. The terms and conditions should include that no purchase or other consideration is necessary, that nothing improves the odds of winning, that the winner is responsible for all applicable taxes and that each entry has the same odds. Terms and conditions should be posted in any location where entries may be submitted and shall be included on all print and electronic media.

A financial institution shall maintain books and records relating to the conduct of the program sufficient to facilitate an audit of the savings promotion program. A financial institution shall keep a record of the names of the winners, which shall be available for inspection by the financial institution’s customers.

FISCAL IMPACT: This legislation would have no adverse fiscal impact on Commonwealth funds.

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: July 1, 2022

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.